Real Property Taxes and Property Markets in CEE Countries and Central Asia

Editors:
Michal Radvan
Riël Franzsen
William J. McCluskey
Frances Plimmer


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Maribor, 2021

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MICHAL RADVAN, RIËL FRANZSEN, WILLIAM J. MCCLUSKEY & FRANCES PLIMMER

Abstract This book deals with issues around current property tax systems, aspects of implementation, land and property registration, the role of cadastres and the development of property markets in 31 countries in central and eastern Europe and western Asia. It provides country-specific real estate information not previously published. The coverage of this text deals with the post-soviet experiences of real property taxation and real estate in each one of the countries which have emerged since the dissolution of the Union of Soviet Socialist Republics in 1991; together with the so-called »satellite« states under the hegemony of the USSR; as well as the emergence of the countries of Serbia, Slovenia, Croatia, North Macedonia, Montenegro, Kosovo, Bosnia-Herzegovina following the break-up of Yugoslavia in 1992; and the Republic of Slovakia and the Czech Republic which resulted from the dissolution of Czechoslovakia in 1993. The chapters deal with common themes in relation to real estate. There is a focus on the taxation of real estate, both in term of a recurrent property tax to partially fund local public services and also on the transfer of property rights. Other themes include the registration of real estate, the privatisation and registration of rights in real estate, and the emergence of a real estate market open to national and international investors.

Keywords: • property tax • property market • property registration • property tax reform • reccurent property tax • property transfer tax

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Preface

This book presents an account of the systems of real estate taxation in force in 31 states of Central and Eastern Europe and Central Asia[1]. The common characteristic of the systems is the fact that they began to be developed at the beginning of the 1990s. This was connected with the collapse of the Soviet Union and these countries' need to establish and develop their own tax systems to raise revenue for municipal spending, and to adapt to the free market reality.

Most of the states started the reforms of their real estate taxation systems in one of two fundamental directions. One of them was the introduction of modern property taxes based on the value of the taxable real estate (ad valorem taxes). These are very close to the type of obligations which commonly occur in the rest of Europe and elsewhere in the world. The basis for taxation is the value of the real estate, defined in different ways, with the real estate cadastre as their starting point. The other direction of the reforms can be seen as an attempt at perfecting previous taxes based on the surface area of real estate. In this case, the main stress is put on modifying the actual surface area, by the use of various coefficients, so that the basis of taxation is seen to be brought closer to the real value of the property. In these systems it is the surface area that is the main determinant of the tax amount paid, and its market value is of secondary importance. And this is, in my opinion, their main disadvantage, which results in numerous problems described in the following chapters.

The analysis of the real estate taxation reforms introduced by these states allows us to claim that the replacement of a market value tax base by surface areas does not bring the expected results. Surface area taxes, even though accepted by taxpayers, generate numerous problems, especially in terms of low budget revenues from real estate taxation. The surface systems, in practice, function badly despite the fact that attempts have been made to perfect them for nearly 30 years. As a result, we can conclude that it is not possible to achieve a rational real estate taxation system, where the basis of taxation is the estate surface area. Property taxes (including taxes on immobile property) have to be based on the market value, and not the surface area of the unit of property. The property for the needs of taxation should be appraised in money and not in metres.

This statement is confirmed by the experiences of certain states (e.g. Poland, Czechia, Slovakia), which do not want (or cannot) introduce ad valorem taxes. Continuous work

[1] Czech Republic; Slovakia; Poland; Hungary; Lithuania; Latvia; Estonia; Romania; Bulgaria; Slovenia; Croatia; Serbia; Bosnia-Herzegovina; Bosnia Republic of Srpska; Montengro; North Macedonia; Kosovo; Albania; Turkey; Belarus; Ukraine; Moldova; Russian Federation; Georgia; Armenia; Azerbaijan; Kazakhstan; Turkmenistan; Uzbekistan; Tajikistan; and the Kyrgyz Republic.

is conducted there aimed at connecting the surface area with the market value of the real estate by virtue of statutorily determined coefficients, which vary depending on the type of the business conducted, the use classification of the property, its location, or on occasions the status of the owner (possessor). These actions fail, however, to eliminate the fundamental disadvantages of the real estate taxes based on the area of the property. The taxes of this type do not bring potentially achievable revenues to local budgets. The growth in the market value of plots and buildings does not increase the revenues obtained from this kind of real estate taxation. Their surface areas are invariable, thereby the tax amount does not change.

Surface area taxes are unfair, treating taxpayers unequally. The tax paid by the owner of a luxury hotel and that of a similar sized but delapidated building is the same, established by the amount payable by the latter. This goes against the rule of taxation equality. These inequalities cannot be eliminated otherwise than through the introduction of ad valorem taxes. In this context a further discussion as to whether ad valorem systems are better than surface systems make no sense.

As these chapters demonstrate, there are no surface taxes which could compete with value taxes. Why, then, was this type of tax not introduced everywhere? The analysis of the evolution of real estate taxation systems presented in this book shows that several factors were responsible. Among them the most important seems to be the understanding of the assumptions of the ad valorem system by taxpayers and their approval by politicians. Without meeting these two fundamentals it is not possible to introduce modern real estate taxation systems, in which the basis for taxation is the market value of real estate.

If ad valorem taxes are rejected by taxpayers and politicians, the only thing that can be done is to make continuous attempts at perfecting inherently irrational surface area taxes. This, however, does not bring positive results, and the best evidence of this is visible in practice, where the flaws of surface area taxes still in operation in certain states are clear.

This book encourages the debate as to what and in what order should be done to introduce the ad valorem system more widely. It is enough to use the experiences of the countries which have recently introduced the system presented in the book.

Leonard Etel

Acronyms and Abbreviations

CIS	Commonwealth of Independent States
EC	European Community
EU	European Union
EUR	Euro
FAO	United Nations Food and Agriculture Organization
GDP	Gross Domestic Product
IDP	Internally Displaced Person(s)
IMF	International Monetary Fund
IVS	International Valuation Standards
LIBOR	London Interbank Offered Rate
NATO	North Atlantic Treaty Organisation
OECD	Organization for Economic Co-operation and Development
UN	United Nations
USD	American Dollars

Biography

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Content

Introduction and Obsevations

WILLIAM J. MCCLUSKEY, FRANCES PLIMMER & RIËL FRANZSEN

Abstract The introduction takes a thematic view of the content of the country chapters, focusing on common issues in relation to both recurrent property taxes and the real estate markets, beginning with a comment on real estate transfer taxes in the countries covered. With the exception of Lithuania, the revenue from the property tax in all the countries directly funds municipal authorities. The property tax has an important role in supporting the implementation of a decentralisation policy in all of the countries. A brief discussion of transfer taxes is useful to provide some context, not only as regards the overall taxation of real estate, but also as regards the real estate market. It is often argued that where it is possible then an estimate of market value should be used as the basis of assessment of the property tax. Given that the property tax is a presumptive tax, an assessment of the value of each property must be made. For the property tax functioning, professional tax administration is needed including the connection to the real property cadastre. Finally, tax reform proposals are presented.

Keywords: • property tax • property market • property tax reform • property transfer tax • property tax base

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Introduction and Observations

The chapters in this book deal with issues around current property tax systems, aspects of implementation, land and property registration, the role of cadastres and the development of property markets in 31 countries in central and eastern Europe and western Asia.

The coverage of this text deals with the post-soviet experiences of real property taxation and real estate in each one of the countries[1] which have emerged since the dissolution of the Union of Soviet Socialist Republics (USSR) in 1991;[2] together with the so-called »satellite« states under the hegemony of the USSR;[3] as well as the emergence of the countries of Serbia, Slovenia, Croatia, North Macedonia, Montenegro, Kosovo, Bosnia-Herzegovina following the break-up of Yugoslavia in 1992; and the Republic of Slovakia and the Czech Republic which resulted from the dissolution of Czechoslovakia in 1993. Where parts of a recognised political administration operate a different property tax system from the rest of the country, for example, as in the case of the Republic of Srpska in the federation of Bosnia-Herzegovina, this is given separate treatment.

The chapters are authored by national experts and commentators and deal with common themes in relation to real estate. There is a focus on the taxation of real estate, both in term of a recurrent property tax to partially fund local public services and also on the transfer of property rights. Other themes include the registration of real estate, the privatisation and registration of rights in real estate, and the emergence of a real estate market open to national and international investors.

This book is intended to cover as far as possible all of the countries in the region. The geographical area covered by the contributions is some 25 million square kilometres (approximately 10 million square miles), being some 17 per cent of the global land area. The estimated population (as at July 2017) is 490,028,067 million (6.5% of the world's 7.6 billion), of which 65 per cent is urbanised.[4] This is the second largest world region in terms of urban population (after North America) and significantly exceeds the global average of 54 per cent.[5]

This book also provides country-specific real estate information not previously published. For example, the authors of the chapter on Armenia, identify their work as the first publication on the country's real estate. Similarly, the authors of the chapter on

[1] Russian Federation, Ukraine, Belarus, Uzbekistan, Kazakhstan, Georgia, Azerbaijan, Lithuania, Moldova, Latvia, Kyrgyz Republic, Tajikistan, Armenia, Turkmenistan and Estonia.
[2] The German Democratic Republic is excluded because of its reunification with (or absorption by) the Federal Republic of Germany which has involved the application of the constitution (Basic Law) already enforced in (the former) West Germany throughout the territory.
[3] Albania, Kosovo, Poland, Bulgaria, Romania, (the former) Czechoslovakia, Hungary, and Afghanistan (the former East Germany (German Democratic Republic) is excluded from coverage in this book because of its reunification with the Federal Republic of Germany).
[4] This excludes the population of Kosovo.
[5] www.data.worldbank.org (accessed 14 September 2019).

Kazakhstan acknowledge that, with the exception of expert reports from international organisations, theirs is one of the first academic and scientific publications on real estate for this country.

Progress in this developing region is fast-moving, particularly when compared with changes in real estate-related matters in, for example, western European countries and North America, where years of experience and stability have resulted in a massive and complex legal and administrative system in which reform, particularly in relation to the recurrent property tax, tends to occur at a glacial pace.

The majority of countries began from a similar base line - that of a controlled centralised command economy with no recent history of value based real estate taxation - and, in many cases, hugely out of date land records and in a few cases, no land records at all. It is therefore impressive to see both the achievements and the rate of progress made by the different countries, some of which have been encouraged in their reforms by the opportunity for membership of the European Union.

This introduction takes a thematic view of the content of the country chapters, focusing on common issues in relation to both recurrent property taxes and the real estate markets, beginning with a comment on real estate transfer taxes in the countries covered.

Importance of Property Tax

With the exception of Lithuania (where part of the recurrent property tax is paid to central government but the majority funds municipal authorities), the revenue from the property tax in all the countries directly funds municipal authorities, although this revenue may be supplemented by grants and other funding from central government. The property tax has, therefore, an important role in supporting the implementation of a decentralisation policy in all of the countries.

Country authors report the low yield generated by the property tax; in Estonia, for example, this is despite the fact that the collection rates are close to maximum, with the last revaluation being in 2001. The revenue from the property tax and the tax itself is at risk therefore being perceived as insignificant and becoming neglected, despite its recognised potential to be a significant source of income (Croatia, Kazakhstan).

To get some sense of the importance of »property taxes« in the countries covered in this book, it is essential to define the term »property tax«. Broadly speaking, »property taxes« include not only recurrent property taxes on immovable property, but also include property transfer taxes, stamp duties, estate taxes, gift taxes and financial transaction taxes (IMF 2014). Table I-3 provides data on the importance of »property taxes« in this broadly-defined context.

Table I.1: Revenue Importance of Property Taxes

Countries	2010	2011	2012	2013	2014	2015	2016	2017	Average
Albania	0.15	0.21	0.30	0.21	0.22	0.23	0.42	0.56	**0.29**
Armenia	0.46	0.43	0.22	0.45	0.39	0.46	0.47	0.47	**0.42**
Azerbaijan	0.35	0.29	0.27	0.30	0.32	0.39	-	-	**0.32**
Belarus	0.81	0.85	0.89	0.92	0.96	1.02	1.06	1.02	**0.94**
Bosnia-Herzegovina	0.34	0.29	0.31	0.37	0.36	0.35	0.42	-	**0.35**
Bulgaria	0.48	0.52	0.52	0.56	0.57	0.57	0.59	-	**0.54**
Croatia	0.01	0.02	0.02	0.44	0.46	-	-	-	**0.19**
Czech Republic	0.41	0.51	0.51	0.47	0.45	0.48	0.49	0.47	**0.47**
Estonia	0.35	0.31	0.33	0.30	0.29	0.28	0.27	0.24	**0.30**
Georgia	0.92	0.91	0.88	0.86	0.84	0.91	1.07	1.04	**0.93**
Hungary	1.15	1.12	1.22	1.28	1.28	1.28	1.11	1.07	**1.19**
Kazakhstan	0.56	0.46	0.46	0.44	0.47	0.55	0.45	0.49	**0.49**
Kosovo	No data	No data	No data	No data	No data	No data	No data	No data	**-**
Kyrgyz Republic	-	-	-	-	-	-	-	-	**-**
Latvia	0.87	0.96	0.96	0.96	1.03	0.99	1.06	1.01	**0.98**
Lithuania	0.37	0.31	0.28	0.28	0.30	0.34	0.33	0.38	**0.32**
Moldova	0.34	0.31	0.29	0.28	0.26	0.25	0.25	0.31	**0.29**
Montenegro	No data	No data	No data	No data	No data	No data	No data	No data	**-**
North Macedonia	-	-	-	0.21	0.24	0.23	0.21	-	**0.22**
Poland	1.32	1.28	1.33	1.39	1.39	1.37	1.38	1.21	**1.33**
Romania	0.67	0.66	0.63	0.64	0.88	0.76	0.73	-	**0.71**
Russian Federation	1.11	0.91	1.02	1.07	1.07	1.12	1.16	1.20	**1.08**
Serbia	0.41	0.41	0.43	-					**0.42**
Slovak Republic	0.41	0.41	0.44	0.44	0.44	0.43	0.43	0.43	**0.43**
Slovenia	0.61	0.60	0.63	0.64	0.62	0.62	0.63	0.64	**0.62**
Tajikistan	-	-	-	-	-	-	-	-	**-**
Turkey	1.01	1.05	1.05	1.18	1.20	1.22	1.22	1.12	**1.13**
Turkmenistan	-	-	-	-	-	-	-	-	**-**
Ukraine	0.80	0.75	0.81	0.23	0.20	0.26	0.41	0.41	**0.48**
Uzbekistan	-	-	-	-	-	-	-	-	**-**
Regional average	**0.60**	**0.59**	**0.60**	**0.61**	**0.62**	**0.64**	**0.67**	**0.71**	**0.60**

From Table I.3 it is evident that the regional average over the period from 2010 to 2017 is still in line with the findings of Bahl and Martinez-Vazquez (2008) and Norregaard (2013) – at about 0.6 per cent of GDP for developing and transition countries in the early 2000s. However, especially since 2012, there is a gradual increase in this regional average from 0.60 to 0.71 percent in 2017. Especially noteworthy are the increases since 2010 in Albania, Armenia, Georgia and the Russian Federation. The eight-year average exceeded 1.0 per cent of GDP in Hungary, Poland, the Russian Federation and Turkey, whereas in Belarus, Georgia and Latvia it was 0.94, 0.93 and 0.98 per cent respectively. Interestingly, despite its area-based system, at 1.33 per cent Poland has the highest average over the period from 2010 to 2017.

For the eleven countries that are member states of the European Union,[6] specific data on recurrent property taxes as a percentage of GDP are available (Eurostat 2017; Brzeski, Románová and Franzsen 2019). For the 10-year period from 2006 to 2015, the regional average for these countries was only 0.43 per cent of GDP (Eurostat 2017). With an average of 1.20 per cent, Poland is the one country in this region that generates significant revenue from the recurrent property tax. Over the same period, only Latvia and Romania exceed 0.6 per cent of GDP.

Real Estate Transfer Taxes

Most of the chapter authors make mention of real estate transfer taxes. Although the primary focus of this book is on recurrent property taxes, a brief discussion of transfer taxes is useful to provide some context, not only as regards the overall taxation of real estate, but also as regards the real estate market. As clearly illustrated by Brzeski, Románová and Franzsen (2019), real estate transfer taxes are generally quite important in the West European member states of the European Union, where the revenue from transfer taxes in 2015 exceeded the revenue from recurrent property taxes in seven countries (Brzeski, Románová & Franzsen 2019).[7]

There is a marked difference in the approach to real estate transfer taxation between most of the fifteen former USSR countries and the other countries discussed in this book. In those countries that were not part of the former USSR, real estate transfer taxes are more akin to the transfer taxes found in other continental European countries – as is evident from Table I-1. Only Romania levies a fee that is closer to a user charge on property registration than an actual tax. The other countries all levy a »transfer tax« with tax rates ranging from 0.1 per cent (Bulgaria and Poland) to 5 per cent. However, The Republic of Srpska (in Bosnia-Herzegovina) and Slovakia have abolished their real estate transfer taxes.

Table I.2: Taxes on the Transfer of Real Property in the Non-USSR Countries

Country	Tax type	Tax rate	Additional comments
Albania	Transfer tax	2%	Only levied on legal entities; an additional ALL2,000 p/m^2 is payable in Tirana by legal entities 15% CGT may also be payable
Bosnia-Herzegovina	Transfer tax	5%	This is not general tax rate in Federation, but Immovable Property Sale Tax Rate at the level of Cantons (all 10 cantons in FB&H have this rate) There is no transfer tax in the Republic of Srpska.
Bulgaria	Transfer tax	0.1-3%	Donations are taxed at rates of between 3.3 and 6.6%

[6] Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia.
[7] Austria, Belgium, Germany, Luxembourg, Malta, Portugal and Spain.

Country	Tax type	Tax rate	Additional comments
Croatia	Transfer tax	4%	A registration fee of HRK200.00 (about EUR27.00), payable to the Land Registry Office, and a stamp duty of HRK50.00 (about EUR 7.00) are also payable
Czech Republic	Transfer tax	4%	
Hungary	Transfer tax	4% + 2%	4% up to HUF1 billion per property; 2% of the value above HUF1 billion; maximum tax of HUF200 million per property
Montenegro	Transfer tax	3%	The tax authorities compare their valuation of property with the declared sales price and then assess how much tax the buyer must pay
North Macedonia	Transfer tax VAT	2-4% 18%	Municipalities set their own tax rates and the tax is determined with reference to the market value of the property. Where both contracting parties are registered for VAT, the seller will pay VAT on the sales price.
Poland	Transfer tax Stamp duty	0.1-2%	Registration fees PLN11.00 (about €4.62) and PLN14,000.00 (about €3,333.00)
Romania	Registration fee	0.5%	Registration fees are 0.5% of property value with a minimum of RON 60
Serbia	Transfer tax VAT	2.5% 20%	The tax authority estimates property values Where the transferor and transferee are both registered for VAT, they can choose to pay VAT
Slovakia	None		Fixed registration fees are payable
Slovenia	Transfer tax VAT	2% 22% or 9.5%	For the transfer of apartments, residential and other buildings for permanent living and other parts of buildings as part of social policy a reduced 9.5% VAT rate applies
Turkey	Transfer tax	4%	The transfer tax is shared (2% from each party), but in practice the buyer usually bears the full burden.

In the countries that were formerly part of the USSR, traditional transfer taxes generally do not exist. As is evident from Table I.2, most of these countries levy so-called state fees. These could be fixed amounts or levied on an *ad valorem* basis, but are akin to user charges rather than taxes. Moldova levies a stamp duty at a maximum rate of 0.5 per cent. Georgia, Lithuania, Tajikistan and Turkmenistan do not levy taxes or noticeable fees.

Table I-3: Taxes on the Transfer of Real Property in former USSR Countries

Country	Tax type	Tax rate	Additional comments
Armenia	State duty		Depends on the size of the base fee (AMD1,000.00; EUR1.78) multiplied by the coefficient for different transactions, requiring notary verification and registration in the real estate cadastre
Azerbaijan	State fee Service fee	Fixed fees	Transfers to a relative: The state fee is AZN 20 and service fee is AZN 3. Transfers to non-relative: For the capital city, Baku, the state fee is AZN 200 and service fee is AZN 30; for other regions the State Fee is AZN 80 and the Service Fee is AZN 12
Belarus	VAT CGT	20% 13%	VAT is imposed on legal entities CGT is payable by individuals and levied in terms of the income tax dispensation
Estonia	State fee	_	EUR 1,370.89; (If the transaction value is more than EUR 639,120, the full state fee rate of 0.16% of the transaction value will apply, but not more than EUR 2,560
Georgia	None	-	A CGT may be payable in terms of the income tax law
Kazakhstan	State fee CGT		Notaries collect a state fee to notarize the transaction and effect the transfer Capital gains are included in the tax base of personal income tax and corporate tax
Kyrgyz Republic	State fee	Fixed fee	A state fee for verification of transactions on alienation of immovable property is set in the amount of KGS5,000
Latvia	State fee	2%	from higher sum (sale sum or cadastral value of property) 0.5% if between relatives (wife/husband; children/parents/grandparents)
Lithuania	None		Registration fees are payable in respect of land and buildings – according to separate sliding scales with reference to value.
Moldova	Stamp duty	0.1% 0.5%	On transfers to a spouse or to family members (first or second degree): Value stated in the contract, but not less than the value for tax assessment On transfers to other parties: Value stated in the contract, but not less than the value for tax assessment
Russian Federation	Fee VAT	Fixed fees 18%	RUB 44,000, i.e., RUB 22,000 for the building and RUR 22,000 for the land parcel Where the contracting parties are VAT vendors, VAT is levied
Tajikistan	None		A notary fee between 7% and 40% depending on the family relationship between transferor and transferee, is payable
Turkmenistan	None		

Ukraine	State fee	1%	The notary collects the state fee of 1% of the transaction value of the land and/or building and remits it to the tax authority. The buyer of the building will also pay a further 1% of a building's transaction value to the State Pension Fund.
Uzbekistan	Inspection fee VAT	20%	A fee, based on the size of the property and determined with reference to the minimum monthly wage, is payable for an inspection of the property by experts from the State Committee on Land Resources, Geodesy, Cartography and State Cadastre

It is also noteworthy that a number of countries tax certain real estate transactions under their value-added tax (VAT) system (Belarus, North Macedonia, Russian Federation, Serbia, Slovenia, Uzbekistan). Furthermore, some countries also levy a capital gains tax (CGT) in respect of the income tax dispensation (Belarus, Kazakhstan).

For the remainder of this chapter, the term »property tax« refers to recurrent property taxes on land and/or buildings.

Basis of Assessment of the Property Tax

There are in general two valuation/assessment options that can be used for property tax: (1) non-value based; or (2) value based (Franzsen and McCluskey 2013; McCluskey and Franzsen 2013). It is often argued that where it is possible then an estimate of market value should be used. The reason for this is that according to Bird and Slack (2004) it is generally regarded as a better basis for the tax because it adds an economic dimension to the tax base. It encourages optimal use and productivity of real estate and, on revaluations, it can allow for an increased revenue without amending the tax rates, though generally following a revaluation tax rates are lowered. However, area-based approaches are most commonly used as a means of determining the assessed »value« for property, when the real estate market is not functioning properly or where it has not reached a sufficient degree of maturity to support an *ad valorem* tax base (Franzsen and McCluskey 2013).

Area-based systems tend to use the size (useable area or net floor-space) of buildings (square metres) and land (square metres, or hectares) as the underlying basis. The basic assessment approach is therefore to multiply the (taxable) area of the building and land by a prescribed unit price per square metre, or hectare. The tax liability is simply the product of the area and unit price. By way of improvement, or at least to reflect a degree of equity and fairness, the area basis is often adjusted, for example, to reflect number of floors in a building and the net usable area is used as opposed to gross area (Connolly and Bell 2009).

Many countries modify this by the inclusion of coefficients to reflect appropriate features. In the Czech Republic, for example, there is a location coefficient that reflects the size of

the population of a municipality, where larger cities have a larger coefficient. Such coefficients by their nature are rather blunt as they tend to be selective in nature and to cover fairly large geographic areas. Therefore, there is a loss of granularity that value-based approaches do not suffer from.

Whilst the range and type of adjustment coefficients vary across countries they all have the same objective, to align the tax liability to reflect market value conditions. Thus, the coefficients act as »value-based« proxies attempting to improve equity and fairness in the system (see Table I.4 for a sample of adjustments). For example, the Czech Republic uses a coefficient based on a municipality population to adjust the based rate of tax. For Prague the multiplier is 5.

Table I.4: Selected adjustment coefficients

Kazakhstan	The land tax is based on the area of taxable land plots (either in hectares or square metres). Importantly, the land tax rate also depends on the quality points attached to the land plot, The tax base for buildings for individuals is an approximate value of the taxable item (determined annually by the authorised State body using a formula), which in turn depends on the type of property, its base price and the year of construction. The formula is, as follows: C=Cb x S x K phys x K fun x K zon x K mes. mai . Where: C – value of property for taxation purposes; Cb – basic price of one square metre of dwelling, dacha structures; S – useful area of dwelling, dacha structures in square metres; K phys – coefficient of physical depreciation; K fun – coefficient of functional depreciation; K zon – zoning coefficient; K mes. mai – coefficient of change of the monthly assessment index. Such formulae are provided separately for each type of taxable construction and building together with the relevant zoning coefficients.
Kyrgyz Republic	The taxable value of the property within Groups 1 to 3 is assessed based on the following formula: TV = V x S x Cr x Cz x Ci Where: TV = is the taxable value; V = value per square metre of the object; S = the total size of the object liable to tax (reduced by the size allowed as an exemption for objects within Group 1) or the total size of the Group 2 or 3 objects; Cr = regional coefficient, based on its location in the country; Cz = zonal coefficient, based on the zones established within the locality;

	Ci = industry (functional) coefficient that is applied taxable properties within Groups 2 and 3. The value per square metre is established depending on the construction materials of the walls and the date when the building was first used. The Tax Code provides the amounts per square metre, depending on the materials and the length of usage of the building.
Poland	For agricultural land the tax rate is based on the average market price of rye, the size of the farm and quality of the soil. The rate from one (weighted) hectare is equal to the average market price of 250 kg of rye during the first three quarters of the preceding year.
Slovak Republic	The tax base for land is the value of land calculated as the area of land in square metres multiplied by the value of $1m^2$ of land. In the case of multi-storey buildings, the tax rate is increased by the multiplication of an adjustment - floor surcharge times the number of floors.
Bulgaria	The assessment of land plots on which a structure has been built, is calculated on the basis of the following formula: TVA = BTV × C i × C z ×C c × C l × constructed area + VI where: TVA = the total amount of the tax value assessment; BTV = the basic tax value per square metre; C I = the infrastructure coefficient; C z = the zoning coefficient; C c = the construction coefficient; C l = the location coefficient; and VI = the value of the improvements made on the land. The tax value assessment of commercial and residential buildings / constructions, including houses, apartments, house floors , garages, and stores is calculated as follows: TVA = BTV × C l × C i × C ch × C h × C o × constructed area Where: TVA = the total amount of the tax value assessment; BTV = the basic tax value per square metre; C l = the location coefficient; C I = the infrastructure coefficient; C ch = the characteristics coefficient; C h = the height coefficient; and C o = the obsolescence coefficient.
Slovenia	The valuation of the property is calculated by the following equation: VA = No x Vp x Us x Cf x L, Where: VA = is the taxable value of the taxable property; No = is the number of points attributed to the construction elements of an residence per unit (m^2), such as: the structure, taking into account the year of construction, and the year of any maintenance-related works; Vp = is the value of a point: the value of the point is defined by every municipality individually;

	Us = is the corrected net internal floor area of the taxable property. The floor area of rooms for preparation of food, personal hygiene, living and sleeping accommodation is multiplied by the corrective factor 1, while in case of ancillary rooms (such as: a balcony, terrace, basement, or garage), the floor area is multiplied by different corrective factors, ranging from 0.25 to 0.75. Kf = is the impact of the size (corrective factor): for apartment property up to $30m^2$ the corrective factor is 1.057; from $30m^2$ to $45m^2$ is 1.024; from $45m^2$ to $65m^2$ is 1.000; from $65m^2$ to $75m^2$ is 0.966; and above $75m^2$ the corrective factor is 0.95. L = is the impact of the location of the property (from 1 to 1.3). This is regulated by a special decree and is defined by the municipality. When the impact of the location has not been determined, a factor of 1.00 is applied.

While area-based systems are often regarded as »simple« solutions for countries with limited resources, they do suffer from several drawbacks. A principal drawback is that they tend not to reflect the value and other spatial benefits that the location offers to property. Well-located buildings and land will attract the same tax liability as less well-located property of a similar size (Youngman and Malme, 2004). Compliance with the concepts of vertical and horizontal equity therefore becomes difficult.

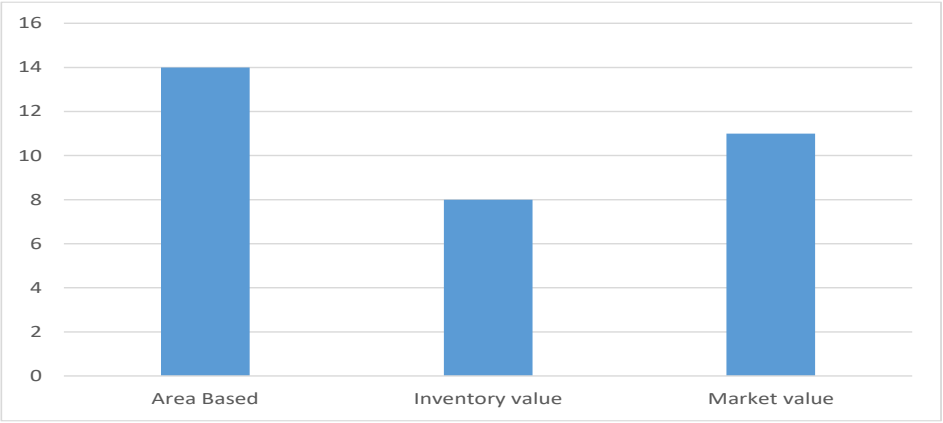
Buoyancy of the tax revenue under an area-based system is primarily afforded by altering the unit prices by reference to inflation, or by increasing the rate of tax applied, although the addition of new buildings to the tax roll can also increase revenue. Changing the coefficients is difficult, particularly as they tend to be set in national legislation (Czech Republic), and, although many countries give their local authorities the power to vary the tax rates applied (often within centrally-fixed limits), reducing the tax rates also reduces the revenue (and thus the service capacity) of the local authority. The assessed value rarely changes since the (taxable) area of property tends to remain relatively fixed over time (Connelly and Bell 2009). Where coefficients or unit prices are not adjusted to reflect increasing costs of services, the tax revenues stagnate and – in real terms – will actually decrease over time.

The main advantages of the area-based approach generally relate to the need for simpler administrative resources, which is often translated into lower costs, because the factors which affect the tax base (surface area, district) are easily established and can rely on the self declaration of property characteristics such as location, size and use which can be made by the taxpayer (Czech Republic, Slovak Republic). Data requirements are much less than with a typical *ad valorem* system; there is no need, for example, for complex property and locational characteristics nor for transactional data; trained valuers are not essential; and area-based techniques can indeed be modified to reflect aspects such as location and quality of structures (Franzsen and McCluskey 2013).

There are generally three value-based approaches that can be used as the basis for the property tax: (i) capital improved value/market value; (ii) capital unimproved value/land value; and (iii) annual rental value (Franzsen and McCluskey 2013). Under (i) land and buildings or improvements to land are valued either as one property unit or separately,

whilst under (ii) only the value of the land ignoring the improvements is assessed. Under (iii) the annual rental value is also based on market values and typically would include both land and buildings under one assessment. The basis of an *ad valorem* property tax should be closely aligned to the property market. If an active capital market exists from which sufficient evidence of market prices can be obtained, it could support a property tax system based on capital value assessments. It is noteworthy that no country in the region uses rental value as the basis of the property tax. Figure I.1 shows the prevalence of area-based property tax systems.

Figure I.1: Basis of the property tax



Alternative value bases would include (adjusted) cadastral value, balance sheet value, or a value based on some mathematical formula. These approaches provide an intermediate step between non-value approaches and those based on estimates of market value. There is usually some connection with market evidence in their use, whether based on transactional values or on the replacement cost of the building.

Regardless of the basis of the property tax, it is important to ensure that the tax base is regularly and frequently up-dated to optimise the degree of horizontal and vertical equity among taxpayers, although this may be expensive.

Valuation methodology

Given that the property tax is a presumptive tax, an assessment of the value of each property must be made. Valuation as a process may be seen as a means to an end, in this case, the »end« is a tax base with a high degree of horizontal and vertical equity between the tax levied on taxpayers, as well as raising sufficient revenue for municipal authorities to provide the services demanded by their citizens. In many ways valuation is largely subjective unless rules are put in place to minimize subjectivity. Issues of subjectivity

between what the owner considers as a »fair« value and what the valuation authority deems as »fair« often results in legal challenges. Given the scale of the valuation exercise facing countries that have an *ad valorem* property tax, this could involve several million properties that must be valued all at the same time. In the days prior to the advent of computers valuations were conducted »manually« largely on a case-by-case basis. Whilst this approach still occurs in some countries the move to integrate automation has greatly improved the problem of scalability.

In respect of *ad valorem* systems the introduction of computer assisted mass appraisal (CAMA) has greatly increased the efficiency of the valuation process. CAMA tends to be applied to the valuation of real property for property tax purposes mainly because of the large volume of units within the tax roll. The greatest change in assessment practice over the past 30–40 years has involved the use of computers and statistical approaches/models to establish a relationship between property characteristics and transaction prices, thereby permitting an estimate of the market value of other properties not subject to a recent sale. Mass appraisal in essence evolved out of the need to provide uniformity and consistency in valuations (Almy 2013). An equally important aspect was the ever increasing financial burden of undertaking single manual appraisals, particularly at times of revaluations, where several millions of taxable units (buildings and parcels) need to be assessed at the same time.

Geographic information systems (GIS) are now becoming an important tool to support and develop mass appraisal valuation models. What is becoming an international trend is the integration of GIS with CAMA methodologies. Perhaps the most important benefit that GIS can bring to the CAMA approach is greater opportunities to better reflect location. Another benefit of using GIS within a CAMA is the enhanced visualisation capability that results.

The application of CAMA and GIS within the valuation environment discussed in these chapters is somewhat limited. Only four countries namely, Latvia, Lithuania, North Macedonia and Moldova have adopted the techniques. The lack of reach in applying modern valuation solutions has much to do with the fact that the majority of countries are unable to apply market values because their own property markets are not sufficiently developed and/or recorded to provide appropriate data. Another constraint is the lack of appropriate information technology equipment and technically skilled staff. Thus, the use of area-based systems tends to be the dominant approach used by many of the countries.

Those countries that apply non-value based approaches tend to use various adjustment coefficients to reflect property type, use, size, and location. These countries include, Albania, Armenia, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Georgia, Hungary, Kazakhstan, Kyrgyz Republic, Poland, Serbia, Slovak Republic, Slovenia, Tajikistan, Turkey, Turkmenistan and Uzbekistan (see Table I.5).

Table I.5: Application of assessment/valuation approaches

Application of CAMA and GIS techniques	Latvia, Lithuania, North Macedonia, Moldova, Slovenia (proposed new property tax)
Application of adjustment coefficients	Albania, Armenia, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Georgia, Hungary, Kazakhstan, Kyrgyz Republic, Poland, Serbia, Slovak Republic, Slovenia, Tajikistan, Turkey, Turkmenistan, Uzbekistan
Traditional valuation approaches	Armenia, Azerbaijan, Estonia, Georgia, Kosovo, Russian Federation, Turkey, Ukraine

In the case of area or unit based property taxes there would nonetheless be a significant degree of assessment automation i.e. in determining the tax bills. These non-value approaches tend to rely on the self-declaration of data (Czech Republic, Slovak Republic). Tax administrations in receipt of these data (either directly from the owners of real property or via the national cadastre) would have automated routines to calculate the tax liability. The use of manual assessment particularly by assessment/tax authorities is rapidly becoming a thing of the past.

A key feature of many of the area-based systems is related to the fact that properties must be accurately reflected in the national cadastre to be assessed. This implies that if a property is not in the cadastre it will not be assessed for property tax, and several authors report the problems of an incomplete cadastre. Once the property has been declared in terms of a tax return to the tax administration there is no need to submit a further return (Czech Republic). Only if there have been structural or land use changes made to the property would a subsequent return need to be filed with the cadastre and tax administration.

For those countries (Armenia, Azerbaijan, Estonia, Georgia, Russia, Turkey and Ukraine) that typically use book value, accounting value or cadastral value there is some reliance on more standard, case-by-case valuation methods.

Value-based property taxes tend to be the most expensive from an administrative perspective. These costs are related to a number of factors: (i) human resources in terms of staff expertise and the number of skilled staff to administer the system; (ii) investment in hardware and software, such as data servers, aerial and/or satellite imagery; and (iii) collection and maintenance of core valuation data.

Property tax administration

Property tax administration involves a number of important functions including: (i) identifying and maintaining the tax base; (ii) data collection and maintenance; (iii) valuation of assessment of taxable properties; (iv) tax billing; (v) tax collection; and (vi) enforcement.

As UN-Habitat (2011) suggests, an effective strategy for addressing many of these functions is to recognise the comparative advantage that central (or regional, state or provincial) governments have for some functions and also the distinct administrative advantages that local governments often have for other functions. Municipalities have a direct interest in the amount of tax collected which tends to make them best suited to the task. In reality, therefore, the most effective administrative strategy would be to share or to split the administrative responsibilities between central government agencies and local governments.

Thus, an assessment should be made of the relative competencies of central government and local government for specific tasks. What are the efficiencies to be gained by one agency being given a function as opposed to another agency or department? In Armenia and Latvia, for example, the Real Estate Cadastral Authority determines the assessment whilst the property tax is collected by local government. In Kosovo, whilst both assessment and collection are local functions, with central government providing an oversight role.

Central governments are likely to be more successful at ensuring uniformity of policy and practice and harmonisation of the overall tax system (UN-Habitat 2011) and are universally recognised as responsible for the legislation which imposes taxation. It is likely that central government has greater expertise and better resources for the carrying out of technical tasks, for example, the setting of nationwide standards and quality control are better administered at the central level (Kosovo). Equally, there are certain functions that are best performed by local government, such as aspects of data collection, identifying changes to the tax base (via planning permission and building permits, for example), delivering bills (Kosovo) and tax collection, particularly in relation to the following up on delinquent accounts.

In the Czech Republic where the property tax is centrally administered, municipalities argue that they could administer the property tax more effectively, as they have information about local circumstances. In addition, municipalities want to know who actually pays the tax and who is non-compliant. However, the central tax administration does not make such information available. Of course, not all municipalities are created »equally« – in the Czech Republic there are 6,200 municipalities with the vast majority not having the capacity to locally administer the tax.

For taxpayer acceptability of a property tax, there is an important correlation between revenue collected and benefits received. This can be more readily seen at the local level where the local property tax revenue is spent on projects within the local community.

Valuation is often considered to be the most difficult aspect of administering the property tax. Value based systems tend to be complex and challenging in terms of deriving an estimate of market value for every property (land and buildings) (McCluskey, Franzsen and Bahl 2017). In many respects, a central government agency may be best equipped to

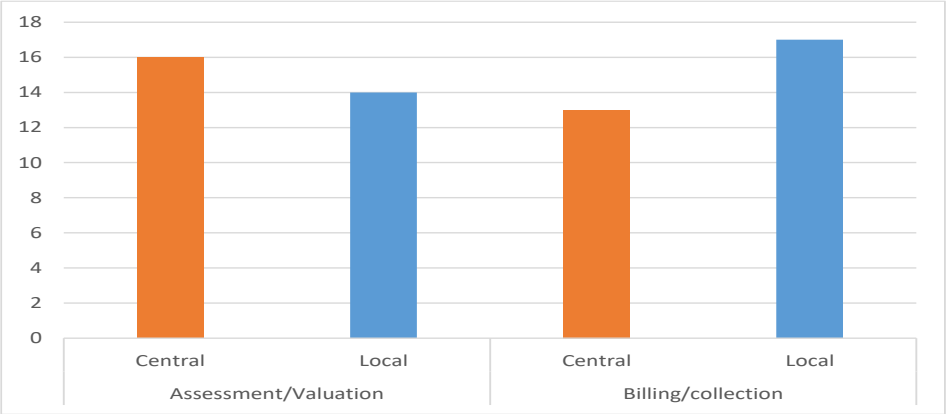
undertake valuations and to ensure uniform application of methodologies across the national space. It is, also, well recognised, that the assessment of taxable properties should be undertaken by an independent central agency so that objectivity in individual assessments and in the assessment process is transparent and that there is no hint of political influence.

In addition, the setting of valuation standards, practices and procedures is more efficiently done at the centre. There are several examples of countries establishing specific central agencies of departments to administer land and property valuation (Latvia, Lithuania, Moldova and Slovenia).

Self-assessment, that requires property-owners to place an assessed value on their own property, is relatively rare (although Azerbaijan is an exception); though self-declaration of data or information on what real estate a person owns is very common. It is generally an obligation on owners to declare specific information on what real property they own and these data are used in the development of the countries' cadastres, which form the basis for the identification of taxable property (Czech Republic, Latvia, Lithuania, Slovenia). If the property tax is based on the area (size) of the parcel and building the owner may be required to declare this information to the tax administration (Czech Republic, Georgia and Ukraine). Although area systems typically apply adjustment coefficients, the key characteristic is the size of parcels and buildings. Nonetheless, self-assessment is an attractive proposition for those countries with little administrative capacity. It does not appear to require expert assessment staff, and it seems to be easy to implement (Bird and Slack 2004).

In several countries (Armenia, Estonia, Latvia, Lithuania, Moldova and Slovenia) the assessment of the tax base is undertaken by departments or units within the national cadastre. This makes sense in that property owners have to declare their property to the cadastre to assert their legal rights. In other cases, it is the tax administration that conducts the assessment, as in Czech Republic, Georgia, Kyrgyz Republic, Tajikistan and Ukraine. It is important that there are close linkages between the cadastral office and the tax administration (as in Czech Republic). Interestingly, Poland does not have a national cadastre but rather local government administration maintains a register of lands and buildings. There are also many countries that conduct assessment at the local government level, including Albania, Belarus, Bulgaria, Croatia, North Macedonia, Serbia, Slovak Republic, Slovenia, Poland and Turkey.

Figure I.2: Valuation, assessment, billing and collection responsibility



Billing, collection and enforcement administration

Given that the objective of a tax is to raise money for an organ of government, the billing, collection and enforcement of the tax is vital component. This function too can be handled either centrally or locally, with the perception that because of its local nature, collection (and by implication enforcement) activities are best undertaken by municipalities. This is because of the municipalities greater local knowledge and the fact that, as recipients of the tax revenue, the municipalities have a major incentive to ensure that the effective and efficient implementation of these responsibilities in order to maximise their income. In terms of the billing and collection function the following countries adopt centralized approaches, Czech Republic, Estonia, Georgia, Kazakhstan, Kyrgyz Republic, Latvia, Moldova, Tajikistan, and Ukraine; whereas the majority of countries (about 60%) have the collection function at the local level (see Figure I.2).

Efficiency in tax collection requires both appropriate technical and human resources, as well as a comprehensive data base but also a recognition by taxpayers of the moral as well as the legal responsibility to pay. The benefits of a culture of strong taxpayer discipline can be seen in prompt payment, minimal debts and therefore increased revenue.

However, for the majority of the property tax payers in these countries, it is only recently (since 1991) that payment of such taxes has been required of them. There is thus some evidence of an absence of the culture of paying such taxes, and a corresponding failure of local property taxes to provide as much revenue to municipalities as they should. In some cases (Kosovo), authorities have responded by increasing the number of employees involved in tax collection and by the introduction of a public information campaign informing citizens of the benefits to local services of the payment of local taxes, which has resulted in an increase in terms of revenue collected.

In some countries (Czech Republic, Slovakia) taxpayers are able to appeal their tax bill. In some countries (Poland), it is possible to pay the property tax by instalments, but the majority of countries require biannual or quarterly payments of the bill.

A range of enforcement mechanisms are applied, including the use of bailiffs, deductions from wages / bank accounts and fines for failing to file relevant papers. All authors report that outstanding tax attracts interest payments, and in some cases, other penalties are applied. Slovakia publishes a list of debtors on its municipal websites. In Bulgaria, local tax officers also act as enforcement officials. Estonia reports the use by citizens of personalised portals on its state website, which allows direct access to information personal to the taxpayer, and Armenia and Kazakhstan, for example, allow payment via automated teller machines (ATMs), home banking and web kiosks.

Although some authors report high levels of compliance, this is not universally the case. Poor taxpayer morale, high compliance costs, ease of tax evasion and avoidance, incomplete cadastres and inefficient collection methods are cited as some of the reasons for low property tax yields. Solutions proposed range from increased levels of IT literacy and internet availability, lower taxpayer compliance costs and more efficient enforcement of penalties. North Macedonia reports an increased yield achieved by strengthening local administration capacity together with a recalculation of the tax base and an updated property database; while in Kosovo, an increase in municipal employees together with a public information campaign have seen improvements in collected revenue.

Nevertheless, the property tax is seen to be expensive to administer which reduces the net yield to the municipalities and implies that reforms to improve administrative efficiency should be beneficial.

Tax Liability

The property tax legislation should establish the person/persons or entity responsible for paying property taxes. The options generally are: (i) the owner of the property; (ii) the occupier or person (*in personam*) who has some control over the property; (iii) the property (*in rem*) regardless of who owns it or uses it; or (iv) a combination of the previous three (McCluskey, Franzsen and Bahl 2017). In many countries where private ownership of land is recognised and recorded in the cadastre, the property tax is generally an obligation of property owners (UN-Habitat 2011).

UN-Habitat (2011) takes the view that, even though the real estate rights may be divided between different parties, the law should not attempt nor allow the tax authority to allocate the property tax between ownership interests - the allocation should be the responsibility of the private parties involved. In effect, all interests in the land should be liable for the entire amount tax due. Taxing just one of the co-owners simplifies administration, though taxing owners in relation to their individual shares stresses fairness, in that all owners should contribute and have no responsibility for the amounts unpaid by other part owners.

The administration in the case of several owners is also problematic in that the tax administration must be able to determine that where a property has multiple owners the declared shares add up to 100 per cent. Having said this, several of the countries indeed calculate the property tax liability by reference to the declared owners' share in the property (Armenia, Bosnia and Herzegovina, Hungary, Kyrgyz Republic and Montenegro).

In those countries where the registration of property rights is incomplete, it is often the case that occupiers or users of property are more readily identifiable and therefore can be made liable for the property tax. Such a system also reduces the administration costs in finding owners because occupiers, by their very nature, are located at the property. Where occupiers become taxpayers, it thus becomes more of a user's tax, or a tax on occupation rather than ownership. Given that property tax revenue generally funds the services provided by municipalities which benefit occupiers (as well as owners), there may be some justification for this.

The number of occupiers typically is greater than the number property owners. Hence having owners liable for the property tax should reduce the number of taxpayers and thus reduce the cost of administration. It is less of a problem if the owner of a property is readily identifiable as the occupier for residential property in places where the level of owner-occupation is high. It is more of an issue for commercial property. As an example, a multi-tenanted shopping mall with 150 retail occupiers would mean 150 tax bills as opposed to one tax bill if the property has one owner. However, ownership can be less than transparent when holding companies and shell companies are involved, or in situations where an owner is not resident within the tax jurisdiction. Generally, however the owner should be registered in the cadastre and that is the typical starting point.

It is often the case that countries distinguish between natural and legal persons i.e. individuals and companies. This occurs in Armenia, Belarus, Hungary, Lithuania, Poland, Romania, and Russia. This categorisation permits the tax administration to levy different tax rates according to the nature of the owner and in some cases to apply different valuation or assessment approaches.

Exemptions and other Tax Relief

Excluding taxpayers and / or (otherwise) taxable property from liability for the impost means that those taxpayers who do not receive such treatment are required to pay more to make up for the loss in revenue resulting from such beneficial treatment. The justification for reducing tax bills for taxpayers of real estate should therefore reflect the culture of the taxpaying community in order to ensure taxpayer comprehension, acceptance and support.

Justifications for preferential treatment can be either economic, environmental or social, and can take the form of mandatory or discretionary relief on a permanent or temporary

basis. Mandatory relief tends to stem from national government policy, for example, a government economic policy which is aimed at encouraging a particular industry or industry in a particular location. Similarly, reducing the tax liability can be implemented for social reasons, where certain groups of taxpayers are perceived to suffer hardship if expected to make a full contribution. Examples of this are those taxpayers on reduced income or who suffer from a physical disability which limits their income-generating capacity and several authors report such reliefs applied in their countries.

Given that the income from the property tax is (part of) the revenue of the municipalities, it is important that centrally imposed reductions in the property tax do not significantly reduce the municipalities' income, or, if this is the case, that compensatory funding from the state is paid to the municipalities.

However, where it is the municipalities which introduce and administer exemptions or reliefs from the tax, they may not have the right to recover revenue foregone from the central authorities. In such cases, in considering the award of any such benefits to groups of their taxpayers, the municipalities must reflect on and budget for the concomitant loss of revenue. Where municipalities seek to increase tax rates to make up for such loss of income, taxpayer support for the principle and practice of reducing tax for perceived to be needy groups is essential for the policy of strategic reliefs to be successful.

Authors report a range of property and taxpayer reliefs from property taxes. In common with other countries, foreign diplomatic uses (on a reciprocal basis), religious buildings, government buildings and public services such as roads attract exceptions from property taxes. In some cases, state medical facilities and educational establishments are also exempt. More significant exemptions and tax reliefs are discussed below.

As a matter of principle, many jurisdictions around the world offer tax exemptions or reliefs to their agricultural sector, often as a means of encouraging food self-sufficiency, and authors report that agricultural land and buildings are exempt the property tax or that preferential treatment is awarded via for example the tax rates. In some countries (Albania, Poland), a separate agricultural land tax is applied. Certain kinds of agriculture (e.g. vineyards and orchards) enjoy a temporary tax exemption until such time as saleable produce is realised.

However, given the nature of the classification of land and to ensure that it is specifically the agricultural sector which benefits, many countries' legislation (Georgia, Montenegro) excludes from such reliefs agricultural land used for economic activity.

Authors report widespread exemptions and subsidies for certain owners of residential properties, including pensioners, migrant refugees and former (military etc.) service personnel. In Lithuania, residential property is exempt below a certain (high) value threshold; while in Slovenia and Srpska, a certain area (square metres) of dwellings are ignored when assessing the taxable value.

As a matter of principle, there is no reason why residential property (as a property type) should receive preferential treatment in terms of the payment of property taxes. However, it is well recognised that requiring payment from taxpayers who suffer financial hardship is both counterproductive and politically unpopular. There are, of course, potentially political as well as social reasons for reducing the tax burden on residential owners, because such individuals comprise the nation's voting population. However, favourable treatment of residential property taxpayers increases the burden on non-residential sectors, which may struggle in times of economic difficulty. Such a preference also undermines the principle of »taxation with representation« (it is unusual for commercial property tax payers to have a voting right in that particular capacity); while it is the (residential) electorate which both votes for and thus can expect to bear the costs of government policies.

Very few subsidies for commercial property have been reported by the authors. By their very nature, commercial property can be expected to shoulder the full burden of a property tax and adjust their commercial operations accordingly. Albania reports that four and five star hotel accommodation has a special status and receives preferential treatment within the property tax regime in support of the country's tourist industry. The hydrocarbon industry in Turkmenistan is exempt the property tax, as is the provision of kindergarten services in the Kyrgyz Republic. Georgia allows property tax exemptions for special industrial zones, for medical and educational businesses. Tajikistan offers commercial tax payers exemption if more than 50 per cent of their employees are classified as 'disabled'.

The Real Property Cadastre

A central component for the purposes of the property tax is the registration and recording of property rights (Almy 2013). A modern legal cadastre comprises a computerised GIS with spatial and textual information, where the GIS holds digital imagery on parcel boundaries and building footprints. Several layers of maps are usually provided including ortho-imagery (aerial photographs) of varying resolutions. Cadastres are fundamental to the property tax systems as many contain the self-declared information on ownership and property data and are therefore seen as a complete register of all taxable property. Generally, the operation and maintenance of the cadastre is a national function (Czech Republic, Estonia, Latvia, Lithuania. Moldova, Slovenia). Often the data used for assessment or valuation is automatically drawn from the cadastre, which makes an accurate and up-to-date cadastre vital for the complete coverage of the property tax.

However, many authors report an incomplete cadastre, from which for example illegal structures (constructed without the necessary permits) have been omitted (Albania, Kosovo and Serbia). In some cases, owners simply fail to register their property until an external event requires them to do so. Properties omitted from the cadastre are therefore not assessed nor are their owners taxed. This reduces the yield for municipalities and creates unfairness between owners, some of whom are taxed while others are not.

Of interest is the standing of these countries in the 2018 International Property Rights Index, which serves as a barometer for the status of property rights, ranking the strength of both physical and intellectual property rights in countries around the world; and also their ranking in the Corruption Perception Index.

Property rights underline the values and principles related to individual liberty and economic freedom. A strong property rights system is conducive to fostering economic growth, human capabilities, research and innovation, environmental performance, and the creation of social capital. Property rights are a key ingredient for the prosperity of society.

According to the World Bank registration of property rankings, which examines and compares the steps, time and costs involved in registering property, as well as the quality of the land administration system across a range of economies, six of the countries discusses in this book are in the top ten countries globally as regards the ease to register property.

Table I.6: 2019 World Bank Registration of Property Rankings

Country	Registering property global ranking	Number of procedures	Days to register property	Cost to register property (% of property value)
Albania	98	5	19	9.2
Armenia	14	3	7	0.1
Azerbaijan	17	3	5.5	0.1
Belarus	5	2	3	0.0
Bosnia and Herzegovina	99	7	24	5.2
Bulgaria	67	8	19	2.9
Croatia	51	5	47	4.0
Czech Republic	33	4	27.5	4.0
Estonia	6	3	17.5	0.5
Georgia	4	1	1	0.0
Hungary	30	4	17.5	5.0
Kazakhstan	18	3	3.5	0.1
Kosovo	37	6	27	0.3
Kyrgyz Republic	8	3	3.5	0.2
Latvia	25	4	16.5	2.0
Lithuania	3	3	3.5	0.8

Country	Registering property global ranking	Number of procedures	Days to register property	Cost to register property (% of property value)
Moldova	22	5	5.5	1.1
Montenegro	76	6	69	3.2
North Macedonia	46	7	30	3.2
Poland	41	6	33	0.3
Romania	44	6	14.5	1.3
Russian Federation	12	4	13	0.1
Serbia	55	6	21	2.8
Slovak Republic	9	3	16.5	0.0
Slovenia	56	7	50.5	0.0
Tajikistan	91	5	36	2.9
Turkey	39	6	5	4.0
Turkmenistan	No data	No data	No data	No data
Ukraine	63	7	17	1.8
Uzbekistan	71	9	46	1.1
	Average	**4.9**	**17.5**	**2.0**

The Corruption Perception Index ranks countries by their perceived levels of public sector corruption according to experts and business people, using a scale of 0 (highly corrupt) to 100 (very clean).

Table I.7 shows comparative indices of the relevant countries based on the latest information, with seven countries in the top 50 of the Property Rights.

Table I.7: 2018 Comparative Indices

Country	International Property Rights Index (125 jurisdictions)	Corruption Perception Index (180 jurisdictions)
Albania	102	99
Armenia	95	105
Azerbaijan	78	152
Belarus	Not included	70
Bosnia-Herzegovina	107	89
Bulgaria	63	77
Croatia	73	60

Country	International Property Rights Index (125 jurisdictions)	Corruption Perception Index (180 jurisdictions)
Czech Republic	27	38
Estonia	24	18
Georgia	74	41
Hungary	46	64
Kazakhstan	88	124
Kosovo	Not included	93
Kyrgyz Republic	Not included	132
Latvia	56	41
Lithuania	36	38
Moldova	115	117
Montenegro	98	67
North Macedonia	Not included	93
Poland	47	36
Romania	54	61
Russian Federation	84	138
Serbia	101	87
Slovakia	39	57
Slovenia	48	36
Tajikistan	Not included	152
Turkey	66	78
Turkmenistan	Not included	161
Ukraine	110	120
Uzbekistan	Not included	158

Tax Reforms - Proposals and Issues

It is widely recognised that a property or real estate tax is particularly appropriate to generate revenue at the municipal level, partly because of the local authorities' knowledge of their geographic and physical community and partly because the tax is imposed on locally-based assets which acquire financial and social value from their local amenities. Thus, the taxes raised and spent on local services directly benefit the property owners and users, both in terms of improved quality of life and also the increased (economic) value of their rights in real estate as well as those of the wider community (Plimmer and McCluskey 2012a; 2012b). Such revenue sources also allow municipalities to enter into a dialogue with their electorate to reflect their aspirations regarding the provision and development of local services and the growth of their community.

However, a majority of authors report the low yield from the property tax, which is seen to be inadequate to cover the costs of efficient and effective administration and for the provision of appropriate local services, claiming that it should capable of producing much higher revenue. Authors have reflected, therefore, on how various reforms of the property tax can be implemented to increase municipal funding.

It is well recognised that the imposition of the tax should be established at the national level and be enshrined in clear, unambiguous and comprehensive legislation. Where this is not the case, it is important to achieve legislative reform, and authors identify the need for the rationalisation and clarification of existing tax legislation to improve efficiency in its application and administration, to remove loopholes and reduce the opportunities for tax evasion.

Authors whose countries implement an area-based property tax, discuss the opportunity to move towards an *ad valorem* tax base, which, they acknowledge, would allow for economic aspects of property and location to be clearly and demonstrably reflected in the taxable value. However, this shift is itself dependent on both a complete and up-to-date cadastre of all (taxable) properties and the appropriate development of the country's property market in order to provide reliable transactional evidence across all property sectors and geographical areas to support such assessments. To a large extent, there is little that municipalities can do to advance this process. However, national governments have the opportunity to develop suitable legislation and encourage the necessary support mechanisms to ensure that as market activities proliferate, they are transparent, regulated and undertaken in a manner which inspires widespread confidence in both the transactional process, and the subsequent recording, analysis and availability of accurate data. In advance of this, recommendations are made to amend cadastral valuations to improve the perception of fairness (Latvia).

Thus, many authors report the proposal to develop an *ad valorem* tax base. The Czech Republic is in the process of such a reform in respect of developable land; Slovakia reports that such a reform is included in the country's National Reform Programme, but recognises that this is attendant on further developments in its property market; Montenegro reports a pilot mass valuation system for potential roll out; and such a change is currently debated within Bulgaria although there is no stated intention to reform the tax base.

Regardless of a shift to an *ad valorem* tax base, authors recognise the problems caused by an undervalued tax base, recommending suitable up-dates be implemented, with proposed reforms which include allowing municipalities to vary current coefficients or to introduce new ones to reflect local conditions (Kyrgyz Republic). Hungary, for example, suggests that improvements would result from increasing municipality control over tax rates and categories of taxable persons to reflect local conditions, while recognising that this can lead to variations between local authorities.

Authors acknowledge the need to up-date and maintain cadastres and relevant data bases with comprehensive quality data. The incorporation of all property within cadastres is a problem for many countries, some of which recognise the need to legalise the existence of (illegal) structures which were built without the necessary permits and thus bringing them into the ambit of the cadastre and thereby the tax regime (Serbia, Montenegro,

Albania). Moldova notes the need to agree physical property boundaries so that public property can be identified, recorded and taxed.

Given the large percentage loss in revenue to local authorities as a result of the extensive number of exemptions and reliefs applied (Poland reports revenue reduction of between 23-27 per cent as a result of reliefs and between 16 and 18 per cent from the application of lower tax rates), a reduction in the number and application of such benefits is recommended (Belarus, Moldova, Russian Federation). Lithuania proposes to achieve this by progressively extending the taxation of residential property to include less expensive dwellings.

Several countries recommend introducing or extending the computerisation of tax administration, as well as seeking greater transparency in administration to improve taxpayer comprehension and to achieve greater efficiency. To an extent, this relies on increased capital investment in both technological and human resources, but the need to raise the awareness of the taxpaying public so that they appreciate the benefits of increased computerisation, especially in terms of tax payment and their comprehension of tax assessment is also important.

There is also a recognition of the importance of developing a tax paying culture, which is difficult in countries without a recent history of paying local taxes (Ukraine). Alongside improvements in methods of tax payment, a taxpayer complaints system (Moldova) and, potentially, incentives for prompt payment (Kyrgyz Republic), raising citizens' awareness of the tangible benefits of real estate taxes in terms of improved local services, and programmes of tax payer education are positive ways to support the shift from soviet to market values.

A summary of the reforms discussed by the chapter authors is presented in Table I.8.

Table I.8: Summary of Proposed Reforms

Country	Comments	Reforms
Albania	An effective and efficient property tax system can achieve social and economic objectives, including a stable and predictable source of revenue, transparency in the processes of tax estimation, local authority administration of revenue and the collection of taxes. Such measures, if mainly under the supervision of local authorities, would also encourage the	A reform agenda is in place to consider the adoption of a market value based approach. Support is being given by the Swedish International Development Agency.

Country	Comments	Reforms
	efficient use of land and property, and discourage land speculation.	
Armenia	The tax system on real estate emerged in the 1990s, with a tax on land and a tax on buildings, and with real estate being defined in 1996 legislation. The tax base remains the cadastral value, reassessed every three years, but this is seen as a transitional situation. With the on-going development of the real estate market and increases in the volume of transactions for the various property types, data are being gathered and analysed to provide statistical evidence which will be necessary for a future ad valorem tax base.	A market value coding system of the types of real estate is being formulated in support of a future ad valorem tax base. The 2018 Tax Code has merged the land and the buildings taxes and provided a simplified tax administration system which is aimed at improving the efficiency of the various tax systems. This includes reducing the frequency of the payment of real estate taxes from bi-annually to annually, as well as requiring local authorities to calculate the taxes payable by both natural and legal persons.
Belarus	Revenues paid by individuals from both real estate and land tax are low. For example, in 2015 the sums of the real estate tax paid by legal entities were some 50 times higher than sums payable by individuals. In terms of the land tax for the same period, the sums paid by legal entities were 83 times higher. Thus, it is clear that the land tax is not as profitable as other taxes, because of high costs of collection.	A suggested reform would be the introduction of the single real estate tax which would combine both the real estate and the land tax. A key proposal is the introduction of cadastral value. The single tax would improve the revenue potential. A further development is the introduction of a unified real property register using modern informational technologies and electronic services register.
Federation of Bosnia and Herzegovina	The position of the property tax in the current tax system is modest and ambiguous. Because of its uncertain legal framework, along with complicated administration and the	An important element is to have accurate and up-to-date immovable property registers. Currently, the land registry and cadastre contain only

Country	Comments	Reforms
	lack of harmonisation and cooperation between the different levels of government, as well as with the relevant agencies and bodies for immovable property, this form of tax is ineffective and impracticable.	certain information about immovable property: including the name of the owner and associated property rights, the position and size of the property. None of the existing registries has information about property market value nor its use, even though this information is very important for accurate property valuation. Important to improve the legal framework and updating of relevant records.
Bulgaria	The basis of the real property tax should focus on the mechanisms for the determination of the tax value of the real estate. The reason for that is the fact that the factors used to determine the tax value of real estate properties is not based on any ad valorem principle. Given that, the result is that the tax value of properties in the large Bulgarian cities are often less than half of the market price.	As of April 2017, there is no stated intention to reform the real property tax regime. Neither the Bulgarian Government nor the Association of the Municipalities have expressed any plans for modernizing of the relevant legislation.
Croatia	Currently, there is only one real estate tax which relates to the tax on holiday houses introduced in 2003. This is a local and an optional tax. In 2007, there were taxes on uncultivated agricultural land, unused land and unused commercial real estate, which, by the decision of the Constitutional Court, were declared unconstitutional.	The development of the real estate market along with associated institutional and legal support are considered to be prerequisites for the possible reform of the current system of real estate taxation. The real estate tax was introduced as part of a comprehensive national tax reform, the expectation being that a new tax would come into force in 2018. However, recent legislative amendments have annulled the real estate

Country	Comments	Reforms
		tax provisions. This confirms that Croatian real estate taxation is not following the path of other modern tax regimes.
Czech Republic	As the property tax is not the State´s revenue, the State has no interest in optimizing its yield. One possible solution to achieve higher revenues would be to adopt an ad valorem system for assessing the tax base. However, there could be significant costs for municipalities in the development and administration of the tax base maps. These costs would have to be met from the revenue raised which would mean increasing the amount of immovable property tax. However, the Ministry of Finance has stated that any change in the manner of assessing the tax base cannot impose an increased burden on the taxpayer.	Whilst there are several benefits to a system of ad valorem taxation of immovable property, the disadvantages remain significant. As a result, the Czech Republic is currently not ready to impose ad valorem taxation on immovable property.
Estonia	The Land Tax has been proven to provide stable, if somewhat low levels of revenues for municipalities. The Estonian Land Board uses recorded sales date to provide market information on all the real estate transactions. The Sales Register provides relevant and reliable information for mass valuation purposes.	It is clear that property tax and land assessment is not a high priority for the current Government. Buildings will continue to be excluded from the tax base.
Georgia	Georgian tax policy is aimed at the simplification of the tax system and keeping tax rates low to raise the competitiveness of the country in attracting foreign investment. In order to offer more guarantees to foreign investors, a Constitutional restriction was set on the increase of tax rates and the introduction of new taxes.	It t is unlikely that property tax rates will increase in the foreseeable future. At the same time, the government's need for revenues increases annually. Therefore, the repeal of the property tax is unlikely. Hence, one should not expect material changes in

Country	Comments	Reforms
		the taxation of the real estate in Georgia in the near future.
Hungary	The first attempt to introduce a so-called luxury tax was in 2005 with the Luxury Tax. The object of the tax was specific types of real property, i.e. flats and holiday accommodation with a value exceeding 100,000,000 HUF, where the tax rate of 0.5% was imposed on the sum exceeding this limit. The most problematic issue was the (estimated) value of the property. The Constitutional Court abolished this Law in 2008. After this decision, a second regulation was passed in 2009 on the Tax Due of Certain High Value Property Assets, with the aim of taxing valuable housing units, water and air vehicles, and high-performance cars, which was also cancelled in 2010 by a ruling Constitutional Court. Currently, only a few municipalities levy the tax on buildings based on the adjusted market value. The problem with its use is connected to the process of assessing the value of real property: specifically its methodology, what administrative organ should determine it, and when and how often it should be determined?	Over the last two decades, there have been several attempts to introduce a more general, unified State-wide system of property tax regulation, but without any real success.
Kazakhstan	There is a difference between the real market value and the tax bases determined in accordance with the tax law. In the case of land, the trend is still towards area-based taxation, where the tax rates vary depending on the type and location of land. The tax base is however not determined with reference to market value, but the tax rates seek to approximate the tax burden to the likely market value of land.	In the case of private individuals, the valuation is based on a complex formula, which is supposed to simulate and approximate the property market value. The most recent reform came into effect in 2014 which has led to an adjustment of the base prices of immovable property in the cities. The complex formula

Country	Comments	Reforms
		may not fully reflect the market value of the real estate property, On the other hand, the formula is relatively easily administered by the local authorities, provides for objectivity and does not lead to disputes. It also avoids the significant investment in qualified human resources needed for the qualified valuation processes, which could be also prone to subjectivity, corruption and disputes.
Kosovo	A significant challenge has been the distribution of property tax invoices. Previously, this was done by the Post and Telecom of Kosovo. However, as a result of numerous citizen complaints that their invoices were not being distributed in time or delivered to the proper address, a particular problem in rural areas, municipal officers are now being used to deliver invoices.	Taking into account the fact that only buildings are taxed in Kosovo, a project to implement the taxation of land has begun. This project is a continuation of an earlier project which operated from 2008 to 2011. Despite all of the efforts, it was anticipated that this project would be implemented in 2017. However, legislation is awaited to ensure the proper implementation of the tax on land. The new law will establish the minimum and maximum tax rates to be applied, which categories of land use will be exempt from the tax, and in such cases, whether citizens will be subsidised or be exempted from the property tax. A significant challenge remains as to how citizens will accept this new tax.

Country	Comments	Reforms
Kyrgyz Republic	The tax legislation specifically states that the owner (who has the property right) of the property is under the obligation to pay the property tax. The mortgagee taxpayers argue that, although that they have the rights to use and possess, they do not have the right to dispose, and therefore, they have no (taxable) property right. The Tax Code currently provides that mortgaged property that is under the ownership of the bank is exempt from the property tax, from the moment the mortgagor bank accepts the property as security for the debt, until the date the mortgage on the property is redeemed or the date of sale.	One possible reform would be to transfer from the State to local government the responsibilities for determining and deciding the nature and / or the rate of property and land taxes, thus providing more autonomy for the local government.
Latvia	The real property tax is an important income source for local municipalities in Latvia. The real property tax base is the cadastral value and is calculated by State Land Service. However, taxes are calculated by local municipalities, resulting in a close cooperation between State Land Service and local municipalities.	The main problem would appear to be related to slow speed of real property data flowing into the State Land Service, which results in biased cadastral values. This has led the State Land Service to work with local municipalities, Ministry of Justice and Ministry of Finance to develop solutions.
Lithuania	Since January 2017, the threshold for property values liable for taxation has been lowered to 220,000 EUR, and the tax rate lowered to 0.5 %. This means that a 0.5 % rate is applied to the property value exceeding the assessed value of 220,000 EUR. It is expected that the reform will continue in an "incremental« way. In the 2018 fiscal year, a progressive tax rate structure came into effect.	As of January 2018 part 6 of article 7 of the Law on Immovable Property has been abolished, thus, residential property is no longer taxed at a household level, because the provision has been found to be unconstitutional. The tax on immovable property is determined at the individual level. i.e. the basic exemption of 220,000 EUR is applied to each person in possession of

Country	Comments	Reforms
		residential immovable property. The same rule applies to married couples, with each of the spouses being eligible to the basic exemption of 220,000 EUR. Other potential reforms should be aimed at making real property taxation more transparent, easier to administer, and understandable to taxpayers. At present, the real property taxation is regulated by two separate laws. Since both land and buildings belong to the class of real (immovable) property the rules that govern the taxation of such property should be unified under a single legislative act.
Moldova	Not all properties have been registered in the real property cadastre because of the lack of finance required for the completion of cadastral work. Public property has not yet been registered in the cadastre because the physical boundaries have not yet been agreed and the exact owners have not yet been identified for some public properties administered by State and local governments. No recent revaluations have been performed to update the appraised values of the properties already covered by the tax valuation programmes. Moldova could lose all the advantages it has gained from having a multi-functional real property cadastre, a well-developed system of mass property valuation for its ad valorem	There is a need to have a clearly defined strategy for the completion of the real property cadastre and the country-wide implementation of the new property tax system. Required is the introduction of amendments to improve tax valuation laws in order to clarify the role of local governments in the implementation of the new real property valuation and taxation system. In addition, co-operation with local governments in gathering initial data and information about real properties and holders of rights to real

Country	Comments	Reforms
	taxation system, in the event that reforms are not put in place.	property within their jurisdiction is important.
Montenegro	Local tax administration units are taking full advantage of the centralization of cadastre information to better assess the real-estate tax base and thereby improve collection rates. As a result of this endeavour, the registration of a transaction, wherever it occurs, is immediately reflected in the system, which is a vast improvement compared to the previous, time-consuming practice of replicating the transaction in the central cadastre.	Revenue option for local governments is to expand the tax base by taxing illegal constructions which are often not registered. To complete such an inventory manually, would be very time consuming and expensive. New technology provides a more cost-effective solution. By using digital orthophotos to compare with the real estate cadastre and previous orthophotos, it is possible to identify new constructions and to assess their status.
North Macedonia	In support of the general assessment process, the Agency for Real Estate Cadastre in cooperation with the Chamber of Real Estate Assessors has established a database of real estate prices. The database contains detailed real estate information that is subject to assessment in accordance with the valuation methodology.	An important element within the process of property tax reform is the implementation of the new methodology for the assessment of the property values in 2013. Assessors started evaluating property in 2015, using market value, special variables, and the categorization of the property into one of 18 zones as prescribed by the Law. According to the most recent data statistics, the new ad valorem property assessment of real estate has gained significant success in terms of property tax revenue collection.
Poland	Notwithstanding that the real estate market is relatively stable there does not appear to be any significant support	The question of introducing a cadastral tax has been considered for several years. It does not seem that a cadastral

Country	Comments	Reforms
	for the introduction of a value based property tax.	tax will be adopted anytime soon.
Romania	The old Romanian Fiscal Code provided for a variety of local taxes, including: a building tax, a land tax, a tax on means of transport, taxes for administrative certificates, permits and approvals, an accommodation tax, and other local or special taxes.	City councils have limited powers of regulation as far as local taxes are concerned. Certain taxation rates can be set by city councils, within the range allowed by the Fiscal Code (e.g. between 0.08 % - 0.2 % for the building tax for residential buildings).
Russian Federation	The main direction of future developments in the sphere of real estate taxation is the completion of the transition from the use of inventory value to cadastral value. A further problem is related to the administration of the taxes undertaken by the Federal Tax Service. Municipalities argue that the federal authorities lack interest resulting in the ineffective and inefficient administration of the real estate taxes because the yield is transferred to sub-federal budgets.	In 2015, the Tax Code introduced the cadastral value as the tax base for property owned by individuals and, in some cases, for property owned by organisations. To use the cadastral value system of taxation, it is necessary for the results of the cadastral valuation process to be formally approved. From 1 January 2020, the only basis for the tax on the property of individuals will be the cadastral value - the inventory value of taxable property will no longer be used. The main problem in the operation of the land and real estate taxes are connected with the assessment of the cadastral value. Often the cadastral value is higher than the market price for real estate.
Serbia	It is important when establishing a CAMA system that those tax bodies authorized to assess and collect inheritance tax and the tax on the transfer of absolute rights keep an	In order to fulfil the legal obligation for mass appraisal, a special organization was formed within the Republic Geodetic Institute. Future

Country	Comments	Reforms
	electronic database on the sales and declared market values of real property. The database also contains information on taxpayers, and the amount of collected tax. This database is separate from the Register of Real Estate Turnover that is kept within the Republic Geodetic Institute. Keeping similar registers within two authorities is the duplication of administrative efforts and costs.	reforms will see further harmonisation of the tax base with the market value of real estate, by abolishing the reduction in the value of real estate for depreciation (because the age of a building already is reflected in the sale price), and also, the simplification of the structure of tax rates prescribed for taxpayers that do not keep accounts. Current problems are mostly related to low taxation revenues and the lack of data on property sales, especially for certain categories of real estate.
Slovak Republic	In recent years, the Government has been seeking a fundamental reform of the property tax base. The proposal is that the tax base should move from an "area based« system to an "ad valorem« system, which has been presented in several national programmes of reform. There are some concerns that would need to be addressed regarding the "estimated market value« of properties that should become the tax base. The real estate market in Slovakia is relatively immature. The actual sales prices achieved are not publicly verifiable because of the lack of public accessibility to this information.	Reform should firstly target residential properties though, from a fiscal perspective, starting with the commercial properties would be more efficient because of their much higher value and the greater availability of data. There are administrative problems in respect of the many small municipalities: these should not be underestimated and tackling them as a matter of priority should be part of any future reform, especially, considering the costs and effort that will have to be involved in the implementation of the intended reform.

Country	Comments	Reforms
Slovenia	The current government has started the next stage in the reform of the property tax in a different manner in order to address and correct the mistakes from the previous attempt. Two governmental bodies were constituted: a Project Council and a Project Group. These two bodies include non-governmental real estate experts, members of all three associations of local communities, and representatives of all ministries involved in the process. Since the tasks of the project are distributed among different ministries, it was recognized that the coordination between them needed improvement. Therefore, the Leader of Project Group was assigned to take on the additional role of Project Coordinator. This individual acts on behalf of the Ministry of Finance, since the Ministry of Finance is the leading government department for the project.	The report also points out that the Slovenian system innovatively diminishes issues concerning lower rates of transactional activity in the real estate market. However, the system continues to face legal issues that need to be addressed before its implementation, and there is a need to pay special attention to data quality. From the start of the project, a draft of a public relations campaign was developed. As a result, both formal and informal communication plans were organised with expert groups and local communities The process of a new valuation cycle is now in progress and new valuation models and new values are to be determined in August 2019.
Tajikistan	The real property tax in Tajikistan has undergone significant changes since the country became independent. In the early years of independence, the real property tax was recognised mainly as a national or State tax; later, real property taxes, in the form of the Land Tax, remained in the national budget, while the Real Property Tax became a local tax, and was paid into local budgets. Currently, both the Land and the Real Property Taxes are paid into local budgets.	One of the ways to improve the collection of real property taxes and to increase the yield would be to permit local government to determine the tax rate. Currently, the tax rate applied to real property is fixed entirely by central government.
Turkey	In order to improve the revenue performance of the property tax, all	There is an imbalance between the market value and

Country	Comments	Reforms
	properties should be recorded at the Land Registry and a common property tax data recording and processing systems should be established. In this way, revenue losses and evasion can be minimised.	the tax value of real property. Therefore, when calculating the tax value of the property, the market value must be taken into account. This problem, which causes significant revenue losses, can be resolved with the introduction of a new tax valuation methodology.
Turkmenistan	The system of property taxation established by the Tax Code looks quite simple at first sight. The main tax legislation is modern and meets the needs of the State and society. Tax rates are low.	Real estate market is immature and developing. Land parcels in Turkmenistan cannot be objects of private ownership: the granting of rights to land parcels is limited to private parcels activities, household parcels and private housing construction purposes.
Ukraine	Progress in the reform of real property taxation requires the implementation of systemic changes. Principally, this involves recognising the metamorphosis of the country's economy towards one based on an open market.	A substantial revision of existing principles and mechanisms of property taxation, which are still predominantly non-market based, is fundamental. This is in contrast to international practice which chooses for the unit of taxation not a floor area but the market value of real property, and differentiates taxable property into many classes, so that the most expensive real estate is taxed at the highest rates.
Uzbekistan	Up to 2021, payments for the privatisation of land plots is proposed to be based on the cadastral valuation, and after 2021 on market value. In order to stimulate individuals and legal	On June, 2018 the Concept of Improving the Tax Policy of the Republic of Uzbekistan was approved, which contains

Country	Comments	Reforms
	entities to privatize land plots, the intention is to apply a reduced land tax rate at 50 percent of the established rate for land plot owners.	new rules related to the property tax and the land tax.

Constitutional issues

Attempts to reform the property tax or elements of the property tax has often been the subject of constitutional challenges. These challenges if successful tend to have significant consequences which often result in the cancelling of the reform, either in part or in full; or a request to the leading ministry to go back and revisit those areas which have been successfully challenged at the Constitutional Court with a view to resubmitting revised legislation. The following is a brief review of some of the issues that have appeared before constitutional courts.

Slovenia, since the 1990s has been trying to modernize the property tax with the introduction of a market value based approach which would replace the current area-based system. The Real Property Tax Act which was introduced in 2013, was ruled as unconstitutional and was repealed by the Constitutional Court before the first tax assessment was made. The Real Property Mass Valuation Act was for the same reason declared unconstitutional if used for real property taxation. The constitutional challenges focused on the division of the tax revenue between the State and local communities, and the fact that the new law did not provide them with enough independence for making decisions to support local policies. In 2017, the government finally sent the new Real Property Mass Valuation Act to the Parliament, and the new Real Property Mass Valuation Act was adopted at the end of 2017. The new Act now contains none of the unconstitutional elements which were identified in the decision of Constitutional Court.

The Constitutional court in Hungary on a number of occasions has rejected the introduction of various reforms to the property tax. In Hungary, the jurisdiction of the Constitution Court extends to matters »..in connection with the rights to life and human dignity, to the protection of personal data, to freedom of thought, conscience and religion, or the rights related to Hungarian citizenship.« This basically provides an economic indicator as a binding constraint to any constitutional review, which applies to property taxation. An attempt was made in 2007 to introduce a so-called luxury tax the objective being to tax luxury residential property, including apartments and holiday accommodation with a value exceeding 100,000,000 HUF. The Constitutional Court abolished this Law in 2008. After this decision, a second regulation was passed in 2009 with a focus on the taxation of certain high value property assets, including housing units, ships and planes and high-performance cars, which was also cancelled by a ruling in 2010 of the Constitutional Court.

In Lithuania as of January 2018 the constitutional court found part 6 of article 7 of the Law on Immovable Property to be unconstitutional. This had the effect of applying the residential exemption of 220,000 EUR to each co-owner in contrast to the previous approach that applied the exemption at the household level. Thus when applied to married couples, each with an equal share in the property each spouses was eligible to the basic exemption of 220,000 EUR.

In 2001 three partial real property taxes were introduced in Croatia: (i) a tax on undeveloped building Land; (ii) a tax on uncultivated but viable agricultural land; and (iii) the tax on unused entrepreneurial real estate. The objectives achieved by these property taxes were both important to the Croatian tax system in both non-fiscal and fiscal terms. Nevertheless, the Croatian Constitutional Court held that the three taxes, as special types of real property taxes, were unconstitutional. However, the Constitutional Court emphasised that it is not acceptable to introduce such measures and limits in a manner that breaches fundamental constitutional values. In the Court's opinion, such a breach as in the present case.

of prescribing taxes, is contrary to the purpose of the taxes and the tax system in general. In other words, such taxes were in reality regulatory measures serving no fiscal purpose. The Constitution provides limitations on the taxing power of authorities in Croatia. Because of its breadth, the constitution limits the power of the state in terms of taxation power by protecting taxpayers' rights and freedoms. The Croatian Constitution (under Art. 48) provides a guarantee of the right of ownership of real estate, and it is generally understood as a rule that this excludes harsh or punitive taxation measures.

In Slovakia there have been issues regarding the actual power of the municipalities to set their own tax rates albeit within the statutory limits. Some municipalities have been imposing high rates on particular types of properties. The Constitutional Court of Slovak Republic decided on a case which challenged the power of a municipality to set the tax rates through bylaws, even though the power to do so is delegated by statute. The complaint has been rejected underlining the constitutional principle of the imposition of taxes set by art. 59 of the Constitution and the autonomous powers of municipalities performed in accordance with the Act on Local Taxes and other statutes.

Through a 2010 amendment, Georgia restricted foreign entities and individuals from the possession of agricultural lands. According to the then prevailing law, a foreign individual could gain ownership of agricultural land only by inheritance. Moreover, a foreigner who gained ownership over agricultural land was obliged to sell it to a Georgian citizen, household or a legal person registered in Georgia, within six months of the acquisition of ownership. This requirement was challenged in the Constitutional Court of Georgia. The Constitutional Court in 2012 held that the restriction set on non-Georgian individuals' possession of agricultural lands was unconstitutional. This decision made it possible for non-Georgian individuals to acquire title over the agricultural lands in Georgia. In order to offer more guarantees to foreign investors, a Constitutional restriction was set on the

increase of tax rates and the introduction of new taxes. In the light of this, it is unlikely that Property Tax rates will increase in Georgia in the foreseeable future.

Real Estate (Property) Markets

The emergence of active, stable and transparent real estate markets, across all (property) sectors and throughout the (geographical) area of a country is seen as a vital prerequisite to satisfy both citizen and national aspirations in terms of life-style and wealth generation, as well as to provide a suitable basis on which to levy an *ad valorem* property tax. In order to achieve this, the legal recognition and protection of tradable property rights needs to be assured at the highest level, and all contributing authors discuss the establishment of complete registers of both land (cadastre) and ownership rights.

In the majority of countries, this has necessitated an up-dating of records which have not been amended since the soviet system was introduced. This process of up-dating in itself has been a major task in terms of the identification, classification, recording and the legalisation / normalisation of properties constructed without the necessary permits (Albania), and in part has been achieved through the introduction and development of urban planning regulations. In Slovenia, the failure to maintain land and buildings registers during the soviet era resulted in the slow uptake of property following privatisation.

In addition, it has been necessary for several countries to adopt policies that facilitate the merging of land ownership rights with those of buildings, in order to develop an attractive tradable real estate package (Uzbekistan). Improvements in investment opportunities should also be considered to boost market activity.

Other prerequisites to support a transparent, active and healthy real estate market are recognised, and authors discuss the development of an active construction industry producing a quality supply of real estate across a full range of property types and in locations of popular demand.

For citizens in a number of the countries documented here, their rights to residential property began with the restitution of property rights and the processes of privatisation, which in many cases allowed occupiers to acquire ownership rights to their residential accommodation. However, over time, a healthy and stable rental and capital market has developed, particularly in those countries in the west of the area covered, with the real estate markets in one of the central Asian countries, Tajikistan, stated to be at a »formative stage«.

There is or has been a clear evolutionary trend within property markets being focused initially in the larger cities and the more developed regions, including tourist destinations (Hungary) where the trend is for hospitality accommodation (hotels etc.), with rural areas developing their markets at a slower rate. Reports (Moldova) also discuss the migration

of populations from rural areas to urban areas thereby increasing the pressure on metropolitan accommodation. In Romania, the residential market was driven by the country's »First House Policy«, aimed at helping both first time home buyers and the construction industry, although at a heavy financial cost to the government.

Similarly, the need for secure funding at a reasonable cost for potential purchasers of real estate has necessitated the introduction of bank lending facilities and, in some cases, government Housing Funds to support home purchasers. Increases in the cost of finance, according to some authors, contributed to periodic reductions in market activities. Inevitably, such facilities have been subject to international influences and these countries have all suffered from the recent global economic and financial crises that have adversely affected so many others. Country authors do, however, report recovery of their property markets, although not all have achieved their pre-crisis levels of activity.

The potential for some countries to become eligible for membership of the European Union (EU) has also affected their legislation regarding real estate rights, for example, requiring them to abandon their initial policy of restricting land ownership rights to their own nationals, and to extend the same rights to all EU citizens, with certain notable exceptions.[8] In contrast, Azerbaijan reports that it is illegal for foreigners to purchase land plots, and in Moldova, foreigners cannot own agricultural land nor designated forest lands.

Major events also contribute to real estate development, with evidence from Turkmenistan which shows the benefits of investment in the construction industry for residential accommodation and a range of commercial and social facilities following capital investment in the 2017 Asian Indoor and Martial Arts Games, with the long-term socio-economic development programme scheduled to continue until 2020.

Many authors describe a preference in the market for new-build residential accommodation and for outright purchasing rather than renting, although this is not universally the case. The contrast is made between the relatively utilitarian nature of residential construction prior to independence compared to modern apartments. This creates an issue with the supply of modern, quality properties sought by increasingly affluent and sophisticated purchasers, although in Kazakhstan, there is a reluctance to buy units under construction. A number of country authors (Czech Republic) report a preference for renting smaller modern units rather than owning older and larger apartments which are more expensive to maintain. This explains the somewhat slack market in the large stock of pre-independence residential units which is in need of renovation. Romania reports that no new state housing was developed after 1990; and

[8] Such exceptions include the ownership of land/buildings which are of national importance, and land subject to protection as nature reserves. In Croatia, 30% of the land area is protected as nature reserves. In the Kyrgyz Republic, in relation to land close to the borders with other territories, foreign entities are unable to have any use of the land at all.

Croatia that 42 per cent of its pre-1970s residential accommodation had not been refurbished. Kosovo also reports the negative effects of poor infrastructure.

Some authors also cite that their citizens' lack of familiarity with real estate transactions is also having a negative effect on their ability to take part in and to benefit from their property market. Moldova reports the low purchasing power of investors, their poor awareness of funding opportunities and the absence of transparency that results in strong supply but weak demand in the market. Similarly, despite the evidence of extensive official gathering of data on real estate transactions, in some countries, the absence of publicised sale prices has a negative effect on the transparency and effectiveness of the market.

Nevertheless, there is evidence (Turkey, North Macedonia) of strong demand from major international commercial interests in securing development and ownership opportunities, particularly in capital cities, as multi-national corporations seek suitable accommodation.

In support of a property tax system, there is a need for a comprehensive, accurate and transparent system of recording property transactions; ideally one in which the data is made freely and publicly available.

Conclusions

Slovenia reports that the property tax is a misunderstood system and that the tax is seen as a confiscatory charge on a constitutionally protected asset. Taxpayer understanding and acceptance of the principles underpinning the property tax is vital if reforms are to be implemented and municipalities are to receive the funding necessary to provide the range and quality of services required by their citizens. Fears that changes in tax systems, such as updated tax bases and increased tax rates, automatically mean an increase in bills need to addressed, so that municipalities can be held to account in the ballot box for such changes; and taxpayers need to be aware that increases in tax revenue result in the benefits of improved local services and thus a better quality of life. Through the democratic process, the electorate needs to take all opportunities to influence and benefit from the very real potential of the real estate tax system.

The property tax system does not exist in a vacuum and has implications for and is affected by both land use planning and real estate market development. The opportunity, for example, to stimulate efficient and economic use of real estate through variations in the property tax system e.g. by imposing higher tax rates on unused or underused property, is an interesting prospect.

There is evidence from a number of chapters (e.g. Montenegro) that the administration in property taxation at central and local levels suffers from a lack of suitably qualified personnel, as well as adequate technological support and there is a recognition of the need to invest further in such resources. This is also the case in relation to the recording of

cadastral data in Kosovo which presents a particular challenge. Educational programmes and investment are vital to overcome these deficiencies, as is the development of relevant professions, professional education, professional qualifications, codes of conduct, and the awareness of the importance of ethical behaviour, if corrupt practices are to be eliminated and domestic and international confidence is to be stimulated.

Furthermore, clear from several chapters is the support which some countries have received from other countries, international institutions (e.g. the International Monetary Fund and World Bank) and from international aid agencies in developing their tax systems. There is also increasing awareness of international standards and guidance in relation to a range of property tax issues and the need to reflect such principles in future changes in order to secure sound platforms on which to develop national property tax regimes and to improve confidence in and the reliability of property taxes.

Yet if the property taxes discussed in these chapters are to achieve their potential in terms of both revenue raised and services for the community, taxpayer comprehension, involvement and support is vital. There is recognition of the need to raise the awareness of the importance of compliance with the property tax system (Montenegro) which is reinforced by evidence (Kosovo) of the advantages of taxpayer education in seeking to ensure compliance with the tax regime.

Nevertheless, the real estate tax, indeed any tax, is a creation of state legislation and it is only with the support of the state legislature that any significant reforms can be achieved. This means that benefits which result from reform must chime with the ambitions of the state governments, as well as the aspirations of their population.

It is clear that all the countries are keen to establish effective and efficient property tax systems within their jurisdiction, to benefit from the potential yield of the real estate property tax in order to be in a position to provide a range of quality services to their taxpayers. In this way, the quality of life of their citizens is improved and other economic and social benefits achievable.

With its distinctive coverage and authorship, the contents of this book make a welcome and unique contribution to the literature on real estate and in particular to that of real estate taxation. The authors demonstrate the aspirations of their countries, and an awareness of not only the »what« but also the »how« of what is yet to be achieved.

The real estate property tax systems reported in this book have been established and developed over the last thirty years, alongside unprecedented legal, social and economic changes. What will these countries accomplish over the next thirty years?

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
M. Radvan, R. Franzsen, W. J. McCluskey & F. Plimmer

Is Ad valorem Property Taxation a Solution for the Czech Republic

MICHAL RADVAN & JANA KRANECOVÁ

Abstract The role of the immovable property tax in the Czech Republic is marginal. The main problems would appear to be related to low revenue and inefficient administration systems. The issue of low revenue could be resolved by adopting an *ad valorem* tax base. However, if the Czech government does not want to increase the immovable property tax revenue, there is no real incentive to implement an *ad valorem* system, as it is expensive to establish, administratively demanding and time-consuming. The immediate solution for the Czech Republic is that the unit system (area) tax base should be retained. There should be one maximum tax rate in the legislation for every type of property, and municipalities should have the right to introduce their own specific tax rates below that level. As there are more than 6,250 municipalities in the Czech Republic and many of them are extremely small with a very low number of inhabitants, there should be another rate (standard rate) in the legislation for those municipalities that do not set their own specific tax rates. A positive motivation to pay taxes is a *conditio sine qua non* to receipt of optimal revenue. The best advertisement for the tax payment is a proper use of tax revenues in the public interest and the supply of effective, efficient and desirable services.

Keywords: • Czech Republic • property tax • immovable property tax • valuation • tax reform

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Introduction

The role of the immovable property tax in the Czech Republic is marginal, in terms of the significance of its yield, and it seems to be a political decision as to whether or not to develop the structure of the tax further. The first issue to be solved by politicians is whether to increase the property tax revenue. If the decision is to leave the revenue at the existing level, there is no substantial need to change the structure of property taxation. Compared to other (not only EU member) states, the level of the annual property tax should be increased, while the burden of other taxes (especially taxes on incomes from employment) should be reduced. This outcome could be achieved by adopting an *ad valorem* tax base. The hypothesis for this chapter is that an *ad valorem* property taxation, and not the unit tax base, is the property tax solution for the Czech Republic. In addition, it is important to discuss the role of the tax administration, now under the control of state bodies, in the light of the fact that the property tax revenue funds municipal budgets. There are municipalities arguing that they can administer the property tax more effectively, as they have information about local circumstances. Also municipalities want to know who really does pay the tax and who does not. However, such the information is not made public nor is the tax procedure clear. Nevertheless, it must be remembered that the issue of State-level tax administration also reflects the large number of small municipalities who do not have the resources (personnel, technical and financial) to administer the tax themselves.

1 Property tax

1.1 History

Property taxes are one of the oldest taxes collected throughout the developed and developing world. In the Middle Ages, the most important taxes were the so called contributions paid based on the ownership of property, using the repatriation method i.e. the revenue was approved initially by the king and later by parliament. The revenue was then divided between towns, noblemen and subsequently sub-divided into individual taxpayers or groups of taxpayers.[1]

The first property taxes applied within the Czech Republic were taxes on cultivated land and on town houses.[2] In 1517, the tax rule accepted by Parliament set the general tax on property. The object of taxation was not only the property owned by the common people, but also the property of towns, landlords and churches. The nobility was responsible for the tax returns of their vassals and the tax base was influenced by and partially based on the selling price of the property. In 1531, a new tax on property was adopted, but it was replaced in 1534, by the tax on the sale price of property. At the beginning of the 17th

[1] See Široký, J. Daňové teorie s praktickou aplikací (Tax Theory with Practical Application). Praha: C.H.Beck, 2003. P. 22.
[2] For details see Široký, J. Daňové teorie s praktickou aplikací (Tax Theory with Practical Application). Praha: C.H.Beck, 2003. P. 25-38.

century, the domestic tax (a tax on residential property) was adopted. The objects of taxation were residential houses in towns and villages.

In 1748, the Empress Maria Theresa created the first cadastre describing all vassals' land including information on the income generated from this land. This cadastre was used primarily for tax purposes and represented one of the most important developments in the history of property taxation, not only in the territory of the Czech Republic, but within Central Europe. Joseph II added churches and landlords' property into the cadastre and these also became the subject of taxation. In 1817 the cadastre included all land and structures (buildings) within the country and in 1820 the domestic tax was reaffirmed.

In 1918, an independent Czechoslovakia was created and, as a result, it became necessary to unify the tax systems of Bohemia, Moravia, Silesia, Slovakia and Sub-Carpathian Russia. In 1927, the tax reform[3] resulted in both a land tax and a domestic (building) tax. The land tax was paid by the owner of the land as recorded in the cadastre. The tax base was the estimated profit derived from the property listed in the cadastre, according to the type of land (for example 20 times the profit for forests, 17 times the profit for other land).[4] The tax rate was 2 percent, though a surcharge of 1.5 percent was possible. The domestic property tax included a tax on leased buildings and buildings in large towns as well as a tax on other buildings. The tax base was either on the rental value of the building (with a tax rate between 8 and 12 percent), or alternatively the tax depended on number and size (square metres) of rooms, number of floors, etc.[5] Municipalities, counties and countries (e.g. Moravia, Silesia) were allowed to apply local surcharges, which then became their own revenue.[6]

After the communist revolution in 1948, the agriculture land tax was established.[7] The tax rate reflected the profitability of the land irrespective of whether the land was actually used for agricultural purposes. There were a number of exemptions from the tax, including newly established vineyards (exempted for six years); hop gardens (two years); and orchards (five years).

The domestic tax was extended to buildings used for business and recreation purposes. Newly-constructed buildings were exempt for 15 years. In the case of family houses used

[3] Act no. 76/1927 Sb. z. a n., on direct taxes.
[4] See Engliš, K. Finanční věda (Financial Science). Praha: Nakladatelství Fr. Borový, 1929. P. 142-146. As well Freudenfeld, F. a Kovanda, F. Zákon o přímých daních (Income Taxes Act). 2nd ed. Praha: Právnické knihkupectví a nakladatelství V. Linhart, 1937. P. 342-406. As well Pimper, A. Národní hospodářství pro každého (National Economy for Everyone). 2nd ed. Praha: Pražské akciové tiskárny, 1936. P. 300-301.
[5] For details see Engliš, K. Finanční věda (Financial Science). Praha: Nakladatelství Fr. Borový, 1929. P. 146-154. As well Freudenfeld, F. a Kovanda, F. Zákon o přímých daních (Income Taxes Act). 2nd ed. Praha: Právnické knihkupectví a nakladatelství V. Linhart, 1937. P. 318-342. As well Pimper, A. Národní hospodářství pro každého (National Economy for Everyone). 2nd ed. Praha: Pražské akciové tiskárny, 1936. P. 300-301.
[6] See Freudenfeld, F. a Kovanda, F. Zákon o přímých daních (Income Taxes Act). 2nd ed. Praha: Právnické knihkupectví a nakladatelství V. Linhart, 1937. P. 406-458.
[7] See Zahálka, V. Finanční parvo (Financial Law). Brno: UJEP, 1984. P. 143.

for family recreation (summer cottages), the unit system (based on square metres) was used to set the tax base. The tax rate depended on number of inhabitants living in the municipality, with the municipal council having the right set the rate through a by-law within the overall state legal framework. In the case of other buildings (e.g. those used for business purposes), the *ad valorem* system was used. The tax base was the rental value and the tax rate was between 45 and 50 percent. In 1957, a local charge on flats and apartments was introduced. The charge base was the surface area of the flat, reduced by the so-called exempted area i.e. the area for one inhabitant, as set by central government.

After the so-called Velvet Revolution in 1989, the government established a new tax system which became effective from the beginning of 1993. The Real Estate Tax Act[8] provided for two taxes on real estate: the land tax and the building tax. The building tax included a tax on flats/apartments and a tax on non-residential premises.

In 2014, after the reform of the civil law in the Czech Republic, the title of the 1993 Act was changed to Immovable Property Tax Act and the title of the tax to the Immovable Property Tax. Again, this Act provided for two taxes on immovable property: the land tax; and the tax on buildings including houses, flats/apartments and non-residential premises. Primarily, the unit/area (in terms of square metres) system is used. Only in case of agricultural land is the *ad valorem* system partially used (the area of the land is multiplied by the local coefficient to provide the average price per square metre of the land as laid down by decree issued by the Ministry of Agriculture).

A similar methodology is used for land comprising commercial forests and ponds used for fish-farming, with the price being set by the Act (at 3.80 CZK/m^2) [9]. However, the taxpayer can choose whether to use this coefficient or the price of the land as determined by the price regulations valid as at 1 January of the taxable period.

1.2 Position of proprety tax

The main legal provisions concerning all taxes in the Czech Republic is the Charter of Fundamental Rights and Freedoms[10]. This Charter, together with the Czech Constitution, is part of the Constitutional Order of the Czech Republic. Article 11(5) of the Charter stipulates that taxes and fees can only be imposed by acts of Parliament.

This explains why the Immovable Property Tax is a national tax regulated by the Immovable Property Tax Act. This Act specifies most of the structural components of the tax, such as the taxpayers, the objects of taxation, the tax base(s) and the basic tax rates. Also included are the correction components (i.e. tax exemptions and the power of the municipality to vary the tax rates), as well as the nature etc. of the system of tax administration.

[8] Act no. 338/1992 Sb.
[9] 1 EUR is approx. 26 CZK.
[10] Act no. 2/1993 Sb., Charter of Fundamental Rights and Freedoms, as amended.

The tax is administered by the central State tax offices (i.e. Financial Office), and not by local governments. Notwithstanding that all of the revenue raised from the immovable property tax goes to the municipal budget, depending on where the taxable property is located, municipalities only have a limited ability to influence the structural components of the immovable property tax.

Generally, municipalities only have the right to exempt immovable property affected by natural disasters, certain agricultural land (arable land, hop-fields, vineyards, orchards and permanent grass pastures), and immovable property in special industrial zones. In addition, they can effect a change to those coefficients that influence the tax rate (i.e. the location rent, the municipal coefficient) or the tax itself (i.e. the local coefficient[11]). In all cases, municipalities have to adopt a generally binding ordinance (local by-law) in accordance with the right given in the Act.[12]

When dealing with the consequences of natural disasters, municipalities may fully or partly (as a percentage) exempt immovable property located within their jurisdiction from the immovable property tax. This exemption is time-limited, and subject to a maximum period of five years. The exemption is effective not only for the year in which the natural disaster occurred and the following five years, but can also include the previous taxable period. This exemption is not very popular given the potential loss of revenue to the municipality and their need to meet the costs of repairing any damage. In addition, it can be difficult to determine which immovable property was affected by the natural disaster (for example, flats on the first floor were damaged, however, flats on the fourth floor undamaged).

Various types of agricultural land such as arable land, hop-gardens, vineyards, orchards and land under permanent grass can be exempted from the immovable property tax by municipalities as a subsidy for their agricultural industry. This exemption need not be applied to land in developed or built-up areas of the municipality. This exemption is infrequently used because small rural municipalities which rely primarily on agricultural land for their revenue, would be losing a substantial part of their tax base and associated revenue.

As an investment incentive, municipalities may exempt immovable property in special industrial zones, designated as such by the Government of the Czech Republic, for a period of up to five years.

[11] For details see below.
[12] For details see Radvan, M. Economic Autonomy of the Local Self-Government Units - Local Taxes in the Czech Republic. In Zagadnienia ustroju samorządu terytorialnego w Polsce i innych państwach Unii Europejskiej. Szczecin: Wyższa szkoła administracji publicznej w Szczecinie, 2009. P. 178-193.

The coefficient called 'location rent' is influenced by the number of inhabitants with a permanent residence in the municipality. It is a multiplier applied to the standard tax rate for immovable property, such as development land, residential buildings, and other structures that provide facilities for residential buildings, flats and non-residential premises not used for running businesses and garages.[13] The basic value of the coefficient is laid down in the Act and provides seven levels of value within the range of 1.0 and 4.5. Municipalities have right to increase the basic co-efficient (up by one level) or reduce it (down by three levels).[14] Given its long tradition, the location rent is used by many Czech municipalities as a means of reducing the level of the property tax imposed.

The municipal coefficient can also be applied to other buildings and units where the location rent does not apply. It can be applied, for example, to property such as dwelling houses and family houses used for family recreation (summer cottages) and other structures that provide facilities for such property, such as garages, as well as to structures used for business activities, non-residential premises used for business activities and as garages. The value of the coefficient is set at 1.5 and again is applied as a multiplier to the standard tax rate. This coefficient is widely used by municipalities.

Fiscally, the most important right for municipalities is the opportunity to increase the immovable property tax by the local coefficient. This coefficient increases the tax liability of the taxpayers for specific immovable property (including land, buildings, non-residential premises and flats (with the exception of agricultural land)) by a factor of either 2, 3, 4, or 5. Given the political nature of the immovable property tax, only 7 percent of municipalities in the Czech Republic are using this mechanism to increase their tax revenue.

The dual nature of the tax administration (overall State control, with limited municipal rights to vary its yield) means that it is important for municipalities to cooperate fully with central tax offices and to provide current up-to-date information on those matters concerning immovable property within their jurisdiction, for example, the use of immovable property. When a municipality wants to adopt or change any of the coefficients or to offer an exemption, it requests the tax office to determine the fiscal impact of the changes.

[13] The co-efficient is also applied to development land, although this is subject to the Land Tax.
[14] See Table 1.1.

1.3 Structural components

The recurrent property tax in the Czech Republic is regulated by the Immovable Property Tax Act. This Act defines the object of taxation as an immovable property situated within the territory of the Czech Republic. *De jure,* the Immovable Property Tax Act divides the immovable property tax systematically into two parts: the land tax and the tax on buildings and units. However, it might be more appropriate to consider the tax as related to four property types, namely: the land tax, the building tax, the flat tax and the non-residential premises tax. It is important to determine the effect of each tax on each parcel of immovable property. The total sum of these taxes is the final immovable property tax payable, as shown in a single tax return from each taxpayer.

The unit of property liable to the land tax is defined as land within the territory of the Czech Republic, and registered in the cadastre (land register). But the land tax is not imposed on all land (even though the land may be registered in the cadastre). Thus, for example land within the ground plan of a building (i.e. land under the building - its »footprint«), certain woodland (such as protected forests and forests of special interest), water-covered areas (except ponds used for commercial fish-farming), land used for State defense, and land owned by the owner of the unit where the land is used together with the unit (such as a flat and non-residential property).

The following categories of land are liable to tax:

- Agricultural land, such as arable land, hop-fields, vineyards, gardens, orchards and permanent grass pastures;
- Commercial forests;
- Ponds used for fish-farming;
- Built-up areas and courtyards;
- Development land;
- Flat structures (e.g. parking lots);
- Other areas (playing grounds, natural swimming pools, cemeteries, etc.).

Buildings used as dwellings, for business purposes, and other buildings are liable to the building tax. The objects of taxation are buildings connected to the land with fixed foundations. Moreover, the objects of taxation also include so-called engineering structures such as chimneys, which may or may not rely on foundations for their attachment to land.

Only flats and non-residential premises registered in the cadastre are liable to the buildings tax. Apartment block buildings, in respect of which the tax is payable on the individual apartments/flats and associated non-residential premises, are not liable to the building tax.

Generally, the taxpayer for the immovable property tax is the owner of the property. However, the leaseholder of the land can also in certain circumstances be the taxpayer. This situation arises especially in relation to land registered in the pre-digitized cadastre (and not yet transferred to the digitalized cadastre), land managed by the State called Land Fund of the Czech Republic or the Administration of State Material Reserves, or transferred to the Ministry of Finance. The user of land is the taxpayer, if the owner of the land is unknown. If the structure is managed by the Land Fund of the Czech Republic or the Administration of State Material Reserves or transferred to the Ministry of Finance, then these entities are the taxpayers. But if these structures are leased, the tenants normally pay the building tax. (As stated above, this rule does not apply to residential buildings.)

The tax base in the case of land is generally area-based i.e. per square metre. However, in some cases a modified *ad valorem* system is applied. The basis of the tax for agricultural land is determined as a multiple of the actual area of the land (in square metres) and the average price per square metres of the land, as laid down in a decree by the Ministry of Agriculture. In assessing the tax base of commercial forests and ponds used for fish-farming, the taxpayer can choose between the price of the land as determined according to the price regulations valid on 1st January of the taxable period or the actual area in square metres multiplied by 3.80 CZK. The tax base of other land (built-up areas and courtyards, development land, flat structures etc.) is the actual area of the land (in square metres), as ascertained on 1st January of the taxable period.

The basis of the building tax is the same for all buildings and is defined as the built-up area (in square metres) as at 1 January of the taxable period. In the case of apartments and non-residential premises, the tax base is the adjusted floor area, which refers to the total floor area of the flat or non-residential property in square metres as at 1 January of the taxable period, multiplied by a coefficient of 1.20 (or 1.22, if there is any land used together with the unit).

The tax rate on agricultural land (arable land, hop-fields, vineyards, gardens, orchards and permanent grass growth) varies: for example it is 0.25 percent for permanent grasslands (as this land has lower productivity), and 0.75 percent for other agricultural land. The tax rate for commercial forests and ponds used for fish-farming is 0.25 percent. The tax rate per square metres of other land (such as built-up areas and courtyards) is 0.20 CZK; and for development land it is 2 CZK. In the case of flat structures, it depends on their use: if the use is forestry, agriculture or water management, the rate is 1.00 CZK per m^2: if these buildings are used for industrial production, civil engineering, transport, power and other agricultural production, and for other business activities, the rate is 5.00 CZK per m^2. Development land has a different tax rate depending on whether it is located within a small village or a large city. Thus, the tax rate of 2 CZK is absolute, although it is varied (multiplied) by a coefficient (called the location rent) based on the number of inhabitants in the municipality (the municipality can increase or reduce the basic coefficient by a generally binding ordinance (see Table 1.1).

Table 1.1: Location rent

Number of inhabitants / Municipality	Coefficient				
	Basic	Reduced			Increased
≤ 1,000	1.0	–	–	–	1.4
> 1,000 ≤ 6,000	1.4	–	–	1.0	1.6
> 6,000 ≤ 10,000	1.6	–	1.0	1.4	2.0
> 10,000 ≤ 25,000	2.0	1.0	1.4	1.6	2.5
> 25,000 ≤ 50,000	2.5	1.4	1.6	2.0	3.5
> 50,000 + Františkovy Lázně, Luhačovice, Mariánské Lázně, Poděbrady	3.5	1.6	2.0	2.5	4.5
Prague	4.5	2.0	2.5	3.5	5.0

The final tax liability for taxable properties, (excluding arable land, hop-fields, vineyards, orchards and permanent grasslands) can by multiplied by the local coefficient (2, 3, 4 or 5) assessed by a generally binding ordinance. This resolution depends on the municipality.

The standard tax rate for residential buildings is 2 CZK per square metre of built-on area. This rate is increased by 0.75 CZK per each additional floor above ground level. This standard or increased rate is multiplied by the location rent (see Table 1.2).

The standard tax rate for other structures that provide facilities for residential buildings is 2 CZK per square metres of built-on area, but only for the area in excess of 16 m^2. This rate is increased by the so-called increased tax rate (0.75 CZK for each additional floor above ground level. This standard or increased rate is then multiplied by the location rent.

The standard tax rate for houses and family houses used for family recreation (summer cottages) is 6 CZK per m^2 of the built-on area. This rate is increased by a tax rate of 0.75 CZK for each additional floor above ground level and by the so called municipal coefficient (1.5 – assessed by a generally binding ordinance). If such houses are located in national parks or first-category protected countryside zones, a further coefficient of 2.0 is applied.

The standard tax rate for other structures that provide facilities for houses and family houses used for family recreation is 2 CZK per m^2 of the built-up area which can be increased by 0.75 CZK per each additional floor above ground level, by a municipal coefficient (1.5) and if such structures are located in national parks or first-category protected countryside zones, the coefficient of 2.0 shall be used.

The standard tax rate for garages constructed separately from (but used together with) residential buildings is 8 CZK per m^2 of surface area covered. This rate can be multiplied by a municipal coefficient (1.5).

The standard tax rate for structures used for business activities depends on the type of business activity, as follows:

- 2 CZK per m^2 of the built-on land area for structures primary used for agricultural production, forestry and water management (but not fisheries),
- 10 CZK per m^2 of the built-on land area for structures used for industrial production, civil engineering, transport, power, other agricultural production, and for other business activities.

The standard tax rate is increased by an additional tax rate (0.75 CZK per each additional floor above ground level, and by the municipal coefficient (1.5).

For other structures the standard tax rate is 6 CZK per m^2 of the built-on area. Similar to other buildings, it can be increased by 0.75 CZK per each additional floor above-ground.

The final tax can by multiplied by the local coefficient at 2, 3, 4 or 5 assessed by a generally binding ordinance. This resolution is made entirely at the discretion of the municipality.

Table 1.2: Tax rate overview

Object of building tax	Standard tax rate (CZK/m^2)	Increases tax rate (additional floor above-ground)	Multiplied coefficients			Local coefficient
			According to number of inhabitants	Municipal	National park	
Residential buildings	2	+ 0.75 CZK/m^2*	1.0 – 5.0	–	–	2,3,4 or 5
Other structures that provide facilities for residential buildings (over 16 m^2)	2	+ 0.75 CZK/m^2*	1.0 – 5.0	–	–	2,3,4 or 5
Houses and family houses used for family recreation	6	+ 0.75 CZK/m^2*	–	none / 1.5	2.0	2,3,4 or 5
Other structures that provide facilities for houses and family houses used for family recreation	2	+ 0.75 CZK/m^2*	–	none / 1.5	2.0	2,3,4 or 5
Garages	8	+ 0.75 CZK/m^2*	–	none / 1.5	–	2,3,4 or 5
Structures for business activity –						2,3,4 or 5

Object of building tax	Standard tax rate (CZK/m^2)	Increases tax rate (additional floor above-ground)	Multiplied coefficients			Local coefficient
			According to number of inhabitants	Municipal	National park	
primary used for agricultural production, forestry and water management	2	+ 0.75 CZK/m^2**	–	none / 1.5	–	
Structures for business activity – industrial production, civil engineering, transport, power and other agricultural production, and other business activity	10	+ 0.75 CZK/m^2**	–	none / 1.5	–	2,3,4 or 5
1. Other structures	6	+ 0.75 CZK/m^2*	–	–	–	2,3,4 or 5

* If the area of an additional floor above-ground exceeds two-thirds of the built-up area.
** Always.

The standard building tax base for flats is 2 CZK per m^2 of the adjusted floor area which is then multiplied by the location rent.

Non-residential premises used for business purposes require taxpayers to establish the standard rate according to the purpose of the business:

- 2 CZK per m^2 of the adjusted floor area for flats and non-residential premises primary used for agricultural production, forestry and water management; and
- 10 CZK per m^2 of the adjusted floor area for flats, and non-residential premises used for industrial production, civil engineering, transport, power and other agricultural production, and for other business activity.

These standard rates are multiplied by the municipal coefficient of 1.5.

If non-residential property is used as a garage (i.e. to house a taxpayer's vehicle), the standard tax rate is 8 CZK per m^2 of the adjusted floor area. This standard rate is multiplied by the municipal coefficient of 1.5.

If the non-residential property is used for other purposes, the standard tax rate is 2 CZK per m^2 of the adjusted floor area and can be multiplied by the location rent.

At the discretion of the municipality, the final tax rate can by multiplied by the local coefficient at 2, 3, 4 or 5 assessed by a generally binding ordinance.

There are several reasons and many conditions under which land may be exempt from taxation. The most common condition is where land is not used for profit-making purposes: for example, land used for public interests, ecological purposes, and under reciprocal international treaties. In several cases, a tax return does not have to be filed for such land because it is owned by the State, municipalities, regional governments, and diplomatic representatives. Other claims for exemptions must be made in the first tax return after acquiring the immovable property. This affects land owned by churches, schools and universities, museums, galleries and hospitals which may be permanently tax-exempt. Other land is exempt but only for a limited period:

- Agricultural land is exempt for five years following the year when such land was returned to agriculture cultivation;
- Woodlands are exempt for 25 years following the year when such lands were returned to forestry use;
- Land affected by a natural disaster for a period up to five years to eliminate consequences of natural disasters (this tax exemption is awarded at the discretion of the municipality);
- Agricultural land (with the exception of gardens) is exempt at the discretion of the municipality;
- Land in special industrial zones designated as such by the Government of the Czech Republic is exempt up to five years (this tax exemption is also at the discretion of the municipality).

The reasons for and the conditions under which structures can be exempt are generally the same as for those relating to the Land Tax. Thus, there is no need to file the tax return for buildings owned by the State, municipalities, regional governments and diplomatic representatives, nor for buildings used for public passenger transport nor in water management.

Other claims for exemptions must be set up in the first tax return after acquiring the immovable property. These can be categorized into permanent or temporary exemptions, as follows:

- Buildings which are permanently tax-exempt include buildings owned by churches, schools and universities, museums, galleries and hospitals;
- Other land has a temporary exemption:
  - Cultural monuments for eight years after the year following their reconstruction;
  - Buildings affected by a natural disaster for a period up to five years following measures to eliminate the consequences of future natural disasters (at the discretion of a municipality);
  - Buildings and structures in special industrial zones designated as such by the Government of the Czech Republic are exempt for up to five years (at the discretion of the municipality).

1.4 Administration

Immovable property tax administration is regulated by the Tax Administration Act[15] and by the Immovable Property Tax Act. This means that the Immovable Property Tax Act deals not only with the structural components of the tax, but also special administration issues related specifically to the immovable property tax.

The Immovable Property Tax is administered by the Financial Office (the State's tax office), within whose district the immovable property is situated. The Financial Office collects and maintains information declared on the tax return. This information is then used to verify or update the information in the cadastre operated by the cadastral offices.

The so-called auto-application is used. This requires the taxpayers to calculate the tax using the correct tax base and tax rate, and to file the tax return recording all relevant information regarding the taxpayer and the immovable property (type of immovable property, location, legal relationship to the taxpayer, area of immovable property, use and any possible exemptions). The tax return does not have to be filed every year; usually if there are no changes, the taxpayer does not have to re-file a return. Even if there are changes in the tax rate, in the average price of land, or in the coefficients there is no duty to file the tax return.

Tax returns should be filed by 31 January of the taxable period (the calendar year). The immovable property tax is assessed according to the situation as at 1st January of the calendar year in which it is assessed (irrespective if there was a duty to file a tax return or not in that calendar year).

The tax administrator has three tax assessment procedures:

- Implied tax assessment – the assessed tax is the same as the tax stated in the tax return. In this situation the tax administrator is not obliged to inform the taxpayer about the result of assessment. The last day of the time limit for filling the tax return is considered as the date of the tax assessment and as the date of the delivery of the tax decision;
- Reproach proceedings – if there are some concerns about the correctness, accuracy, supporting evidence or completeness of the tax return, the tax administrator informs the taxpayer about these concerns and requests additional information to be received within (usually) fifteen days. At the end of these proceedings the tax administrator sets the tax base, prescribes the amount of tax and notifies the taxpayer of the tax assessment. The tax is payable within thirty days of delivery of the tax assessment;
- Assessment using 'other tools' – if the tax return was not filed in time or within the extended time limit, the tax administrator may determine the tax base and assess the tax according to whatever information is available with no requirement to further

[15] Act No. 280/2009 Sb., as amended.

contact the taxpayer. The tax administrator notifies the taxpayer of the tax assessment, and the tax is payable within thirty days of delivery of the tax assessment. Under such circumstances the taxpayer cannot appeal against both the tax base and the amount of tax payable.

Note that the tax office has no right to grant exemptions or reliefs within the administration process.

After assessing the tax (whether or not a tax return was filed), the tax office sends by post a tax demand stating the amount of tax payable to every taxpayer (i.e. natural person). If the annual immovable property tax does not exceed 5,000 CZK, it is payable in one installment by 31st May of the current taxable period. If the tax exceeds 5,000 CZK, it is payable in two equal installments - by 31st May and 30th November. Taxpayers engaged in farming and fish-farming are required to pay the tax in two installments by 31st August and 30th November.

If the taxpayer falls into arrears, interest is paid (at the basic rate of the Central Bank + 14 percent) on the amount outstanding on the debt for each day up to a period of five years. If the tax is additionally re-assessed by the tax administrator (or by the taxpayer in the tax return), the penalty is 20 percent of the additionally assessed tax. The amount of the interest or penalties is communicated to the tax debtor by means of an assessment order and must be paid within fifteen days after the delivery of the assessment order.

If the tax debtor does not pay the tax in time, then the tax administrator may (but is not obliged to) make contact with the taxpayer to pay the tax arrears within an alternative time period of not less than eight days. If enforcement action begins, the tax administrator can apply any of the following three types of enforcement instruments.[16]

Firstly, the ordinary remedial instrument – an appeal – is normally used where the taxpayer is not satisfied with the determined tax base and the amount of the tax determined by the tax administrator. An appeal must be submitted normally within thirty days of the decision against which the appeal is made. The appeal has no suspensory effect. The appeal procedure has two phases; initially, the tax administrator whose decision is challenged can decide on the appeal based on the admissibility of the ground of appeal and the appeal itself e.g. the appeal was submitted after the time limit, or submitted by an unauthorized person. If the tax administrator does not choose to determine the appeal, it can be passed to the appellate authority (authority immediately superior) – Appellate Financial Directorate. This authority can amend the tax administrator's decision (even to the appellant's disadvantage), accept or dismiss the appeal.

[16] As provided for in the Tax Administration Act.

Secondly, there is an extra-ordinary remedial instrument which involves the re-opening of the tax proceedings. This process must ensue from the legal and factual aspects existing at the time of the contested decision. It cannot be used if the decision has already been reviewed and confirmed by a court or is awaiting the decision of the court. The proceedings will be re-opened if the taxpayer makes an application to that effect or *ex officio* and if there are new important facts not yet taken into account in the original proceedings; or there was some criminal act in the former proceedings, such as forged or falsified documents, or false witness statements. An application must be submitted to the tax office within six months of the day on which the applicant learned of the grounds for re-opening proceedings. When the re-opening of proceedings is approved (or ordered), it has suspensory effects. These are new proceedings and any new decision annuls the original decision.

Thirdly, reviews of tax decision are started only *ex officio* in situations when the decision is in conflict with the statutory provisions or is based on substantial errors in the tax proceedings and, as a result, the tax was wrongly assessed.

There are two possible judicial remedies to be used in tax cases:

- Complaint against the decision of tax office, that is judged by the regional court; or
- Cassation complaint as a remedial instrument which is heard by the Supreme Administrative Court of the Czech Republic.

1.5 Valuation

The market value of the immovable property is rarely used. In the case of agricultural land, the average price per square metre of land is established in a decree by the Ministry of Agriculture (which can be revised annually). In the case of commercial forests and ponds used for fish-farming, taxpayers are able to choose the fixed price value of 3.80 CZK per m^2 or to have an individual valuation provided. Taxpayers tend to prefer the fixed price value, because it is expensive to employ an expert valuer to provide an individual valuation (which is determined pursuant to the price regulations as at 1st January of the taxable period), and such a valuation must be determined annually.

The tax base of these properties is determined by the land pricing regulations in force on 1st January of the reporting period.[17] Ponds used for commercial fish-farming are identified (according to the Valuation Act) as »construction objects« and not as land. However, according to the Immovable Property Tax Act they are taxed as land. For the ponds, the cost method of valuation is used. The value of pond is determined by the costs that were incurred in the acquisition of buildings at the date of valuation. These costs are multiplied by coefficients[18] according this formula:

[17] The valuation rules are Act no. 151/1997 Sb. on Valuation (Valuation Act) and decree no. 441/2013 Sb. (Valuation Decree) issued by the Ministry of Finance.
[18] Set in Annex no. 2 to the Valuation Decree.

Value of the pond = area x ZC_v x O_1 x O_2 x O_3 x O_4 x O_5 x O_6 x I_T x I_p x 0.85

where:
ZCv = basic price of building plot in CZK per m^2
O_1 = coefficient based on the size of the municipality;
O_2 = coefficient based on the economic importance;
O_3 = coefficient of the municipality's location;
O_4 = coefficient of technical in infrastructure);
O_5 = coefficient of transport service;
O_6 = coefficient of civic amenities;
I_T = index of market
I_p = index of location

Valuation of such ponds is based on:

- basic price;
- character of the municipality; and the
- development of the municipality.

The revenue (income) or comparative method of valuation is used for forest land regardless of its function.

The value of forestry land = area x (basic price - deductions), where:

- Basic price – the price is defined in legislation.[19] The basic prices are defined by the prevailing forest/tree types in one of several the groups (e.g., pine, beech, oak) and soil category (e.g. rocky, hillside, basic). If there are several forest/tree groups, the basis price is defined as the sum of the prices of the various categories;
- Deductions – to the basic price of forest land can be up to 60 percent of the basic price.[20] They are available for:
  - forests affected by pollution;
  - special purpose forests;
  - extremely disadvantageous shape of the land – e.g. extremely elongated and therefore expensive the manage;
  - limited farming potential – e.g. due to buffer zones of power distribution networks;
  - forest land with anthropogenic soil;
  - impaired rainfall run-off conditions;
  - forest land with terrain obstacles (e.g. ravines).

The limiting condition is that the price of forest land (after deductions) must be at least 1 CZK per m^2.

[19] Annex no. 6 to the Valuation Decree.
[20] Annex no. 7 to the Valuation Decree.

It would not be difficult to change the existing unit system into an *ad valorem* system of immovable property valuation/taxation. In the case of a sale/purchase of the immovable property, it is necessary for the contract to be sent to the cadastre office and the tax on the acquisition of immovable property (this a tax payable on the transfer of title) must be paid to the tax office. This means that the cadastre office and the tax office both know the transaction price of the property; however, generally this information is confidential.

1.6 Revenue performance

Table 1.3: Revenue performance in the Czech Republic

Year:	2005	2006	2007	2008	2009	2010
All revenues at national level (in billion CZK)	866,460	923,060	1.025,883	1.063,941	974,615	1.000,377
Tax revenues at national level (in billion CZK)	771,616	802,895	900,648	929,895	833,221	863,859
All revenues at regional and local level (in billion CZK)	334,706	359,506	371,484	396,852	396,633	424,707
All tax revenues at regional and local level (in billion CZK)	168,519	172,939	187,430	204,238	180,335	187,984
Property tax revenue (in billion CZK)	4,966	4,974	4,962	5,099	6,325	8,664
Property tax revenue as % of all state revenues	0.573	0.539	0.484	0.479	0.649	0.866
Property tax revenue as % of all regional and local revenues	1.484	1.384	1.336	1.285	1.595	2.040
Property tax revenue as % of tax revenues at regional and local level	2.947	2.876	2.647	2.497	3.507	4.609

Source: Czech Statistical Office. www.czso.cz, 16.3.2017.

Year:	2011	2012	2013	2014	2015	2016
All revenues at national level (in billion CZK)	1.012,755	1.051,387	1.091,863	1.133,825	1.1234,517	1.281,618
Tax revenues at national level (in billion CZK)	890,250	912,278	922,404	952,518	1.002,131	1.071,488
All revenues at regional and local level (in billion CZK)	404,104	383,233	399,931	263,980	440,300	447,200
All tax revenues at regional and local level (in billion CZK)	187,161	191,009	208,443	219,390	226,300	249,500
Property tax revenue (in billion CZK)	8,609	9,602	9,736	9,970	10,334	10,586
Property tax revenue as % of all state revenues	0.850	0.913	0.892	0.879	0.91	0.83
Property tax revenue as % of all regional and local revenues	2.130	2.506	2.434	3.78	2.35	2.37
Property tax revenue as % of tax revenues at regional and local level	4.600	5.027	4.671	4.54	4.56	4.24

Source: Czech Statistical Office. www.czso.cz, 16.3.2017.

1.6.1 Prague case study

The following Tables set out the relevant information regarding land and real estate tax for the Capital city of Prague:

a) Revenue sources for the city

Table 1.4: Prague revenue sources

Year	2005	2006	2007	2008	2009	2010
All revenues (in billion CZK)	54,792	57,243	60.969	66,421	64,207	68,365
Tax revenues (in billion CZK)	37,960	38,557	42,508	45,599	39,479	41,485
Property tax revenue (in billion CZK)	0,401	0,415	0,416	0,446	0,453	0,702
Property tax revenue as % to all revenues	0.73	0.72	0.68	0.67	0.71	1.02
Property tax revenue as % to tax revenues	1.06	1.08	0.98	0.98	1.15	1.69

Source: Ministry of Finance. http://monitor.statnipokladna.cz, 16.3.2017.

Year	2011	2012	2013	2014	2015	2016
All revenues (in billion CZK)	63,752	62,989	63,336	69,982	70,783	74,243
Tax revenues (in billion CZK)	41,491	41,915	42,780	45,184	47,093	51,249
Property tax revenue (in billion CZK)	0,710	0,753	0,751	0,787	0,800	0,827
Property tax revenue as % to all revenues	1.11	1.20	1.19	1.12	1.13	1.11
Property tax revenue as % to tax revenues	1.71	1.780	1.755	1.752	1.699	1.614

Source: Ministry of Finance. http://monitor.statnipokladna.cz, 16.3.2017.

b) The number of properties by main use category:

LAND

Table 1.5: Number of land in Prague

	Arable land	Vineyard	Garden	Orchard	Permanent grassland
Total size in hectare	14,559	10	3,950	617	869
Number of plots	28,131	21	73,161	1,411	5,138

Source: Czech Statistical Office. www.czso.cz, 16.3.2017.

	Agricultural land	Forest land	Water area	Built-up area and courtyard	Other land
Total size in hectare	20,006	5,132	1,076	5,007	18,392
Number of plots	107,862	4,209	3,919	159,766	139,407

Source: Czech Statistical Office. www.czso.cz, 16.3.2017.

BUILDINGS

Table 1.6: Number of buildings in Prague

Number of buildings	143,631
Number of water works	99
Number of housing units	412.648
Number of owners	480.847

Source: Czech Statistical Office. www.czso.cz, 16.3.2017.

c) Price indices

Table 1.7: Price indices of flats in Prague

	average indices (2010 = 100)		average indices (2010 = 100)	
	of asking prices of flats		of sale prices of flats	
year	Czech Republic	Prague	Czech Republic	Prague
2005	67.5	73.1	72.9	73.9
2006	76.5	81.4	83.2	83.1
2007	93.9	97.6	109.3	105.9
2008	111.9	111.5	120.4	117.1
2009	102.1	102.5	100.9	101.0
2010	100	100	100	100
2011	93.7	92.5	99.5	97.8
2012	96.6	101.5	97.9	96.7
2013	98.5	105	97.8	98.4
2014	100.7	108.5	99.2	100.3
2015	106.9	116.1		
2016	117.6	128.2		
2017	124.2	140.0		

Source: Czech Statistical Office. www.czso.cz, 16.3.2017.

Table 1.8: Price indices of houses in Prague

	average indices (2010 = 100)	
year	Czech Republic	Prague
2010	100	100
2011	102.1	99.7
2012	101.8	102.4
2013	102.8	105.1
2014	104.8	107.3
2015	104.4	101.8

Source: Czech Statistical Office. www.czso.cz, 16.3.2017.

Table 1.9: Price indices of building land in Prague

	average indices (2010 = 100)	
year	Czech Republic	Prague
2010	100	100
2011	100.3	93.4
2012	104.3	103.0
2013	105.1	101.9
2014	107.5	104.2

Source: Czech Statistical Office. www.czso.cz, 16.3.2017.

1.7 Possible reforms

The revenue raised from the immovable property tax in the Czech Republic is relatively low, in fact one of the lowest in the EU, despite the fact that it could be one of the most important sources of tax revenues for municipalities.[21] This is because municipalities – as beneficiaries of the immovable property tax – are either constrained or entirely excluded from having any input into the centrally established the tax base and also (to a limited extent) the tax rate. Of course, because it is not the State´s revenue, the State has no interest in optimizing its yield.

One possible solution to achieve higher revenues would be to adopt an *ad valorem* system for assessing the tax base. Current research[22] shows that the Czech Ministry of Finance is drafting a bill that will apply the *ad valorem* system of taxation (at least) to land in areas that are – or can be – developed. The valuation/assessment of agricultural land will not be changed and it will continue to be based (largely) on the quality of soil. The value of land ideally should be determined on the basis of data supplied to and underpinning the value maps compiled by municipalities for their own jurisdictions.

Maps of tax bases should include both geographic and textual components. The geographic part should be based on the existing cadastral maps. This could also improve the relationship between legal and factual data within the cadastral maps. Maps of tax bases should divide the jurisdictions of municipalities into various land zones, reflecting the main property types (e.g. city centres, satellite towns, suburbs, industrial areas, building plots, commercial zones), together with details of the amenities, the utilities and infrastructure available. The borders between zones should correspond with the borders between plots of land so that no taxable unit falls in more than one zone. Such maps

[21] For details see Mrkývka, P. Některé úvahy o materiálním základu veřejné správy (Some Thoughts on Material Base of Public Administration). Časopis pro právní vědu a praxi, 2003 (2). P. 153-159.
[22] Radvan, M. The Draft Reform of Land Taxation in the Czech Republic. Lex Localis – Journal of Local Self-Government. 2012 (3). P. 229-245.

should also identify land exempt from tax, including sports fields, cemeteries, and school premises. Tax exemptions should be fully within the control of the municipalities.

The textual part of the value-based maps should contain lists of individual zones with lists of the associated parcel numbers of plots of land, specifying the type, use and area of land, as well as the tax base per square metre. The value should be ascribed by municipalities to reflect local conditions. The textual part should also include variations, including any exemptions and differences between the actual and legal status. Value-based maps should be approved by municipal councils and issued in the form of municipal by-laws (generally binding ordinances), and made freely available to all citizens.[23] This would allow the tax base on land to be assessed automatically, based on the unit-based tax price (the value of land per m^2 as set out in the value-based maps) and the actual area of a specific plot of land.

There are some limitations surrounding the use of an *ad valorem* system of taxation for immovable property. As a result, for example, agricultural land may, of necessity, continue to be valued based on the quality of soil, while the tax bases for other types of land can be derived from market data contained in value-based maps.

However, there could be significant costs for municipalities in the development and administration of the tax base maps. These costs would have to be met from the revenue raised which would mean increasing the amount of immovable property tax. However, the Ministry of Finance has claimed that any change in the manner of assessing the tax base will not impose an increased burden on the taxpayer, i.e. the State will not allow municipalities to increase the amount of tax raised. There are some specific (mostly historic) conditions that prevent a sharp rise in the amount of immovable property tax payable. Such conditions include the complexity of the pattern of real estate ownership, where many citizens historically own expensive real estate, have become owners through inheritance or the restitution of real estate (mostly land), however, they do not have sufficient cash income to pay the immovable property tax. The regulation on rent also serves as an obstacle to the introduction of a market-based immovable property tax. It is therefore necessary to consider introducing certain limits on the maximum level of taxation, so that municipalities are prevented from setting excessive tax rates. The problem may be solved by setting the maximum tax rate in the legislation.

However, there is also the problem of significant differences in the prices of land between different municipalities. The discrepancy does not necessarily concern the extremes (i.e. the city of Prague as compared to small rural municipalities close to the Czech-Slovak

[23] Handlosová, M. Vybrané konstrukční prvky pravidelných nemovitostních daní (Selected Structural Components of Regular Property Taxes). Diploma thesis. Brno: Faculty of Law, Masaryk University, 2010. Holmes, A. Daň z nemovitostí - hledáme přijatelná řešení (Property tax - We Seek Acceptable Solutions) presented at seminar Budoucnost daně z nemovitostí: zvýšit nebo zrušit? Prague, February 18, 2010. Radvan, M. The Draft Reform of Land Taxation in the Czech Republic. Lex Localis – Journal of Local Self-Government, 2012 (3), doi:10.4335/10.3.229-245(2012). P. 236-238.

border); it also applies in the case of municipalities which are similar with regard to their location, size and number of inhabitants. As a suggestion, a "correctional mechanism« could be introduced, e.g. the possibility to appeal against the amount of tax base assessed. However, if the tax base is set by municipal by-laws (generally binding ordinances) issued within the municipalities' self-governing powers (which is currently expected to be the case), then any form of appeal would be impossible. Under the current regulations, a taxpayer may appeal only against the actual assessment of the immovable property tax but not against the value of land determined by the municipalities or the tax rate. Objections will thus need to be raised early at the time when the by-laws are being drafted.

There are several additional issues to be resolved, such as the tax rate, and the skill levels of persons involved in the formation of tax base maps, particularly in small municipalities. Whilst there are several benefits to a system of *ad valorem* taxation of immovable property, the disadvantages are significant. As a result, the Czech Republic is currently not ready to impose *ad valorem* taxation on immovable property.[24]

Ad valorem tax bases can only work with an active and healthy property market which covers the full spectrum of property types.

2 Evolution of real estate markets

2.1 Property restitution

During the communist period (1948-1989) a considerable number of properties were confiscated by the State. After the 'Velvet Revolution' the decision was taken to return these properties to their former owners or their heirs, through a process of restitution.

There are three legal acts dealing with property restitution in the Czech Republic. The most important one is Act on the Regulation of Land[25] offering compensations for all inventories. Legislation on extrajudicial rehabilitations[26] does not regulate agricultural property. Also, another legislation[27] mitigates the consequences of certain property injustices, but does not require that the actual property to be restituted, instead it deals with legal titles that caused property confiscation. According to jurisprudence,[28] it was possible to use both Acts to restitute agricultural land, especially gardens, even where

[24] More on this topic see Radvan, M. The Draft Reform of Land Taxation in the Czech Republic. Lex Localis – Journal of Local Self-Government. 2012 (3). P. 229-245.
[25] Act no. 229/1991 Sb., on the regulation of land and other agricultural property ownership, as amended.
[26] Act no. 87/1991 Sb., on extrajudicial rehabilitations, as amended.
[27] Act no. 409/1990 Sb., as amended.
[28] See opinion of the Supreme Court of the Czech Republic Cpj. 50/93 Sb. decision no. 16/1996. P. 45. See Findings of the Constitutional Court of the Czech Republic no. IV. US 59/95.

there is disagreement in the procedure.[29] Next to the restitution regulation, it is possible to use common civil law regulations to request the return of confiscated property,[30] as restitution law is *lex specialis*.[31]

It is also possible to request financial compensation or other property of the same value within the same municipality. This applies where it is not possible to return the original property to its former owners, or where its value is exceeds financial compensation, or it is owned by other persons.

Even though the time limits on restitution have expired, there are many outstanding cases.[32] Church restitutions were finally resolved only at the end of 2012.[33] According to the law, Czech churches were to have returned to them land and immovable property, worth some 75 billion CZK, if they could prove that it was confiscated from them after the Czechoslovak communist coup in 1948. In addition, over the next 30 years they will receive 59 billion CZK for immovable property currently held by municipalities, regions or individuals.

2.2 Privatization

In the Czech Republic, several methods of privatization have been applied. Asset sale was the most successful method. For example, the car manufacturer Skoda was sold to Volkswagen in 1991 and is now one of the most successful companies in the Czech Republic.

There were two waves of voucher privatization, the first started in 1991. All Czechoslovak citizens could acquire shares in State-owned companies. This type of privatization was a big disappointment; only a few of the companies survived, most of them were »tunneled« (i.e. assets and profits were transferred out of these companies for the benefit of those who controlled them).

Small companies, mostly shops, were privatized in auction sales to the bidders (often locals) who offered the highest price.

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[29] Pekárek, M. Několik poznámek k restitucím podle zákona o půdě (Several Notes do the Restitutions According to the Soil Act). In Restituce podle zákona o půdě – Sborník příspěvků z konference. Brno: Masarykova univerzita v Brně, 1999. P. 63.
[30] See Findings of the Constitutional Court of the Czech Republic no. III. ÚS 23/93.
[31] See opinion of the Supreme Court of the Czech Republic Cpjn. 36/95 Sb. See Findings of the Constitutional Court of the Czech Republic no. I. ÚS 154/95.
[32] Průchová I. Poznámky k principům zemědělského restitučního zákonodárství v ČR (Notes on the Principles of Agricultural Restitution Legislation in the Czech Republic). In Restituce podle zákona o půdě – Sborník příspěvků z konference. Brno: Masarykova univerzita v Brně, 1999. P. 79.
[33] By act no. 428/2012 Sb.

2.3 Limitations of land/property ownership

After more than 20 years since the Velvet Revolution in 1989, the real estate market in the Czech Republic is relatively developed and stable and, in this regard, broadly similar to the real estate markets in other Central European countries such as Slovenia, Slovakia, Poland and Hungary. The real estate market is now fully opened.

Traditionally, the legislation in the Czech Republic had entrusted the regulation of the acquisition of immovable property by non-residents to the operation of the Foreign Exchange Act,[34], although it did not consider immovable property as such to have a foreign exchange value.[35] The State tended to prevent foreigners from acquiring ownership of immovable property for various reasons. Land in particular is traditionally perceived as something »national«, and not to be held by foreign owners, and there are also many buildings that are regarded as national treasures. Thus, one reason for this is in the protection of national identity, particularly important for small and young nations having a shorter experience of statehood. Differences in the purchasing power between the domestic population and economically stronger foreigners increase the unwillingness to liberate the real estate market. However, there is also a wide range of other reasons.

Thus, some non-residents (with the exceptions such as Czech Republic nationals and nationals of a member state of the European Community) had reduced access to the ownership of immovable property in the Czech Republic, prior to 2011, when all the rules preventing non-residents acquiring ownership of immovable property in the Czech Republic were abolished.

2.4 Nature of the property market

As mentioned above, the real estate market in the Czech Republic is developed and relatively stable. Because of the recent global financial crises, in 2012 there was a reduction of new developments, especially of apartments (a reduction of 22 % in the first half of 2012). Potential owners preferred to buy completed apartments and not those under construction. Prices in 2012 were generally a little bit lower than five years previously; on the other hand, the number of transactions and the unit price of land has slowly increased (12 % in the same period).

In connection with the gradual recovery in domestic economic activity from the end of 2013, the slow recovery in real estate prices has continued. Low interest rates have helped. The residential market benefited from a slight increase in the availability of (mortgage)

[34] Act no. 219/1995 Sb.
[35] Mrkývka, P., Schillerová, P. Acquisition of Real Estate in the Czech Republic by Non-Residents. In Liszewski, G., Radvan, M. (ed.) *Real Estate in Czech and Polish Law*. Białostockie studia prawnicze – zeszyt 4. Białystok: Wydział prawa Uniwersytetu w Białymstoku, 2008.

financing in 2016 and 2017. Despite this, however, there is a clear reduction in supply and, as a result, prices continue to rise. It is expected that this trend will continue in 2018.

The rising popularity of real estate as an alternative investment opportunity have played a significant role since 2016. According to a recent market report[36] the slight rise in prices is expected to continue. For example, because construction is slowing down in Prague, there was real threat of excess demand evident in 2016 continuing into 2017 that might cause the prices of apartments currently available to rise rapidly. There is an unsatisfactory situation in Prague, linked to the disproportionately long process involved in the award of building permits, which delays construction and reduces the number of new dwellings on the offer from developer companies. Another important fact that will affect the real estate market in 2017 is the adoption of the Real Estate Act, which will introduce mandatory qualification requirements for real estate agents.

The trend for demand to create significant pressure on the quality improvement of projects, both on the part of investors and the end users, is growing. Recovery however varies in different regions. One of the reasons for this could be the deregulations of rents, which should motivate people to buy their own apartments and houses. But the reality is that people prefer to leave their large and expensive apartments and move to smaller and less expensive ones which they still prefer rent as opposed to buying.[37] This trend has continued since 2008.

The decline in interest rates is reflected in the growing market for new apartments but also in the market for older dwellings. This situation is the result of the collapse in the building industry from 2007 to 2008. This is emphasized by signs of more careful behaviour, especially from the small private investors when acquiring housing loan finance.

[36] Association for Real Estate Market Development. Trend report 2017. Czech Real Estate Market Survey. http://www.artn.cz/, 18.5.2017.
[37] Důvody mírného oživení realitního trhu (Reasons for the Slight Recovery in the Real Estate Market). http://www.realcity.cz/prectete-si/realitni-zpravy/duvody-mirneho-oziveni-realitniho-trhu/, 18.3.2013.

Table 1.10: Family houses in Prague:[38]

Year	Number of flats in the newly constructed family houses	Average value of one flat in CZK 000's	Average value in the CZK for 1 m^2	Average value in CZK for 1 m^2 of living area	Average value in CZK for 1 m^2 of floor area
1998	8,336	2,305	2,637	23,913	14,894
1999	9,238	2,403	2,694	24,899	15,158
2000	11,466	2,388	2,714	24,654	15,364
2001	10,693	2,406	2,851	24,933	15,856
2002	11,716	2,516	3,083	25,944	16,447
2003	11,397	2,613	3,214	27,041	17,109
2004	13,302	2,713	3,412	27,960	17,910
2005	13,472	2,743	3,496	27,942	18,800
2006	13,230	2,849	3,743	29,090	19,946
2007	16,988	2,906	3,936	29,915	20,553
2008	19,611	3,088	4,221	32,058	22,244
2009	19,124	3,122	4,345	33,072	22,884
2010	19,760	3,214	4,310	33,762	23,674
2011	17,385	3,249	4,373	34,515	24,172

Source: Czech Statistical Office. www.czso.cz, 16.3.2017.

Table 1.11: Residential buildings (blocks of flats) in Prague:[39]

Year	Number of flats	Average value of one flat in CZK 000's	Average value in CZK for 1 m^2	Average value in CZK for 1 m^2 of living area	Average value in CZK for 1 m^2 of floor area
1998	6,827	1,464	3,526	27,688	19,898
1999	6,598	1,373	3,460	26,902	19,555
2000	5,926	1,285	3,607	28,470	18,984
2001	5,912	1,422	3,695	29,629	20,930
2002	6,393	1,234	3,522	29,245	20,193
2003	7,720	1,459	3,946	29,575	21,597
2004	10,722	1,424	3,997	29,982	21,360
2005	11,526	1,575	4,729	31,252	23,738
2006	10,070	1,664	4,516	33,133	24,471
2007	18,171	1,646	4,755	32,441	24,675
2008	12,497	1,889	4,820	34,995	26,518
2009	13,766	2,038	5,350	39,111	29,504
2010	10,912	2,576	5,559	46,812	35,197
2011	6,487	2,043	4,937	39,833	30,063

Source: Czech Statistical Office. www.czso.cz, 16.3.2017.

[38] Data available from the last census that took place in 2011.
[39] Data available from the last census that took place in 2011.

With regard to the commercial real estate market, the situation varies by property type. In recent years there has been a decline in property development transactions, particularly in relation to hotels and shopping centres, which have long been struggling with decreased retail sales. However, there has been an increase in the construction of office space and industrial real estate, which is mainly related to the growing interests of the IT industry and the anticipated growth in the automotive industry.

3 Property data

3.1 GIS/cadastres

The Czech Republic has had a long tradition of using cadastres. The Real Estate Cadastre (Cadastre)[40] represents a database on the immovable property in the Czech Republic. It comprises information including a description, size, and the location of all immovable property. Ownership and other rights to the immovable property are also registered in the cadastre. Currently, it is integrated with other databases such as the Register of Inhabitants. Cadastral-based information serves as a mechanism for protecting immovable property rights, for tax purposes, environmental protection, agricultural and forest land protection, mineral resources, cultural monuments and for scientific and statistical purposes.[41]

The central public administration authority in charge of providing and maintaining the cadastre is the Czech Geodetic and Cadastral Office. It undertakes the central administration of the cadastre, co-ordinates research, ensures and co-ordinates international co-operation in the area and co-operates with other organs of the State.

Cadastral Offices are established throughout the country. Cadastral offices are involved with registering ownership and other rights regarding immovable property, changes in cadastral data, and controlling the entry of new information into or the deletion of information from the cadastre. The following units of real estate are registered within the cadastre:

- Parcels of land;
- Buildings connected to land by foundations;
- Apartments and non-residential property; and
- Buildings, apartments and non-residential property under construction.

Parcels of land registered in the cadastre are divided into agricultural and non-agricultural land. Agricultural parcels of land are arable land, hop-fields, vineyards, gardens, orchards, and permanent grasslands. Non-agricultural parcels of land are forests, water

[40] As defined by act no. 256/2013 Sb., (Cadastral Act), as amended.
[41] For details see Kliková, A. Real Estate Cadastre and Real Estate Registration. In Liszewski, G., Radvan, M. (ed.) Real Estate in Czech and Polish Law. Białostockie studia prawnicze – zeszyt 4. Białystok: Wydział prawa Uniwersytetu w Białymstoku, 2008. P. 163-173. This part was prepared using this chapter by Alena Kliková.

areas, built-up areas, courtyards, and other spaces. All immovable property is registered in the cadastre according to the cadastral areas, where the property is located.

The registration of immovable property in the cadastre also involves the registration of rights connected with immovable property. The following can be registered:

- Legal relationships linked with immovable property are registered due to Cadastral Act;
- State organizations controlling State property;
- Right to permanently use immovable property;
- Management of immovable property within the Czech Republic;
- The City of Prague municipal districts which manage the entrusted property of the capital city;
- Statutory cities and municipal districts authorized to manage the entrusted property of the statutory cities;
- Authorization of a budgetary and subsidized organization established by a municipality or a municipal district of Prague or statutory cities to manage the entrusted property of a municipality;
- Appurtenance to an organizational unit of a legal entity, if such is registered in a commercial or other register determined by law and the head of such an organizational unit is authorized to manage the immovable property registered in the cadaster on behalf of the above stated legal entity appurtenant to the organization unit;
- Further subject matters according to the character of the registered property due to the Cadastral Act a part of the cadastre.

Data held in the cadastre is publicly available. Providing information from the cadastre can be executed in several forms. It is possible to provide information free of charge (inspecting the cadastre) or for quite a small charge (all other forms). The type of information includes public documents (providing extracts, providing copies, identifying plots) and providing certified copies of documents, if the online version is not sufficient for the user.

3.2 Title registration

Title registration is the most important activity of the Real Estate Cadastre. The subject of registration in the cadastre is the legal relationship relevant to a particular parcel of immovable property.

Registration of an entry in the cadastre is fundamental because of the constitutional effects of registration which demonstrate proof of ownership, the existence, change or extinction of a right. Rights are registered within the cadastre mostly on the basis of bilateral agreements and contracts (e.g. purchase contract, agreement on common property in marriage settlement).

Conclusion

The role of the immovable property tax in the Czech Republic is marginal. The main problems would appear to be related to low revenue and inefficient administration systems.

The issue of low revenue could be resolved by adopting an *ad valorem* tax base. However, if the Czech government does not want to increase the immovable property tax revenue, there is no real incentive to implement an *ad valorem* system, as it is expensive to establish, administratively demanding and time-consuming. Moreover, there are other issues which prevent the effective use of an *ad valorem* tax base in the Czech Republic of which the current local government dispensation is the most prominent. For that reason, it is unlikely that any reforms of the current immovable property tax will be introduced in the near future.

The immediate solution for the Czech Republic is that the unit system (area) tax base should be retained. There should be one maximum tax rate in the legislation for every type of property, and municipalities should have the right to introduce their own specific tax rates below that level. As there are more than 6,250 municipalities in the Czech Republic and many of them are extremely small with a very low number of inhabitants, there should be another rate (standard rate) in the legislation for those municipalities that do not set their own specific tax rates.

The issue of tax administration is closely linked with the large number of small municipalities. Small municipalities are not able to administer the tax themselves; that is why it is reasonable to retain the services of State bodies (Financial Offices) as immovable property tax administrators.

A positive motivation to pay taxes is a *conditio sine qua non* to receipt of optimal revenue. For example, the combinations of different advertising media might encourage taxpayers to view taxes positively or at least less negatively. To achieve this outcome, it is necessary to properly administer the expenditure side of public budgets, i.e. tax revenue must be spent economically, efficiently and effectively. If the expenditure side of public budgets falls into disrepute, it is very difficult for the taxpayers to perceive taxes as a positive obligation. The State must be aware of the self-application of taxes: each taxpayer must calculate and pay taxes, using only the law (and in case of local charges the local bylaw), and without any direct assistance or help of a tax administrator. The best advertisement for the tax payment is a proper use of tax revenues in the public interest and the supply of effective, efficient and desirable services.[42]

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[42] More on property tax advertisement in Radvan, M. How to Get Taxpayers to Pay Local Charges. In Radvan, M., Gliniecka, J., Sowiński, T., Mrkývka, P. (eds.). *The Financial Law towards Challenges of the XXI Century*. Brno: Masaryk university, 2017. P. 340-348.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
M. Radvan, R. Franzsen, W. J. McCluskey & F. Plimmer

Adequacy of Current System of Property Taxation in the Slovak Republic

ANNA ROMÁNOVÁ

Abstract The revenue of local taxes, being the own revenue of municipalities as the basic local self-government unit, does not constitute a sufficient revenue source for the functions of the local authorities. This situation is not satisfactory and municipalities need to increase their revenue which should be achieved by a reform of the real property tax. The proposal of the government to introduce the ad valorem system is not the best solution to the problem under current circumstances, which also seem to be acknowleded by the Government itself in the light of its more recent announcment to create the necessary preconditions for such a reform. The author considers it crucial to take into account the problems of an insuficient database necessary for the successful introduction of an ad valorem sytem, the high costs of updating the database to keep the the system »fair«, and the necessity to solve other problems of the municipalities asociated with their role and tasks as tax administrators (especially the presence of high amounts of uncollected arrears on local taxes and charges). Until conditions enabling the introduction of a successful reform are created, the increase in revenues and the improvement in tax equity may, at least to a certain extent, be achieved by an update of the statutory values of lands and by further adjustments of current tax rates by more factors, because at present, the municipalities are able to reflect a limited number of attributes in fixing the tax base.

Keywords: • Slovak Republic, property tax, immovable property tax, valuation, tax reform

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Introduction

Real property taxation in its current form was introduced into Slovakia by Act no. 582/2004 Coll. on Local Taxes and Local Charges for Municipal and Minor Construction Waste (hereinafter called the "Act on Local Taxes«), which abolished the former regulation[1] which designated the tax as a State tax. Thus, with effect from 1 January 2015, local self-government acquired the new own-revenue source envisaged by the Constitution of Slovak Republic since its adoption in 1992.

Real property taxation comprises three relatively separate taxes: the tax on land, the tax on buildings and the tax on flats and non-residential premisess. The system of taxation is predominantly area-based with only minor amendments to reflect the value of particular properties. Nevertheless, there are various corrective factors that may be taken into consideration, specifically: the type of property, the use to which the property is put, its location within the municipaltity, and the number of floors in the case of the buildings tax. The overall revenue accruing from this tax is rather low, being 0.414 % of the the GDP and 7.66 % of total municipal revenues (in 2016): however, it has the potential to become a far more significant source of municipalities' own revenues. The real property tax not only provides muncipalities with an own-revenue, it also emphasizes the role and self-governing position of municipalities since the Act on Local Taxes transferred to them the authority to impose the tax and set some of its elements (including the values of some of the types of properties, tax rates, additional reliefs, floor surcharge, and payment by instalments). Municipalites manage their tax systems by means of local laws being Generally Binding Regulations (hereinafter only "GBR«).

The adopted legislation has created quite a simple and easy to administer system of real property taxation which, unfortunately, does not provided local governments with sufficient revenue to secure their fiscal independence. Despite the fact that municipalities are allowed to set various elements of the tax, the yield is insufficient.

Another problematic issue is the disparity in the burden of tax that is imposed on different types of properties, with regards to the purpose or type of particular property. This may be a logical result of municipalities having the authority to set different tax rates based on the type or use of property. Unfortunately, cases of abuse of this power have been identified.

These issues are the reason why the current system of real property taxation might be inadequate and these are discussed further in the chapter (refer 1.5), in which the most crucial problems, their reasons, and possible solutions are considered.

This chapter is devoted to the analysis of real property taxation in the Slovak Republic. Although the focus is on the current regulation of the real property tax, it also provides

[1] Act no. 317/1992 Coll. on Real Property Tax.

an overview of its historical development and possible future challenges. In addition to the real property tax itself, the chapter also presents connected issues, such as existence of other property related taxes, the privatization process in Slovakia, the development of real property markets, and role of cadastres and the Land Registry. Attention is also paid to the municipalities as administrators and beneficiaries of the real property tax, and their position within public administration in terms of the fiscal decentralization process in Slovakia.

The aim of the chapter is therefore to provide an overview of the real property taxation system as applied in Slovakia within the wider context. The hypothesis on the adequacy of the state of affairs as regards the regulation of real property taxation has been disproved. The most positive feature of the current system is the ease of administration, while low revenues and disparities among the tax burdens imposed on different types of properties are perceived as most significant negatives.

1. Real property tax

1.1 Historical development

Real property taxes have a long tradition in the territory of the current Slovak Republic. In the Middle Ages and at the beginning of the Modern Age, the land and the income from the land created the basis for direct taxation; however, its regulation was neither exact nor developed. At that time, only the rural land had been taxed. Between 1715 and 1720, the first nationwide registers of tax-paying inhabitants were created. Especially beneficial were the tax reforms of Maria Theresa started in 1713 and leading to the creation of the cadastre (*Theresian Cadastre*) firstly in 1748 and then in 1757.[2] The first Theresian Cadastre comprised a registry of burgher houses and villein (tenant) holdings, including the data regarding the area and value of land and other income opportunities for tax purposes. Following this, the landlords and nobility were obliged to file tax returns declaring the revenues gained from their estates. The technical unit for tax purposes was created by homestead.[3,4]

The second Theresian Cadastre (1757) added data on dominical land and revenues, i.e. to cover that of the nobility, clergy and towns. Such holdings were, however, still taxed at a lower level than rural land. The registry regulations adopted between 1767 and 1772 were targeted mainly at the regulation of the tax duties of villeins; nevertheless, the data on land included in the registry created the basis for the later transfer of ownership of the land to peasants after the abolition of serfdom in 1785.[5]

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[2] Grúň, L. Vybrané kapitoly z histórie daní, poplatkov a cla (Assorted Chapters from the History of Taxes, Charges and Custom Duties). Olomouc: Palacky University, 2004. P. 93.
[3] Radvan, M. Zdanění majetku v Evropě (Property Taxation in Europe). Praha: C. H. Beck, 2007. P. 21.
[4] Homestead is a rustic, detached residential building, typically associated with farming. It is considered to be the basic settlement unit of the country.
[5] Grúň, L. Vybrané kapitoly z histórie daní, poplatkov a cla (Assorted Chapters from the History of Taxes, Charges and Custom Duties). Olomouc: Univerzita Palackého v Olomouci, 2004. P. 94.

The son of Maria Theresa, Josef II intended to go further and tried to tax the nobility. In 1784, he ordered a census of population and the numbering of all the houses irrespective of their ownership. Sadly, his reform was not realized and a significant part of acquired data was destroyed[6]. The nobility finally became liable for real estate tax after the National Assembly of Hungary held between 1832 and 1836.

In 1848, taxes based on the registry regulation were replaced by the land tax.[7] The principle of general tax liability has been applied since 1850. This was, however, accompanied by a problem being the absence in the registry of the properties belonging to the former nobility (who had not been subject to tax before and, hence, were not included in the existing cadastres[8]).[9] Complex standard cadastres for taxation purposes were developed between 1870 and 1890.[10] In this period,the land tax and the house tax were stable objects of taxation.

This sophisticated state of the art register remained valid even during the period of World War I and was applied in the territory of the former Austrian-Hungarian monarchy by Czech, Moravia, Silesia, Slovakia, and Carpathian Ruthenia (creating Czechoslovakia in 1918), even in the first decade of existence of the then Czechoslovak Republic. After the disintegration of Austrian-Hungarian monarchy (1981), the newly formed states accepted the "inherited« legislation of the monarchy to be applied in the newly formed states in order to secure the smooth functioning of the legal systems and the regulation of the social relations. They adopted their own new regulation step-by-step. For this reason, the old monarchial legislation was applicable in the afore mentioned countries in the beginning of their independance from Austrian-Hungarian control. The differences within the regulations applied in Bohemia, Moravia, and Silesia on the one hand and Slovakia and Carpathian Ruthenia on the other was finally removed by the reform of 1927 and the newly adopted Act no. 76/1927 Coll. on direct taxes. This act imposed, among others, a land tax and a house tax (comprising a tenement tax[11] and a "class tax« applied to unlet dwellings). Along with the application of basic rates of tax, local authorities were entitled to impose surcharges which could lead to substantial differences between the levels of tax burden in various municipalities. In the same year, a new land cadastre was developed.

[6] Sivák, F., Klimko, J. Dejiny štátu a práva na území ČSSR (History of State and Law at the Territory of CSSR). Vol. I. Bratislava: Komenský University, 1976. P. 123.
[7] Grúň, L. Vybrané kapitoly z histórie daní, poplatkov a cla (Assorted Chapters from the History of Taxes, Charges and Custom Duties). Olomouc: Univerzita Palackého v Olomouci, 2004. P. 99.
[8] As opposite to the state of the art taxation systems in Czech countries and Austria, where the Josephine Decree of 19 September 1789 on taxation included data on both the rural and clerical land. This registry was replaced by a stable cadastre in 1817 (Starý, M. et al. Dějiny daní a poplatků (History of Taxes and Charges). Praha: Havlíček Brain Team, 2009. P. 94).
[9] Grúň, L. Vybrané kapitoly z históriedaní, poplatkov a cla (Assorted Chapters from the History of Taxes, Charges and Custom Duties). Olomouc: Univerzita Palackého v Olomouci, 2004. P. 100.
[10] Podrimavský, M. et al. Dejiny Slovenska III (History of Slovakia III). Bratislava: Veda, vydavateľstvo SAV, 1992. P. 114.
[11] i.e. a tax on leased buildings

After World War II, the taxation of real properties was reformed. This resulted in the imposition of an agricultural tax,[12] that actually comprised the land tax, the tax on the income of citizens arising from agricultural production, and the agricultural tax on income (accruing from agricultural land).[13]

The House Tax was the subject of a new regulation in 1952 by the Act on House Tax[14] and the income from the new house tax accrued to the budget of local national committees[15]. It was imposed on residential and service buildings designed for continuous use with a built-up area, courtyard, and house garden. The taxpayers were identified to be not only the owners of the property but also those who were entitled to use them permanently or had the right of usufruct, and the tax was based on the rental value or the amount of consideration paid in the current calendar year.[16] Local national committees were allowed to increase the rate, as well as grant rebates and reliefs.

The tax on buildings of commercial organizations and cooperatives was set as 1 % of the tax base, being the asset value as stated in the balance sheet to 1 January of current calendar year. Following this regulation, in 1952, an Act on local charges was adopted.[17] On 30 November 1961, the regulation regarding the house tax changed again.[18]

Early in the 1990s, two important laws regarding the taxation of real properties were adopted, the first being an Act on Local Charges[19] and the second an Act on Real Property Tax[20]. The Act on Local Charges replaced the former regulation and enabled the municipalities to impose a charge on the use of a flat or a part thereof used for other than residential purpose, and paid by the user of such a flat/part per month for every occupied m^2 of floor area. The Local Charge was imposed on non-residential premises, buildings,

[12] For more see Slovinský, A., Girášek, J. Československé finančné právo (Czechoslovak Financial Law). Bratislava: Obzor, 1974. P. 180.
[13] Radvan, M. Zdanění majetku v Evropě (Property Taxation in Europe). Praha: C. H. Beck, 2007. P. 25.
[14] Act no. 80/1952 Coll. on House Tax which abolished the provisions of the Act no. 76/1927 Coll. regarding the mentioned tax.
[15] Local national commities were the public administration bodies in the territory of municipalities in Czechoslovakia between 1945-1990 implementing its authority in all departments. For more see Government regulation no. 14/1950 Coll. on organisation of local national committees.
[16] In the case of rented buildings, the tax rate was set in the amount of 45% and 50 % (if the tax base exceeded 30,000 CSK). Regarding non-rented buildings, the tax was calculated according to the built area of building and was taxed at 4 CSK per m^2 (villages with over 1,000 inhabitants), 6 CSK (towns with over 6,000 inhabitants), 10 CSK (towns with over 25,000 inhabitants), 13 CSK (towns exceeding 25,000 inhabitants), and 25 CSK in Prague, Brno, Bratislava, and spa towns (for details see Červená, K. Zdaňovanie na území Slovenska v historickom kontexte (s akcentom na priame dane) (Taxation in the Territory of Slovakia in the Historical Context (with Emhasis on Direct Taxes)). In Financie, účtovníctvo, dane 2014 so zameraním na súčasné problémy (Finance, Accounting, Taxes 2014 with Focus on Current Problems). Košice: Vydavateľstvo Ekonóm, 2014. PP. 26-45.
[17] The Act no. 82/1952 Coll. on Local Charges. Implementation of this law was secured by Decrees of the Ministry of Finance no. 161/1960 Coll. on the derogation of some local fees and regulation the local charge on dogs, no. 67/1966 Coll. on Local Charges, and no. 218/1988 Coll. on Local Charges on Dogs and Spa Charge.
[18] The reason was the newly adopted Act no. 143/1961 Coll. on House Tax.
[19] Act no. 544/1990 Coll. on Local Charges.
[20] Act no. 317/1992 Coll. on Real Property Tax.

halls, and roofed structures connected to the ground with solid foundations and situated within the jurisdiction of the municipality and used for business or other entrepreneurial activities.

The 1992 Act on the Real Property Tax[21] declared the tax as a State tax even though it was administered by municipalities which were also the beneficiaries of its yield. The imposition of the tax was enacted by this Act, and, as a result, the municipalities were entitled to grant reliefs through their GBR. The regulation itself was significantly similar to the current one.[22] Thus, tax was levied on lands, on structures, on flats and on non-residential premises, and for this reason these are not mention in detail here. The real property tax in its current form was introduced in 2004 by the Act on Local Taxes, which abolished the former regulations[23].

1.2 Position of property tax

1.2.1 Relationship between real property tax and real estate transfer taxes

In addition to the taxation of real property, the legislation of many countries applies taxes on the transfer of real properties, as did Slovakia before 1 January 2005. The so-called *triple tax* was established by Act no. 318/1992 Coll. on inheritance tax, tax on donations (gifts), and the tax on the transfer of real property with effect from 1 January 1993. The inheritance tax was levied on the value of the real estate which passed to the beneficiaries. The tax base of tax on donations (gifts) was defined as the open market value in the case of movable property and the value set in accordance with the special regulation[24] in case of immovable property. The tax in each case was decreased by a non-taxable amount (dependant on the proximity of relationship of the deceased and heir, or donor and donee). The tax base in the case of the tax on the transfer of real property was the price agreed between the contractual parties but not less then amount set according to a special regulation.[25] The tax rates were set differently for each of the three taxes and these were divided into three levels for various taxpayers according to proximity of their relationship to deceased/donor/transferor.[26] This act was abolished by the Act no. 554/2003 Coll. on the Transfer of Real Property and on the change and amendment of the Act no. 36/1967

[21] Act no. 317/1992 Coll. on Real Property Tax.
[22] With slight differences, though, e.g. the basic statutory tax rates were multiplied by a coefficient (1.0 to 4.0) according to size of municipality based on the number of inhabitants and the administrative importance of a particular town (7 levels) and separately for the capital city of Bratislava (coefficient 4.5) (see more e.g. Art. 6 par. 4 of the Act no. 317/1992 Coll. on real property tax).
[23] by the Act no. 317/1992 Coll. on real property tax and Act no. 544/1990 Coll.
[24] Decree of the Ministry of Finance no. 465/1991 Coll. on prices of structures, lands, permanent grasslands, fees on establishment of right of special use of lands, and compensations for temporary land use.
[25] Decree of Ministry of Finance no. 465/1991 Coll. on the prices of structures, lands, permanent grasslands, fees on establishment of right of special use of lands, and compensations for temporary land use in connection with Decree of Ministry of Finance no. 255/2000 Coll. on the Determination of the Value of an Undertaking, its parts, and the constituents of the assets of the undertaking.
[26] See more in Bujňáková, M. Daň z dedičstva, daň z prevodu a prechodu nehnuteľností, cestná daň (Inheritance Tax, Tax on Transfer of Real Property, Road Tax). Košice: Calypso, spol. s r.o., 1993. P. 49.

Coll. on Experts and Interpreters, as amended. The name of the Act might be misleading regarding its purpose since it really established a modified transfer tax, however, only for a special transitional period from 1 January to 31 December 2004 in which a transfer tax with the rate of 3 % was applicable. Thus, the inheritance tax and tax on donations have been abolished with effect from 1 January 2004, and the tax on the transfer of real property with effect from 1 January 2005. The main reason for their abolition was the inefficiency of the taxes resulting from their low yield and high costs of administration.

1.2.2 Role and importance of real property tax

Real property tax is a standard and stable part of tax systems of countries worldwide. It is also one of the oldest taxes, as its history shows its application in ancient times.[27] As mentioned above, in the current territory of Slovakia the property tax has its roots in the Middle Ages. In relation to its importance within the Slovakia, this tax does not constitute a major revenue source for municipal budgets. In 2016, the revenue of the real property tax reached 336,359,000. EUR,[28] which represented 0.414 % of the country's GDP[29] and 3.04 % of the total tax revenues of the State budget[30] which leads to the conclusion that the tax has little significance in the view of the State as a source of income. This tax however provides 7.66 % of the total municipal revenues and 23.46 % of the locally-raised revenues of municipalities, which is not as negligible as the former data implies.[31] The development of the revenue is shown in Table 2.1 below. This statistical data demonstrates that the real property tax is the most important own-revenue source of municipalities; however, it does not provide enough to secure their financial independence.[32]

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[27] Starý, M. et al. Dějiny daní a poplatků (History of Taxes and Charges). Praha: Havlíček Brain Team, 2009.

[28] Ministry of Finance of the Slovak Republic. Budget of public administration for years 2017 – 2019. available at:
http://www.finance.gov.sk/Default.aspx?CatID=11224.

[29] GDP of Slovak Republic in 2016 was 81,153.97 million EUR. Source: Statistical Office of Slovak Republic. GDP by income approach at current prices. Available at: http://datacube.statistics.sk/#!/view/sk/VBD_SK_WIN/nu1037rs/HDP%20d%C3%B4chodkovou%20met%C3%B3dou%20v%20be%C5%BEn%C3%BDch%20cen%C3%A1ch%20%5Bnu1037rs%5D.

[30] Including the real property tax revenue. Data source:
Ministry of Finance of the Slovak Republic. Ongoing implementation of the state budget. Available at:
http://www.mfsr.sk/Default.aspx?CatID=3569.

[31] See more Molitoris, P. Vlastné finančné zdroje územnej samosprávy a komunálna reforma (Own Financial Resources of Local Self-Government and Communal Reforms). In Územná samospráva v procese decentralizácie verejnej správy (Territorial Self-Government in the Process of Decentralisation of Public Administration). Košice: P. J. Šafárik University in Košice, 2010. PP. 77-85.

[32] See in detail: Románová, A. Miestne dane ako zdroj príjmov rozpočtov územnej samosprávy (Local Taxes as a Source of Local Self-Government Revenues). In Verejné financie Slovenskej republiky – vybrané aspekty a tendencie vývoja (Public Finance of the Slovak Republic – Assorted Aspects and Development Tendencies). Košice: P. J. Šafárik University in Košice, 2011. PP. 63-68. Kicová, A., Štrkolec, M. Vzájomné finančno-právne vzťahy jednotiek územnej samosprávy (Mutual Financial and Legal Relations of Self-Government Units). In Finanse samorzadu terytorialnego (Local Self-Government Finances). Radom: Wyzsza Szkola Handlowa, 2012. PP. 381-391; Štrkolec, M. Príjmy miestnych daní – ústavné predpoklady a realita (Local Taxes Revenues – Constitutional Preconditions and Reality). In 15 rokov Ústavy Slovenskej republiky (15 Years of the Constitution of the Slovak Republic). Košice: P. J. Šafárik University in Košice, 2008. PP. 338-343.

Table 2.1: Real property tax revenue

Revenues of municipalities:[33]	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**
Total RPT revenue (thousands of EUR)	266,284	274,564	304,479	316,790	320,453	324,053	336,359
RPT revenue as percentage of local tax revenue	62.48 %	62.49 %	63.88 %	64.06 %	64.52 %	64.03 %	64.35 %
RPT revenue as percentage of tax revenue (with transfer of state taxes[34])	18.73 %	16.96 %	18.19 %	18.41 %	17.83 %	16.42 %	15.35 %
RPT revenue as percentage of total local revenues	16.70 %	20.10 %	23.86 %	23.05 %	20.94 %	20.46 %	23.46 %
RPT revenue as percentage of total revenues of municipalities	6.63 %	6.87 %	8.05 %	8.20 %	7.95 %	7.07 %	7.66 %

Source: Author's own processing on the basis of data provided by Ministry of Finance of the Slovak Republic. [35]

Table 2.2: Municipal revenues structure (in thousands of EUR)

Total municipal revenues:	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**
All tax revenues, of this:	1,421,927	1,618,979	1,674,254	1,721,501	1,797,688	1,973,877	2,191,840
- All local tax revenues*	**426,208**	**439,388**	**476,667**	**494,527**	**497,121**	**506,065**	**522,675**
Grants and transfers	1,425,801	1,453,242	1,310,702	1,261,739	1,198,298	1,528,485	1,285,847
Non-tax revenues	**439,305**	**411,852**	**501,053**	**618,646**	**398,467**	**612,293**	**594,311**
Other revenues	**728,630**	**514,504**	**298,554**	**261,363**	**398,467**	**465,361**	**316,950**

*Revenues highlighted in bold are of a local nature

Source: Author's own processing on the basis of data provided by Ministry of Finance of the Slovak Republic. [36]

[33] Data source: Ministry of Finance of the Slovak Republic. Budget of public administration for years 2018 – 2020. Available at: http://www.finance.gov.sk/Default.aspx?CatID=6958.

[34] Transfer of state taxes to municipalities in 2010 was 995,719,000 EUR, in 2011 was 1,179,591,000 EUR, in 2012 was 1,197,587,000 EUR, in 2013 was 1,226,525,000 EUR, in 2014 was 1,300,567,000 EUR,in 2015 was 1,467,812,000 EUR, and in 2016 1,669,165,000 EUR.

[35] Ministry of Finance of the Slovak Republic. Budget of public administration for years 2018 – 2020. Available at: http://www.finance.gov.sk/Default.aspx?CatID=6958; Ministry of Finance of the Slovak Republic. Ongoing implementation of the state budget. Available at: http://www.mfsr.sk/Default.aspx?CatID=3569.

[36] Ministry of Finance of the Slovak Republic. Budget of public administration for years 2018 – 2020. Available at: http://www.finance.gov.sk/Default.aspx?CatID=6958; Ministry of Finance of the Slovak Republic. Ongoing implementation of the state budget. Available at: http://www.mfsr.sk/Default.aspx?CatID=3569.

The property tax system in Slovakia is based on a single local property tax levied separately on lands, buildings, flats and non-residential premises. A division between these separate objects is necessary because of the lack of the application of principle of "*superficies solo cedit*«[37] in the Slovak legal order, which results in situations where constructions built on particular plots of land and the plots themselves are on different ownerships.

It is a local tax fully administered by local self-government, i.e. municipalities, which are also the beneficiaries of the tax and have been granted quite wide powers to regulate this tax according to their local needs. The principle of legality of taxes is established under the Constitution of the Slovak Republic[38]. It stipulates that taxes may be imposed by statute or on the basis of a statute. In the case of the real property tax and the other local taxes, the tax is imposed by municipality on the basis of the statute, however, the statute itself does not impose the duty of a taxpayer to pay the tax if the municipality itself does not wish to levy such a tax.[39] The tax is predominantly based on the area of property and its use, with a variety of tax rates applied, depending on the types of properties, their use and location, which actually serves as an adjustment of the predominantly area-based type of real property tax.

1.3 Legal basis and structural components of real property tax

The taxation of real properties is based on the Act on Local Taxes. On the basis of this Act, every municipality, i.e. tax administration, is authorised to impose real property tax and set the details of its regulation by means of GBRs. These regulations are the only means of actually imposing the tax and the provisions of the Act on Local Taxes regarding the details to be determined for this purpose (including tax rates, the value of building plots and, to a limited extent, some other types of plots, any floor surcharge, additional exemptions and rebates, and instalments).

The objects of real estate tax in Slovakia are: (i) lands, (ii) buildings[40] , (iii) flats and non-residential premises in residential buildings. The real property tax is therefore threefold, comprising the tax on lands, the tax on buildings, and tax on flats and non-residential premises. There are, however, numerous cases when certain properties are not subject to tax.[41] Lands and buildings are further devided: lands according to their classification within the Land Registry, and buildings according to their use.

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[37] i.e. what exists on the surface is in the ownership of the land owner.
[38] Particularly in article 59 of the Act no. 460/1992 Coll. the Constitution of Slovak Republic.
[39] See more Vernarský, M. Obec ako subjekt oprávnený ukladať miestne dane (Municipality as a Subject Entitled to Impose Local Taxes). In Územná samospráva ako forma verejnej moci (Territorial Self-Government as a Form of Public Authority). Košice: P. J. Šafárik University in Košice, 2012. PP. 155-164.
[40] but not those in the course of construction, which are taxed as part of the land tax.
[41] Regarding the tax on land, the tax is not levied in case of: (i) parts of built-up areas and courtyards where constructions subject to buildings tax or tax on flats and non-residential premises are situated; (ii) lands or parts thereof on which are situated roads, state and regional railways; and (iii) lands or parts thereof where

The Act on Local Taxes grants obligatory exemption from taxation to:

(i) properties owned by the municipality being the administrator of the tax;
(ii) lands and buildings owned by other states in the use of natural persons who are being granted privileges and immunities under international law, on condition of reciprocity;
(iii) properties owned by registered churches and used for religious purposes;
(iv) properties owned by public universities or by the State and in the use of public universities or the Slovak Academy of Science, and used for education or science;
(v) properties owned by the State or self-governing units and used for schools;
(vi) public parks owned by medical facilities providing inpatient hospital care; and
(vii) properties owned by the Slovak Red Cross.

Following the Act on Local Taxes, each municipality may also either fully exempt or grant a rebate to the tax payable on other properties pursuant to social objectives (e.g. those owned by elderly or severely disabled persons, persons in material need); those used in the public interest (schools, hospitals, parks and playgrounds, national parks, public transport, social assistance purposes, etc.); or properties with a low value or low usability.

1.3.1 Tax base

The Act on Local Taxes determines the tax base separately for lands, buildings, flats, and non-residential premises[42], and there are different means of determining the base of tax on lands depending on the type of plot.

The tax base for arable land, hop gardens, vineyards, orchards, and permanent grassland is the value of the land without crops, calculated as the area of land in square meters multiplied by value of 1 m^2.[43] Nevertheless, within the GBR, the tax administrator (municipalities) may establish a different land value not exceeding 50 % of average land value of the particular district where the one stated in the Appendix to the Act is 0. Other land values may be used only on condition that the taxpayer does not prove a different value of the particular land by means of an expert´s opinion.

Concerning gardens, built-up areas and courtyards, other areas (not otherwise classified), and building lands, the tax base is the value of land calculated as the area of land in square

constructions not subject to the building tax are situated. As regards the tax on constructions: (i) residential buildings with flats and/or non-residential premises subject to tax on flats and non-residential premises; and (ii) dams, water mains, sewerage, facilities for flood protection and distribution of thermal energy are not subject to tax either.

[42] Non-residental premises refers to only „parts" of buildings (like separate units) - not buildings as whole (e.g. in a block of flats or other housing building. Some premises for example, in a basement or a ground floor may be let for non-residential purposes e.g. to an artist who uses it as an atelier, to a lawyer who uses it as an office, or someone who uses it as shop.

[43] This value is stated by the Appendix no. 1 to the Act on Local Taxes and amounts to approximately 0.15 – 0.60 EUR per m^2; up to 0.20 EUR per m^2 for grassland.

metres multiplied by the value of 1 m^2 of land, as stated in Appendix no. 2 to the Act on Local Taxes.[44]

Other values may be set by a GBR of the municipality but only regarding building plots. In the case of forest lands with economic woods, ponds with fish farming and other economically used water areas, the tax base is the value of the land without vegetation, calculated as the area in square meters multiplied by value of 1 m^2 in accordance with the regulation establishing the general value of assets, i.e. expert´s opinion. However, by means of a GBR, the tax administration may establish other land values instead.[45]

In relation to the tax base on buildings and on flats/non-residential premises, its determination is solely based on the area of property. The tax base for buildings is the buildt area in square meters. By the »built area« is meant the larges above-ground floor based on a plan view of the building[46]. the plan view of the building at the most extensive above-ground floor (in case of constructions of underground collective garages, it is the underground floor) which provides the opportunity for the tax administration to tax atypical constructions. In the case of flats and non-residential premises, the tax base is the floor area of a particular flat or non-residential unit in square meters.

1.3.2 Taxpayers

Defining the individuals that become taxpayers of all of the three parts of the real property tax is dependent on various factors. Primarily, the taxpayer is the owner of the property, and in cases where the property is owned by the State, municipality, or self-governing region, the ownership should be registered in the name of the administrator in the Land Register in the case of lands. In the case of a land consolidation process, if, however, natural or legal persons are entitled to use replacement land until the completion of the land consolidation process, they become the taxpayer. In case of leased lands leased for a term of five years or more[47] and leased buildings administrated by the Slovak Land Fund, the lessee becomes the taxpayer instead of the lessor. If neither of the above is applicable, the taxpayer of land tax and/or tax on buildings is the person who actually uses or occupies the land or buildings. The latter means of determining the taxpayer is necessary because of the problems in identifying the actual possessor of proprietary rights

[44] This Appendix no. 2 stipulates the values of these types of lands in relation to the size of municipality, particularly by number of their inhabitants. This criterion determines 8 classes of municipalities with particular value of mentioned types of lands.
[45] Such other land value may only be used on condition that the taxpayer does not prove other value of particular land by means of expert´s opinion.
[46] It means that if the floors of the building are not equal (like pyramid shape or others), the tax base is the largest floor even if this one is not the ground floor. The purpose of this is to combat the evasion, if the „shape" of the building is atypical
[47] In this case, only on condition that: (i) the lease will last at least 5 years and the lessee is registered in the Land register, or (ii) the object of the lease contract is the land administrated by the Slovak Land Fund, or (iii) the object of the lease contract is the replacement land of the person entitled to use replacement land until completion of the Land Consolidation.

(inherited from the former socialist system) and the frequent situations in which the real owner of property remains unknown or absent.

1.3.3 Tax rates

Primary annual tax rates are stipulated by the Act on Local Taxes and these are: 0.25 % per square metre of land for the land tax; 0.033 EUR for each square meter of plan area for the tax on buildings; and 0.033 EUR for each square meter of the area for the flats/non-residential premises tax.

Municipalities may set different tax rates by the issuance of a GBR, the application of which is a common practice. Moreover, they are allowed to determine different rates of tax for different types of lands, buildings, flats, and non-residential premises and to take into consideration also the use of the buildings and the location of particular property – e.g. in relation to the city centre, cadastral areas, other zones, or otherwise.[48] This diversification of tax rates can be fully adjusted to local circumstances and used as a tool of local tax policy for each municipality, since the Act on Local Taxes gives the municipalities almost full powers to determine different tax rates within its jurisdiction or parts of it.

Originally, on the adoption of the Act on Local Taxes, the municipalities had no limitations regarding the power to determine tax rates; since then, legislation has made several amendments to the Act on Local Taxes to limit this power. Currently, the differently determined rates must meet two prerequisites: firstly, regarding the determination of zones, (i.e. individual parts of area of municipality where different tax rates are to be applicable) must be a geographically compact part of the municipality comprising a minimum of 5 % of the municipality's the property tax taxpayers and be established by a GBR of the municipality[49]. An individual part of the municipality may be formed by a street, neighbouring streets or neighbouring plots of land. Secondly, the municipalities are now limited as regards the level of tax rates.[50] In the case of multi-

[48] In larger towns, it is standard to set 2-4 zones usually based on traditional divisions such as: city centre, wider centre, and suburbs, but it depends on each municipality as to what kind of division, if any, it choses.
[49] as stipulated by the Act of Local Taxes in Art. 17a.
[50] There are several limitations: (a) the highest rates stated in the GBR must not exceed the basic statutory rate by more than five times in the case of arable land, hop gardens, vineyards, orchards, and permanent grassland; (b) the highest rates stated in the GBR must not exceed the basic statutory rate more than 10 times in the case of forest lands with economic woods, ponds with fish farming and other economic used water areas; (c) the rate regarding the land tax on lands functionally connected to a nuclear facility must not exceed the rate stated by the Act more than 100 times; (d) the highest rates stated in the GBR must not exceed the lowest rates stated in the same regulation for these lands by more than 5 times the land tax on other types of lands; (e) special tax rates regarding the lands for which a permit for the extraction of unlisted minerals was issued and lands on which facilities producing electricity from solar energy, transformer stations or (moveable) market stalls are situated may be determined by the municipality even beyond the above limitations: however, the maximum limit stated under letter (d) above must be kept; (f) the highest rates stated in the GBR must not exceed the lowest rates stated in the same regulation by more than 10 times regarding the buildings tax, the tax on flats and non-residential premises.

storey buildings, the municipality may impose a "floor surcharge« in the amount of a maximum of 0.33 EUR per floor, except for the first aboveground floor. Since this increases the tax rate, it becomes a sort of coefficient enabling the much higher taxation of multi-storey buildings. Changes in tax rates and in the amount of floor surcharge are made with effect from the 1 January of each year. An example of the differential tax rates is the city of Košice (Table 2.2), where three location zones are established (zone I – city center, zone II – wider center, zone III – suburbs):

Table 2.3: Real property tax rates determined by the city of Košice, applicable in 2017

		Zone I.	Zone II.	Zone III.	Statutory rate
Land type	Arable land, hop gardens, vineyards, orchards, permanent grassland	0.4 %	0.4 %	0.4 %	0.25 %
	Gardens	1.25 %	1.0 %	1.0 %	
	Built-up areas and courtyards, other areas	1.25 %	1.0 %	0.75 %	
	Forest lands with economic woods, ponds with fish farming and other economic used water areas	0.35 %	0.35 %	0.35 %	
	Building plots	1.25 %	1.0 %	1.0 %	
	Plots with transformer station or (temporary market stalls)	1.75 %	1.5 %	1.5 %	
Building type	Residentials and small buildings with complementary functions	0.40 EUR	0.265 EUR	0.265 EUR	0.033 EUR
	Constructions for agricultural production (including warehouses and administration buildings), greenhouses, structures for water management	0.20 EUR	0.20 EUR	0.20 EUR	
	Cottages and buildings for individual recreation	1.00 EUR	1.00 EUR	1.00 EUR	
	Freestanding garages, collective garages	1.15 EUR	1.00 EUR	0.80 EUR	
	Underground collective garages	1.00 EUR	0.85 EUR	0.65 EUR	
	Industrial buildings, buildings for energy and construction industry (including warehouses and administrative buildings)	4.00 EUR	3.50 EUR	3.50 EUR	
	Buildings for other business/employment activities (including warehouses and administrative buildings)	5,50 EUR	5.00 EUR	4.20 EUR	
	Other buildings	3.00 EUR	2.- EUR	1.00 EUR	
Flats, non-residential premises	Flats	0.398 EUR	0.332 EUR	0.332 EUR	0.033 EUR
	Non-residential premises for other business/employment activities (including storage and administrative premises)	3.00 EUR	2.00 EUR	1.50 EUR	
	Non-residential premises for helath facilities and other non-business activities	1.70 EUR	1.30 EUR	1.00 EUR	

		Zone I.	Zone II.	Zone III.	Statutory rate
	Non-residential premises used for garaging	1.15 EUR	1.00 EUR	1.00 EUR	

Source: Author's own processing on the basis of GBR of city of Košice no. 132 on local taxes as amended.

Recently, there has been a challenging discussion regarding the actual power of the municipalities to set the tax rate at their discretion, within the statutory limits, because of the cases of almost abusively high rates imposed by some municipalities on particular types of properties. The Constitutional Court of Slovak Republic has decided[51] on a case in which a group of parliament representatives challenged the power of a municipality to set the tax rates by GBR, i.e. a bylaw, even when the power to do so is delegated by statute. The complaint has been rejected underlining the constitutional principle of the imposition of taxes set by art. 59 of the Constitution and the autonomous powers of municipalities performed in accordance with the Act on Local Taxes and other statutes. Nevertheless, there were numerous different opinions published within the reasoning of the Court's findings, which has starting a lively debate on the actual meaning of the constitutional "on the basis of the Act«.

1.3.4 Tax calculation

Tax is calculated as the tax base (value times area or just the area, as mentioned above) times the tax rate. In the case of multi-storey buildings, the tax rate is increased by the multiplication of a floor surcharge and number of floors.[52] In multi-purpose buildings, a partial tax corresponding to one purpose of use is calculated as the multiplication of the built-up area, a partial tax base (which is calculated as a portion of the flat area used for particular purpose to total flat area),[53] and the relevant tax rate. The whole tax payable is then calculated as a totality of the partial taxes.

1.4 Administration and enforcement

The administration of real property tax lies with the municipalities which are the tax administrators of local taxes. Within the exericse of their powers, they are required to follow the regulation of tax administration stipulated by two acts; firstly Act no. 563/2009 Coll. on Administration of Taxes (Code of Tax Procedure) and on the change and amendment of certain laws, as amended in order to deterime the standard process of the administration of taxes, and, secondly, the Act on Local Taxes, regulating certain peculiarities of the administration of local taxes. The later act is then *lex specialis* in relation to the former.

[51] Finding of the Constitutional Court of Slovak Republic of 22 January 2013, case PL. ÚS 5/2012.
[52] I.e.: TB x TR = TB x [TR + (surcharge x number of floors)], where TB is the tax base, and TR is the tax rate.
[53] See Decision of Supreme Court of Slovak republic of 19 March 2014, case 6Sžf/29/2013.

The administrator of the real property tax is the municipality that imposes the tax on real estate within its jurisdiction, which means that, currently, with 2,927 municipalities (excluding military districts), there are almost as many real property tax administrators within the Slovak Republic.[54] These gather the data necessary for the administration of the tax primarily on the basis of the information included in tax returns filed by the taxpayers and collected within the inspection procedure or other procedures within the tax administration process. In addition, data are provided by public bodies and/or other persons (e.g. those keeping various registers like the Land Registry, the Register of Inhabitants of Slovak Republic, Registry Offices, postal services providers, banks and other financial institutions) which are required to cooperate[55] with any tax administration in Slovakia. The Land Registry includes data on 18,979,742 properties owned by a total of 28,171,082 owners[56], which means it records 18,979,742 potential objects of tax and 28,171,082 potential taxpayers, thus making it an indispensable database.

The tax procedure is based on the self-declaration of taxpayers after the acquisition of a real property. The tax return is the primary source of information for the tax administrations. It should be filed not later than on 31 January of the year following the acquisition of property and thus it reflects the status as at 1 January of that particular year. Only in the case of acquisition by auction or inheritance, is the taxpayer obliged to file it within 30 days of the origination of the tax liability.[57] The self-declaration form comprises personal data of taxpayer,[58] the identification of the property,[59] the legal relationship of the taxpayer to the property (including any co-ownership), the date of the commencement or expiration of tax liability, and the reasons for any exemptions and reliefs. Only in cases of discrepancies or doubts as to the accuracy of the data provided, may the taxpayer be notified as to the need to provide other explanations, evidence, etc., or that a physical inspection may be carried out.

It is important to mention that the tax return is filed with the tax administration responsible for the particular property and, where a person is the taxpayer of properties situated in different municipalities, then the taxpayer is obliged to deliver tax returns to every

[54] 2,887 if the division of Bratislava and Košice into city districts are not taken into consideration. (See Government regulation no. 258/1996 Coll. establishing a list of municipalities and military districts forming particular districts as amended). The reason this is mentioned is that in Bratislava and Košice, the administration of real property tax belongs to the cities and not the city districts (as defined by the statutes of these cities).
[55] The duty of cooperation with tax administrations is based on Art. 26 of the Code of Tax Procedure and is formulated in a very extensive way. It results in a situation in which everybody is obliged to provide any information or data necessary for the administration of taxes and for the achievement of its purpose.
[56] Data valid as at 1 January 2016 (source: Geodesy, Cartography, and Cadastre Office of Slovak Republic. Statistical Yearbook of land in Slovak Republic according to Land Registry of 1 January 2016. Bratislava, 2016. P. 30, available at: http://www.skgeodesy.sk/files/slovensky/ugkk/kataster-nehnutelnosti/sumarne-udaje-katastra-podnom-fonde/statisticka-rocenka-2015.pdf).
[57] That is the first day of month following the acquisition of the property (Art. 18 par. 2 of Act on Local Taxes).
[58] These being: name, address and birth number (i.e. a universal unique identification code) of a natural person or business name, registered office, and identification number of a legal person, phone/e-mail contact, and the number of a bank account if applicable.
[59] Including: the kind of property, its specification, location, area, purpose, areas serving different purposes in the case of multi-purpose uses, and the number of floors in case of structures.

individual tax administration separately. The tax administrations (municipalities) are not obliged to forward any misdirected tax returns to the correct tax administration. If the data or other relevant conditions do not change for the following years, taxpayers do not need to further file annual tax returns. If, however, circumstances do change, the reporting of such a change is subject to the filing of an amending tax return.

The real property tax is, however, not based on self-assessment by the taxpayer. On the basis of the tax return, the actual tax is assessed by the tax administration in a separate decision which meets all the criteria relevant to decisions on tax matters according to Code of Tax Procedure. The assessment and its notification to the taxpayer is performed annually. Should the tax administration fail to assess the tax in particular tax year[60], the right to do so expires after five years from the end of the year in which the tax for relevant tax period should have been assessed[61].

Tax is paid on the basis of the final decision of the tax administration. Within the GBR, the tax administraiton may allow the payment of tax by instalments, which is a common practice. Tax is due within 15 days of the decision, and, in the case of instalments, the payment periods are specified within the decision of the tax administration by which the tax is assessed.

The taxpayer has several means of payment, including bank transfer, postal order, or in cash (up to 300 EUR). The taxpayer is entitled to use all the remedies provided by the Code of Tax Procedure (common for all taxes). Since the Code is fully applicable to local taxes, the taxpayer of real estate tax is entitled to exercise all the rights to which are enjoyed by the taxpayers of State taxes. The administrative remedies are divided into »ordinary« (being the right to appeal, and objection), and extra-ordinary (being a retrial, and a review of a decision in the absence of an appeal). The most common administrative remedy is appeal.

1.4.1 Appeal

An appeal may be submitted within 30 days of the delivery of the decision of tax administration (on the tax assessment). The only necessary requirements are that: (i) the appeal should be submitted by a person entitled under the Code of Tax Procedure, i.e. the taxpayer (or its representative); (ii) within the specified time period; and (iii) it should not challenge the sole reasoning of the decision[62]. Apart from these, there are no specific requirements for an appeal and thus the taxpayer may challenge the decision both in fact and in law (but not the underlying reasoning of the tax assessor). An appeal has

[60] pursuant to art. 99f of the Act on Local Taxes.
[61] Thus, a municipality will lose the right to assess the tax but only for that year from which more than 5 years has already passed – not for the future, e.g. in 2018 you can be delivered your tax assessement back to 2013 for not previous years.
[62] Thus, if a taxpayer agrees with the amount of tax payable according to the decision, but does not like how the tax administrator reasoned the calculation of the tax (or any other aspects mentioned in the reasons of decision), an appeal is not possible. An appeal must challenge the amount of tax itself not only what is said in the reasoning.

suspensory effect, which is a very important feature. Appeals are submitted to the tax administration which may allow the appeal or pass it to the appellate body, i.e. the Financial Directorate of the Slovak Republic. The appellate body is entitled to search for and accept new evidence, or recall the decision and require the tax administration to deliver a new decision after reconsidering all the evidence.[63]

The judicial remedies are actions against the decisions or administrative processes decided on by the ordinary courts within an administrative judiciary. The actions are decided on by county courts and the rules applicable are common for all administrative judiciary actions. A cassation complaint to the Supreme Court of Slovak Republic is admissible against county court decisions. As the last possible remedy, there is the opportunity for a constitutional complaint alleging a breach of fundamental rights and freedoms which will be decided on by the Constitutional Court of Slovak Republic. A constitutional complaint may be admissible only on condition that all the ordinary remedies had been exhausted.

1.4.2 Enforcement proceedings

If tax owing is not paid within the above period, the tax administration is obliged to initiate tax enforcement proceedings. There are two alternatives ways to do this. Firstly, there is a complex regulation of tax enforcement procedures stipulated by the Code of Tax Procedure, that entitles tax administrations (including municipalities) to undertake the tax enforcement procedure. Secondly, there is a standard civil enforcement procedure (i.e. to assign a civil bailiff)[64] as an alternative; however, only the municipalities are entitled to use this method. The standard civil enforcement procedure is usually implemented in the cases of small municipalities that are either understaffed or short of qualified stuff. The tax enforcement procedure is initiated by the issuance of a decision to adopt this tax enforcement procedure. Next, the tax debtor is given written notice to pay the outstanding tax within a given period, after the expiry thereof a warrant of execution is issued.

The Code of Tax Procedure provides the tax administration with numerus[65] means of enforcement. These are: deductions from wages or other income; direct deductions from the taxpayer's bank account; sale of movable/immovable property, securities, and of a business enterprise or part thereof; the taking of cash; and finally, the impairment of material rights if the taxpayer is a shareholder of a business company. Enforcement of the tax due is not the only sanction applicable in the tax procedure. Failure to meet the duties of a pecuniary and/or non-pecuniary character gives rise to the payment of interest on the

[63] For more see Molitoris. P, Vernarský, M. Opravné prostriedky pri správe miestnych daní v Slovenskej republike. (Remedies in Administration of Local Taxes). In Nový správní řád a místní samospráva II (New Administrative Ordinance and Local Self-Government). Brno: Masaryk University, 2007. PP. 260-269.
[64] In line with Act no. 233/1995 Coll. on Court Bailiffs and Enforcement Procedures (Code of Enforcement Procedures) and on the changes and amendments of certain laws, as amended.
[65] the exhaustive list.

outstanding debt and fines. Non-payment of outstanding tax also gives rise to the payment of the interest on that amount at a minimum[66] of 15 % of due tax until the day payment is made (over a maximum of four years).

The fines are imposed for numerous violations, e.g. a taxpayer failing to file a tax return faces a fine of between 5 to 3,000[67] EUR but not more than the actual amount of tax.[68] The revenue gained by the interest and fines paid are the income of the particular municipality. Another interesting means of forcing taxpayers to pay taxes is the right of municipalities to publish the list of tax debtors on their websites. This applies to natural persons with a debt in excess of 160 EUR and for legal persons with a debt exceeding 1,600 EUR.

1.5 Challenges and future developments

In recent years, the Government of the Slovak Republic (perhaps also due to pressure from the EU[69]) has been seeking a fundamental reform of tax base of the real property tax.[70] The proposal is that the tax base should move from an "area based« system to an "*ad valorem*« system, which has been presented in the last few national programmes of reforms in Slovakia. The pressure for change seemed most urgent around 2013, when the declaration within the above-mentioned programmes envisaged a brave time horizon for the implementation of the reform[71].

The "National reform programme of the Slovak Republic 2014« stated that:

> *Taxes on real property in the Slovak Republic as compared to other OECD or EU countries raise a less important part of revenues of local self-government. The system in its current configuration (the tax rate in EUR on the basis of the size of the habitable area) is less efficient and less fair because the tax base does not reflect the real value of real property (defined by size of settlement, location of property, its age, ancillaries and other parameters) but only its area. This, in turn, leads to a different effective tax burden on the property (as a ratio between the tax paid and the price of the immovable property) and shows the regressive effects of the system. As far as tax equity is concerned, an optimum solution is to configure the system in such a way that the tax*

[66] Four times the base interest rate of European Central Bank on the day of the delay.

[67] Also, 10 to 6,000 EUR for disregarding a notice from the tax administration after failing to observe the statutory period.

[68] In case of the failure to fulfill the notification duty, or the declaration of data based on which the tax would have been assessed in a lower amount than that assessed by tax administration (a fine of 10 % of the difference between the later and the former amount).

[69] See Council Recommendation of 8 July 2014 on Slovakia´s 2014 national reform programme and delivering a Council opinion on the Stability Programme of Slovakia, 2014 (2014/C 247/23).

[70] Prievozníková, K., Vojníková, I. Východiská a prognózy miestnych daní (Backgrounds and Prognosis of Local Taxes). In Financie, účtovníctvo, dane 2014 so zameraním na súčasné problémy II (Finance, Accounting, Taxes 2014 with Focus on Current Problems II). Košice: Ekonomická univerzita v Bratislave, Podnikovohospodárska fakulta so sídlom v Košiciach, PP. 58 et seq.

[71] "...Exact proposals will be finalised in the course of 2013 and a new system introduced by 2015, at the latest" (For more see Ministry of Finance of the Slovak Republic. National reform programme of the Slovak Republic 2013. Available at: http://www.finance.gov.sk/Default.aspx?CatID=5197, 25 November 2017, P. 34).

base will be linked to an estimated market value of the particular real estate. This would ensure that the tax base would be changing along with the market value of the property and the effective taxation would remain constant at an unchanged rate. The Ministry of Finance is currently examining possible alternatives to introduce a property tax system based on the market value of real estate properties. First steps in the implementation of the new system will be taken after 2015.[72]

Such a proposal gave at least some view of the direction of future reform since no details were published and no relevant public discussion was actually initiated, except perhaps some political declarations followed by strong opposition from the public fearing an increase in the level of property taxes. There are a few discrepancies regarding the above statement of the Government, though. Firstly, in the Slovak legal order, there are no "taxes on real property« since there is one only one tax on real property applicable. Secondly, the formulation of "the tax rate in EUR on the basis of the size of habitable area« is quite confusing since there is no relation between the determination of the tax rate and the size of the property. As there is no diversification of tax rates that would be based on size of the property, what the Government was probably trying to emphasize is that it is the base of taxation which is the area of properties and that the tax rate should be applied instead to the properties' market value.

Thirdly, the government´s statement uses the term that can be translated as "habitable area«. This term usually refers to that part of the floor area of a building that includes only the rooms the main purpose of which is living, and complying with special criteria.[73] Living accommodation would, for example, exclude such spaces as halls, hallways, staircases, toilets, bathrooms, utility rooms, closets, basements.[74] However, the Act on Local Taxes uses as the tax base the built area, i.e. the gross external floor area for the tax on buildings, and the floor area, i.e. carpet area or gross internal floor area in relation to the tax on flats and non-residential premises. And of course there can be no »habitable area« in relation to the tax on lands.

Fourthly, according to the Government´s declaration, the tax is based only on the area of property, which is incorrect. Its base is largely determined by the area of the property, but, the actual tax may be adjusted by each municipality by the use of various tax rates depending upon the type of property, its actual use, and the location of the property within the area of municipality, together with a floor surcharge in the case of multi-storey buildings. Despite not being able to take into consideration other factors such as the shape of property, accessibility, age, the particular floor level, and fixtures and fittings in determining its tax base, it is not only the area of the accommodation that is relevant.

[72] Ministry of Finance of the Slovak Republic. National reform programme of the Slovak Republic 2014. Available at: http://www.finance.gov.sk/Default.aspx?CatID=5197. P. 34.
[73] See e.g. art 1a letter h) of Decree of the Ministry of Finance of Slovak Republic no. 465/1991 Coll. on prices of structures, lands, permanent grasslands, fees on establishment of right of special use of lands, and compensations for temporary land use.
[74] For more on the topic see Antošová, N. Quantitative parameters and their concepts as a way of comparing technical and economical indicators of buildings. Nehnuteľnosti a bývanie 2013 (1). PP. 26-38.

Moreover, there are still cases where the value of particular types of properties becomes part of tax base[75] and where municipalities can influence such a value, though in a limited way (as in the case of construction plots[76]). This shows that the property tax system is not purely area based, on contrary; it is instead a calibrated area-based system, which the Government had somehow forgotten to mention.

And finally, fifthly, there are also some concerns that need to be addressed regarding the "estimated market value« of properties that should become the tax base. As mentioned below, the real estate market in Slovakia is not uniformly active across the regions of the country, and, it could be said, is relatively immature. The actual sales prices achieved are not publicly verifiable because of the lack of public accessibility to that kind of information, and the same applies to the price maps of real properties that are administered by private entities, e.g. National Association of Real Estate Agencies. These issues are critical to the success of using market value as a tax base, though, they have not been seriously discussed at any relevant level. Information included in the above-mentioned programme on the creation of a tool for estimating the market value of properties on the basis of acquired data on the prices of advertised residential properties has not yet been presented in detail. Other issues, such as the 'costs to revenue' ratio, the accuracy of appraisal and the appeal procedures, the frequency of revaluations, and the keeping up-to-date with the development of market prices, need also to be taken into consideration. Currently, the 2016 National Reform Programme in Slovakia mentiones the task of the Government (in coordination with the Association of Towns and Municipalities) to *create the technical conditions for a change of the system of real property taxation towards determining the tax base by the property value in order to increase tax fairness and efficiency concerning local taxes*.[77]

Nevertheless, there is no deadline proposed for the fulfilment of this task. The positive news is that this task was included in the Government Manifesto for 2016 – 2020.[78]

[75] As in the already mentioned values defined by appendix no. 1 and no. 2 to Act on Local Taxes. The values stated therein, unfortunately, are not in line with the market values or approach market values in only a small number of cases. (In most productive areas of the country, market values are approximately at the level of the statutory values of lands. Prices of lands on the outskirts of villages and towns are many times higher. Market prices of lands located in less productive areas of the country reach, in many cases, only 1/3 of the statutory values of agricultural lands.) Source: Market prices of agricultural land. Available at: http://agrofarmy.sk/Rmenu/Informacie/Cenapody/cenapody.php) The value of forest lands, ponds, and other economically used water areas is determined by the opinion of an expert in the particular field and therefore reflects the whole spectrum of factors depending on the valuation methodology applied as stated by statutory regulation.

[76] For example, the GBR of the Capital city of Bratislava sets the value of 71.69 EUR per square meter as compared to 59.74 EUR per square meter established by Appendix no. 2 to Act on Local Taxes.

[77] Ministry of Finance of the Slovak Republic. National reform programme in Slovak Republic 2016. Available at: http://www.finance.gov.sk/Default.aspx?CatID=5197, P. 52.

[78] See page 21 of the Government Manifesto for 2016 – 2020. Available at: http://www.vlada.gov.sk/programove-vyhlasenie-vlady-sr-na-roky-2016-2020/?pg=2.

A question arises, as to the actual aim of the potential reform. It seems that fiscal interest is not the most significant factor, as might be suspect from the increasing limitation of the powers of municipalities to determine the tax rates independently, and also from unofficial information on the slight increase in predicted revenue that might be achieved by an *ad valorem* system. In support of this reasoning is the unwillingness of municipalites to raise tax rates for political reasons as compared to their genuine interest in increasing revenues for which the change of the tax base would be hugely beneficial. From the latest declaration, it seems that the most important aims are tax equity as well as the efficiency of administration. Tax equity is declared to be a reason not only for the obviously greater »fairness« of an *ad valorem* system, which cannot be doubted, but also for the huge difference in tax burden currently borne by commercial premises in comparison with residential ones.

What should, however, be born in mind is the potential of a new system to achieve this goal under current circumstances (mainly due to the inadequacy of the database and the state of the development of real estate market, which are discussed below). It seems from the already published documents of the Government, that the reform should firstly be aimed at residential properties which, regarding the stated goals, might be considered as the easiest property sector to start with, even though, from a fiscal perspective, starting with the commercial properties would be more efficient because of their much higher value and the greater availability of data.

It seems that the overall level of tax burden laid upon taxpayers of residential properties is extremely low, which might create a good starting point for the anticipated reform. However, a relevant database needs to be created first. In addition, beside the continuing evidence of the political will to improve tax equity, benefits might be achieved in an acceptable way by the further adjustment of the current regulations, specifically by the addition of other coefficients along with those existing for the type of property, purpose of use and location etc., until the necessary data for a more complex reform are acquired.

The second goal mentioned by the Government is the efficiency of administration issue. Why is this subject emhasized when the overall ratio of real property tax collection is quite impressive? There might be several reasons. It is clear that there are still surprisingly large amounts of uncollected local taxes and local charges (which is a revenue of a significant value for the municipalities and which is collected under same circumstances as the real property tax)[79]. This problem is however, quite illogical, since a real property cannot "move« and, after all, the seizure and sale of the property[80] is a standard means of

[79] There are many examples of villages and cities where local taxes and charges are not collected (the local taxes and charges arrears in the largest cities in Slovakia amount to: EUR 7,510,920 in Bratislava; EUR 4,887,965 in Košice; EUR 2,464,410 in Trenčín; EUR 4,992,100 in Nitra; EUR 3,439,440 in Žilina; EUR 3,862,745 in Banská Bystrica; EUR 1,069,500 in Prešov - local charges not included). Source: data provided by the cities upon author´s request, data valid as at 1 January 2018.

[80] The seizure of property is not used because the process of seizure is administratively very demanding and in the case of natural persons, the arrears are too low to justify the sale of the house. However, there is often other

tax enforcement proceedings which can be used as the last "chance« to recover the tax arrears. Part of the problem, therefore, may be attributed to dispossessed or untraceable persons; however, it is unlikely to be the only reason.

The administration of local taxes involves complex application. Already mentioned are the dual enforcement procedures (via the Code of Tax Procedure and via civil bailiffs), unfortunately, neither of which are proving to be satisfactory. The former requires qualified personnel to be able to manage the procedure appropriately; the second one can be costly in cases of uncollectable debts.[81] In both cases, the seizure and sale of the real property of a tax debtor is rarely performed because of the unwillingness of the tax administration to undertake the administratively demanding procedure. The publication of the lists of debtors on the websites of municipalities have certain benefits, but a large amount of tax arrears, however, remains uncollected. Thus in many cases, tax outstanding is simply not being collected nor is the debt enforced.

Self-government powers do not only bring advantages and usually performance is hindered by either a lack of funds or a lack of qualified personel and the absence of appropriate processes. In this respect, the suitability of each municipality as the administrator of local taxes responsible for all the administration tasks as at least questionable (if not a systematic error), because a large number of municipalities are incapable of the proper performance of all the tasks conected to their role as tax administrator. Therefore, as the reform mentions the efficiency issue, it is clear that there are administrative problems with which mainly small municipalities are struggling: these should not be underestimated and tackling them as a matter of priority should be part of the future reform, especially, considering the costs and effort that will have to be involved in the implementation of the intended reform. Once this goal is achieved, the prospective reform might be a welcome solution to the problems of an adequate municipal funding source and the removal of the equity disparities. [82]

2 Evolution of real estate markets

2.1 Property restitution

The issue of the restitution of properties has its roots in the injustice that resulted from the violation of proprietary rights by the actions of the State within the process of land

properties in the possesion of natural persons like lands and there is no „social" problem to sell someone´s plots if they have plenty, which is common situation.

[81] For more see Románová, A. Miestne dane ako zdroj príjmov rozpočtov územnej samosprávy (Local Taxes as a Source of Local Self-Government Revenues). In Verejné financie Slovenskej republiky – vybrané aspekty a tendencie vývoja (Public Finance of the Slovak Republic – Assorted Aspects and Development Tendencies). Košice: P. J. Šafárik University in Košice, 2011. PP. 63-68.

[82] Compare with: Radvan, M. The Draft Reform of Land Taxation in the Czech Republic. Lex Localis – Journal of Local Self-Government. 2012 (3) PP. 229-245; McCluskey, W.J., Plimmer, F. The Creation of Fiscal Space for the Property Tax: The Case of Central and Eastern Europe. International Journal of Strategic Property Management. 2011 (2). PP. 123-138.

consolidation undertaken during the 20th century. This process was started during the period of the first Czechoslovakian Republic after World War I[83] and was fully implemented after World War II. This process of nationalisation affected industry, mining, banking and insurance companies, water resources, forests, houses, small entrepreneurships, lands of minor farmers[84] and other property of other persons.[85] It concerned both natural persons and legal entities.

The resulting injustice began to be addressed after 1989 with the so called restitution statutes[86] which could be divided into four groups regarding the aggrieved party targeted. The first group of acts concerns the restitution of agricultural and forestry land and other agricultural property;[87] the second one related to housing and residential property;[88] the third group targeted the property of churches;[89] and the fourth that of persons who had been »unlawfully« imprisoned at the time[90].[91]

The procedures were similar, though, and followed the basic structure: the entitled persons had to file an application with the relevant authority within the period stipulated by one of the restitution statutes; within a certain period they were also obliged to prove their (or their heirs´) entitlement to the property to be restituted. The fulfilment of the conditions led to the conclusion of an agreement on the restitution of property. In cases where agreement had not been made, the claim could be filed in a court.

[83] Based on the Act no. 215/1919 Coll. on seizure of large possessions of land.
[84] In this case, these were individuals forced to relinquish their movable and immovable property to common agricultural cooperatives "voluntarily". Those who were not willing to do so were persecuted as to their property as well as their personal freedom. See as well: Jablonovský, R. Genéza právnej úpravy reštitúcií na území Slovenskej republiky (Genesis of Restitution Legal Regulation at the Territory of the Slovak Republic). In Dny práva – 2010 (Days of Law – 2010). Brno: Masaryk University, 2010. P. 1537.
[85] Ibid.
[86] See also Sudzina, M. Navrátenie vlastníctva k pozemkom na Slovensku (Restitution of Land Property in Slovakia). In Aktualne problemy prawa w Republice Slowackiej i Rzeczypospolitej Polskiej (Current Problems of Law in the Slovak Republic and Republic of Poland). Rzeszów: MITEL, 2005. PP. 437-443.
[87] Act no. 229/1991 Coll. on the adjustment of ownership relations to land and other agricultural assets and Act no. 503/2003 Coll. on the return of ownership of land and on the amendment of the Act of the National Council of the Slovak Republic no. 180/1995 Coll. on certain arrangements for the arrangement of ownership of land.
[88] Act no. 403/1990 Coll. on mitigation of the consequences of some property injustice.
[89] Act no. 298/1990 Coll. on the adjustment of some property relations of religious councils and congregations and the Archbishopric of Olomouc, Act no. 211/1990 Coll. on the arrangement of property relations between the Greek-Catholic and Orthodox Churches, Act no. 282/1993 Coll. on the mitigation of certain property injustices done to churches and religious societies, Act no. 161/2005 Coll. on the return of ownership of immovable property to churches and religious societies and the transfer of ownership of certain properties
[90] Act no. 87/1991 Coll. on extra-judicial rehabilitations, Act no. 119/1990 Coll. on judicial rehabilitation, Act no. 319/1991 Coll. on the mitigation of certain property and other injustices and on the authority of the State administration bodies of Slovakia in the area of extrajudicial rehabilitation.
[91] See Hodasová, B. Reštitúcie – stále aktuálna téma (Restitutions – Still Live Topic). EPI, 28 April 2014. https://pp.aion.cz/odborny-clanok/restitucie-stale-aktualna-tema.aspx; as well as Jablonovský, R. Genéza právnej úpravy reštitúcií na území Slovenskej republiky (Genesis of Restitution Legal Regulation at the Territory of the Slovak Republic). In Dny práva – 2010 (Days of Law – 2010). Brno: Masaryk University, 2010. PP. 1539-1540.

The application of the procedure was not as successful nor as »fair« as intended by the legislators because of the general short time periods in which the primary applications should have been filed[92] and the resulting extinction of rights as the consequence of the lapse of the application periods. Another reason was extraordinary length of the lawsuits in cases brought to the courts.

2.2 Privatization

The following period can be characterised as a change in the nature of ownership relations after the fall of the communist regime from the former State ownership to private ownership.[93] The actual process of this change began before Czechoslovakia was divided into two separate states and therefore it was drafted by the federal parliament. This occurred in 1990 by the adoption of the Scenario of Economic Reform[94] which envisaged, along with the afore-mentioned restitution, small-scale privatisation, large privatisations (regarding large enterprises) and the establishment of the State Property Fund (later the National Property Fund of Slovak Republic).[95]

The legal basis of privatisation was the Act no. 92/1991 Coll. on the Conditions of the Transfer of State Property to Other Persons.[96] The process caused controversy and there was a lack of transparency regarding some examples of the implementation of the privatisation process. In 1991, the government of then Czech and Slovak Federal Republic decided that part of the state property should be transferred through a so-called coupon privatisation. This was considered to achieve a rapid transformation of government enterprises into joint-stock companies where the capital would be invested

[92] Hodasová, B. Reštitúcie – stále aktuálna téma (Restitutions – Still Live Topic). EPI, 28 April 2014. available at: https://pp.aion.cz/odborny-clanok/restitucie-stale-aktualna-tema.aspx; see also Kindl, M. Některé sporné otázky restitučních lhůt (Some Disputable Issues of Restitution Time Limits). PPP – Právní praxe podnikání. 1995 (7). P. 19.

[93] In 1988, the share of public (state) sector on GDP reached 99.3% (Source: Kornai, J. The Socialist System. Oxford: Clarendon Press, 1992 cit. in: Mikloš, I. Prepojenie ekonomickej a politickejmoci v privatizačnom procese. (Connection of Economic and Politic powers within the Privatisation Process). http://www.upms.sk/media/MESA10_PREPOJENIE_EKONOMICKEJ_A_POLITICKEJ_MOCI_V_PRIVATIZANOM_PROCESE.pdf.

[94] See Chamber of Deputies of the Czech Parliament. Common Czech-Slovak Digital Parliamentary Library. Federal Assembly of the Czech and Slovak Federative Republic: VI. election period. Scenario of Economic Reform, Prague, 30 August 1990. Available at: http://www.psp.cz/eknih/1990fs/tisky/t0087_01.htm.

[95] See more Husár, J. Postavenie fondu národného majetku v procese privatizácie (Position of National Property Fund in the Process of Privatization. In Transformácia práva: Slovensko – Srbsko (Transformation of Law: Slovakia – Serbia). Beograd: Faculty of Law, 1999. P. 155-167.

[96] For more see Kulla, M. Transformácia priemyslu na Slovensku po roku 1989 (Transformation of Industry in Slovakia after 1989). In Geografické poznatky bez hraníc (Geographic Knowledge without Borders). Košice: P. J. Šafárik University in Košice, 2010. PP. 218-222; Ručinská, S. Slowakische Wirtschaft – Wunderdank Reformen? : Erfolgeund Misserfolge des Transformationsprozesses (Slovak economy - miracles thanks to reforms? : Successes and Failures of the Transformation Process). Hamburg: Verlag, 2010.

by citizens in return for investment coupons.[97] Only a small portion of these coupons brought any profit to their owners.

2.3 Decentralisation

After the change in the social and economic situation in Czechoslovakia and then in Slovakia in 1989/1990, massive and fundamental changes in the legal order and public administration started to be introduced. The Act no. 369/1990 Coll. on Establishment of Municipalities can be identified as the starting point.
The Constitution dedicated the whole fourth title (arts. 64 to 71) to the establishment of local self-government units based on the existence of municipalities and higher territorial units. The period of the 1990s can be characterised as one of development and the process of looking for a procedure in which functions could be divided between the State and the units of self-government, which of necessity also meant the search for an appropriate system of funding for the delegated powers.

The legislative basis for decentralization was established by the Act no. 416/2001 Col. on the Transfer of Certain Powers from the State Administration Authorities to the Municipalities and Higher Territorial Units.[98] Units of self-government acquired two kinds of powers and responsibilities: the delegated State administration powers (funded by transfers of revenues from the State), and their original powers[99] (which were to be funded by own revenues). With this division, the necessity to establish own financial resources of local self-government became urgent. Despite the fact that both the Constitution (Art. 59) and the Act on the Establishment of Municipalities[100] envisaged the levy of local taxes as an own resource, these were introduced by the Act on Local Taxes in the budgetary year of 2005, i.e. almost 15 years after the confirmation of the municipalities' responsibilities. As mention above, local taxes replaced two State taxes

[97] Within the first stage in 1992, 2,579,327 citizens were registered; within the second one in 1994, it was 3,428,419 citizens (source: The News Agency of the Slovak Republic: Overview of milestones of privatization in CSFR and SR, Bratislava, 29. 7. 2011).
[98] Sedláková, S. Fiškálna decentralizácia – jej význam a dôsledky pre územnús amosprávu (Fiscal Decentralisation – its Importance and Impact on Territorial Self-Government). In Šoltéz, V. (ed.) National and regional economics VII. Košice: Technical University in Košice, Faculty of Economics, P. 807.
[99] As opposed to the powers that were tranferred to municipalities by the State, the original powers cover the exercise of the self-governing functions of municipalities (e.g. management of own property, deciding on local taxes and fees, regulation of the economic activity of the municipality, construction and maintenance of local roads and public spaces, public service (municipal waste management, etc.), public order, investment and entrepreneurial activity in order to meet the needs of the population, certification of documents and signatures on documents). Source: Art. 4 (3) of the Act no. 369/1990 Coll. on establishment of municipalities, as amended.
[100] As mentioned before: as part of municipality revenues (Art. 11 (4) letter b); municipality decides on matters of local taxes and administers them (Art. 11 (4) letter c); the Municipal Council decides on the imposition and abolition of local taxes (Art. 11 (4) letter d); the Municipal Council determines details of the regulation of local taxes (Art. 11 (4) letter e).

(the real property tax and the road tax, being a tax on motor vehicles[101]) and the former local charges.[102]

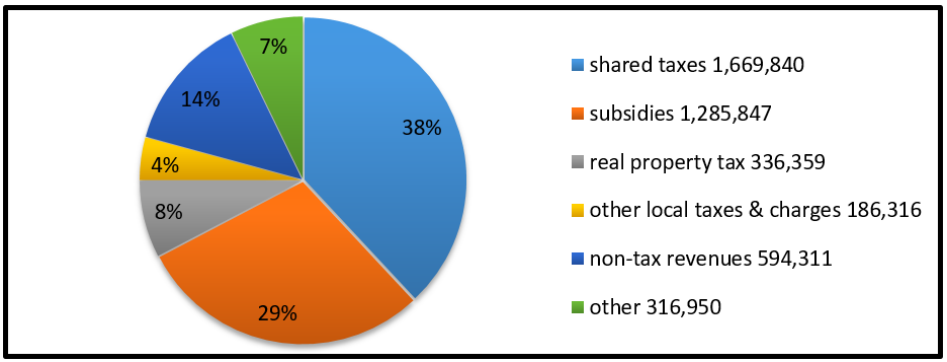
In 2004, other two important statutes were adopted, being Act no. 583/2004 Coll. on the Budgetary Rules of Local Self-Government and on the change and amendment of certain laws and Act no. 523/2004 Coll. on the Budgetary Rules of Public Administration and on change and amendment of certain laws. The Act on Local Taxes strengthened the position of local self-government in various aspects. As well as creating a real own financial resource, the importance and roles of the acts[103] of local self-government were highlighted. They established the exhaustive list of local taxes that may be imposed by any particular municipality and delegated the power to regulate their elements (within given limits) by municipalities and to adjust the design of these taxes in accordance with local needs. This Act may therefore be identified as the foundation of fiscal decentralisation.

The Act on Local Taxes is, unfortunately, unable to fully fulfill the budgetary needs of local self-government. As this situation was quite expected, if not obvious, alongside this Act, Act no. 564/2004 Coll. on the Budgetary Determination of Income Tax Revenue to local self-government and on change and amendment of certain laws was adopted. This Act, in connection with the Government Regulation no. 668/2004 Coll. on the Division of Income Tax Revenue among the Units of Local Self-Government, safeguards the revenues of local self-government by sharing the State revenue of personal income tax with local self-government. The Regulation sets the share of income tax revenue transferred to local self-government, separately for municipalities and for higher territorial units, on annual basis. This is a fundamental budgetary resource for local self-government which can be illustrated by the example of 2016, when the revenue from the income tax (PIT) transferred to municipal budgets amounted to 1,669,165,000 EUR representing 70.0 % of PIT revenue. This can be compared to the total property tax revenue income of municipalities of 336,359,000 EUR[104]. The structure of the resources of the funding of municipalities is, however, more complicated since these are dependent

[101] Which became a State tax again with effect from 1 January 2015.
[102] This issue has been subject to the criticism of theoreticians of financial and tax law because of the disregard of the presence of fundamental differences between taxes and charges. Among most significant of these is the non-equivalent nature of taxes in contrast with the relationship between a charge and the active performance of services by public authorities in favour of the payer of such a charge. (Štrkolec, M. Príjmy miestnych daní – ústavné predpoklady a realita (Local Taxes Revenues – Constitutional Preconditions and Reality). In 15 rokov Ústavy Slovenskej republiky (15 Years of the Constitution of the Slovak Republic). Košice: P. J. Šafárik University in Košice, 2008. P. 340).
[103] See more Jakab, R. Normotvorný proces v územnej samospráve (Legislative Procedure within Territorial Self-Government). Justičná revue 2009 (3). PP. 383-391.
[104] Data acquired from: Ministry of Finance of Slovak Republic: Transfer of personal income tax revenue to local self-government in 2016. Available at: https://www.mfsr.sk/Default.aspx?CatID=4610 and Budget of public administration for years 2018 - 2020. Available at: http://www.finance.gov.sk/Default.aspx?CatID=11224.

on a large scale of revenues, as seen on the Figure 2.1 below,[105] nevertheless, the majority of municipalities still struggle with financial problems.[106]

Figure 2.1: Municipal revenues, 2016 (amounts in thousands of EUR)



Source: Author's own processing based on Budget of public administration for years 2018 – 2020 data.

2.4 Limitations to the ownership of real properties

In general, the vast majority of real properties may be owned by individuals, both natural and legal. Some exemptions apply, though. Pursuant to Article 4 of the Constitution, mineral resources, caves, underground water, natural healing resources, and waterways are owned by the State. Only a special law can provide that other property necessary for ensuring the needs of society, the development of the national economy and the public interest can only be owned by the State, municipalities or designated legal entities. By way of example, properties relevant to defence, internal order and the security of the State,

[105] For more see Balážová, E., Papcunová, V., Tej, J. The Impact of the Fiscal Decentralization on the tax Revenue of real Estate tax on the Local Self-Government of the Slovak Republic. PP 891-898. Klimova, V., Zitek, V (eds.) 19th International Colloquium on Regional Sciences. Brno: Masaryk University, 2016; Radvan, M. Taxes on Communal Waste in the Czech Republic, Poland and Slovakia. Lex Localis-Journal of Local Self-Government. 2016 (3) PP. 511-520; Králik, A. The Analysis of Municipalities´ Revenues of Kosice and Presov. CERS 2014: 5th Central European Conference in Regional Science, International Conference Proceedings. Košice: Technical University in Košice, Faculty of Ecomnomics. 2015. PP 471-478; Molitoris, P. Právne rámce financovania územnej samosprávy v Slovenskej a Českej republike (Legal Frameworks of Financing of Territorial Self-Government in Slovak and Czech Republics). In Slovenská a Česká republika po dvadsiatich rokoch (Slovak and Czech Republics after Twenty Years). Podhájska: Východoeurópska agentúra pre rozvoj, 2013. PP. 224-236; Kicová, A., Štrkolec, M. Vzjomné finančno-právne vzťahy jednotiek územnej samosprávy (Mutual Financial and Legal Relations of Self-Government Units). In Finanse samorzadu terytorialnego (Local Self-Government Finances). Radom: Wyzsza Szkola Handlowa, 2012. PP. 381-391; Babčák, V. et al. Finančné právo na Slovensku a v Európskej únii (Financial Law in Slovakia and in the European Union). Bratislava: EURKÓDEX, 2012.

[106] Compare with the situation in 2004: Bryson, P.J., Cornia, G.C., Wheeler, G.E. Fiscal decentralization in the Czech and Slovak Republics: a comparative study of moral hazard. Environment and Planning C-Government and Policy. 2004 (1). PP. 103-113.

structures and lands used for public purposes, such as roads and railways, lands and water areas in the territories of the higher levels of protection of the countryside.

Special regulations used to be applicable concerning the acquisition of agricultural land which was limited by the Act no. 202/1995 Coll. Foreign Exchange Act as amended. Art. 19a (2) of this Act stipulated that a non-resident could not be allowed to acquire the ownership of: (a) real properties the acquisition of which is limited by special laws; and (b) land categorised as part of the agricultural land resource or as part of the forestry land located beyond the border of the built-up area of a municipality. The latter limitation was not applicable in the case of inheritance and in the case that the non-resident is either: (i) a citizen of the Slovak Republic or (ii) a citizen of a Member State of the EU with the right of temporary residence in Slovak Republic and in respect of agricultural land that has been in the individual's use for farming for at least three years since the accession of the Slovak Republic to the EU.

The provisions of this Act concerning the limits of acquisition of agricultural and forest lands were abolished by the new act no. 140/2014 Coll. on the Acquisition of Agricultural Land with effect from 1 July 2014. Such land (with some exceptions) is only available for transfer after the offer of transfer is published in the relevant Register and the publication of offers of the transfer of the ownership of agricultural land (run by Ministry of Agriculture of Slovak Republic – available via internet) and on the official notice board of the particular municipality, where the land is situated, for minimum of 15 days. Only a person who has had a permanent residence or a registered office (for legal entities) in Slovakia for at least 10 years and has been engaged in agricultural production as a business for at least three years is entitled to acquire such land.

Among the potential buyers, the one with residency in the municipality where the offered land is situated takes precedence over the others and the latter have priority over those residing in more distant municipalities.[107] This regulation was challenged before the Constitutional Court within one month after its adoption by the Parliament. The Constitutional Court accepted the application for review of compliance of the new statute with the Constitution in November 2014 and currently the case (under case no. PL. ÚS 20/2014) is still pending.

2.5 Nature of property market

The real property market in Slovakia is quite stable and active but heterogeneous. There are significant differences between its evolution in more developed regions and larger cities on the one hand, and less developed and rural areas on the other. In general, there are three basic types of real properties frequently sold in the open market. Firstly, there

[107] This procedure may be omitted in the case of a transfer of land to a person close the seller, the co-owner of the land or a person engaged in agricultural production for at least three years.

are the residential and ancillary properties,[108] i.e. houses, flats, garages, building plots. The second group comprises non-residential properties, including buildings and premises used for retail, office and industrial purposes; and the third one comprises agricultural land.

Due to non-application of the *superficies solo cedit* principle, the fragmentation of parcels, and the complexity of co-ownership relationships, a significant portion of subjects acquiring and or transferring real properties enter the market in order to manage the ownership relations, e.g. where an owner of a structure does not own the plot on which the structure is built seeks to purchase ownership rights to the land; or a co-owner of a plot seeks to become its sole owner. Other reasons are the preferences of natural persons to purchase their own homes, and their high rental prices, mean that buying a property (even with the use of a bank loan) is, financially, more efficient.

An irregularity in the market development is one of the factors causing problems in determining market sales prices uniformly across the whole country. Another important reason is the unfamiliarity of the wider public with market sales prices, since neither the Land Registry nor any other entity are obliged to publish the sales prices agreed between the contractual parties. More or less up-to-date real property price maps are being developed by the National Association of Real Estate Agencies of Slovakia, which is the main collector of data on real estate sales prices; such data is also for the purposes of statistics kept by the European Central Bank, even though access to this service requires payment.

The determination of the sale prices of properties is a matter of agreement between the contractual parties and an expert´s opinion is rarely demanded by the law (e.g. when a public administration body is one of the contractual parties, which is also a situation in which the whole contract – including the sales price – must be published as a means of controlling public expenditure). A new source available to public since 2016 is an on-line calculator of the value of flats[109] run by Ministry of Finance of Slovak Republic (Financial Policy Institute). However, the data is only informative, not legally binding.

3 Property data

3.1 GIS/cadastres and role of government institutions

Despite the requirement to file tax returns by the taxpayers, the main source of property data for tax administrators (also enabling verification of data declared by taxpayers) is

[108] For more see Cár, M. Riešenie potreby bývania v súvislostiach (Addressing the Housing Needs in Contexts). Biatec 2014 (6). PP. 26-30.
[109] Institute for Financial Policy, Ministry of Finance of the Slovak Republic. Calculator of the prices of flats. Available at: http://www.institutfinancnejpolitiky.sk/kalkulacky/nehnutelnosti/.

the cadastre.[110] Generally, every unit of real property in Slovakia must be registered in the Land Registry. The registry is divided into and administered according to the cadastral areas and contains information on the property itself,[111] as well as on its ownership[112] (even if the owner is unknown[113] in which case such properties are administered by the Slovak Land Fund) and other possible rights to properties. Worthy of mention is the fact that a major part of cadastral data is publicly accessible via the internet.[114]

The database is divided into its graphic parts, comprising cadastral maps and files with descriptive information. In numerous cases, properties (mainly buildings) are not registered in the Land Registry because of the violation of the required procedure by the builder. Such illegal constructions may be ordered to be demolished, or subsequently legalised if it is not contrary to public interest and special laws.[115] The cadastre, i.e. the Land Registry, is run by District offices, particularly by their Land Registry Departments. The regulation on cadastres[116] is incorporated in the Act no. 162/1995 Coll. on Cadastre and the Registration of Ownership and other Rights on Real Properties (Land Registry Act) as amended, which also regulates the procedure of title registration.

Regarding the reliability of data, which has been questioned in numerous cases, and there is evidence that the data included in the Land Registry does not exactly comply with

[110] As to 1 January 2017, cadastral database includes 28,171,082 owners, 7,660,137 "C" and 8,024,519 "E" parcels of land, 2,347,365 houses with registration numbers, 947,721 flats, all of them situated in the 3,559 cadastral areas within 2,927 municipalities. (A "C registry" plot is a plot whose boundaries are visible in the terrain and displayed on the cadastral map (which is the main difference compared to "E registry" parcels). Register C covers the entire cadastral area and every parcel is included in some C registry plot. The "E registry" plot is a parcel registered in the cadastre, but its boundaries are not visible in the terrain. It often involves small parcels that have been managed by a collective farming cooperative (recorded as land used by a socialist organization), and during the later mapping only one large common plot has been registered. As a result, one large plot of the C register was created as it was impossible to say where exactly the small "E" plot was located. The E plot can be changed into the CKN parcel with upon a geometric plan for restoration of the original parcel.) (source: Geodesy, Cartography, and Cadastre Office of Slovak Republic. Statistical Yearbook of land in Slovak Republic according to Land Registry of 1 January 2017. Bratislava, 2017. p. 29, available at: http://www.skgeodesy.sk/files/slovensky/ugkk/kataster-nehnutelnosti/sumarne-udaje-katastra-podnom-fonde/statisticka-rocenka-2016.pdf).

[111] Containing parcel numbers, types and areas of plots, registration numbers of structures, location in relation to built-up areas, usage, types of protected properties, prices of agricultural and forest lands, information on evaluated soil-ecological units, etc. (source: Art. 7 letter b) of Land Registry Act).

[112] Containing the form of the right to property, title of acquisition, name, surname, surname at birth, date of birth, personal identification number, residence (in case of natural persons), or business name, registered office, ID number (in case of legal persons) (source: Art. 7 letter c) of Land Registry Act).

[113] This covers situations where the registry contains only the name of the owner who is actually unknown and cannot be identified properly, such as in the case that an owner is deceased and the property has not been subject to due inheritance procedure, the residence or other data on the owner is absent, etc.

[114] A new service providing basic data on particular properties (including number of plot, its area, type, owner, lessee) and detailed map of plot location is run by the Land Registry since 2015 at: http://mapka.gku.sk/mapovyportal.

[115] For details see Art. 88a of the Act no. 50/1976 Coll., the Planning and Building Act as amended.

[116] See more Molitoris, P. Správa katastra nehnuteľností (Administration of the Land Registry). PP. 310-317. In: Hmotnoprávna regulácia vybraných odvetví verejnej správy správy (Substantive Regulation of Assorted Sectors of Public Administration). Košice: P. J. Šafárik University in Košice, 2014.

reality because a large number of properties registered in the cadastre include incorrect or doubtful information especially on their area, the exact location and the property borders (parts of "E« registry). Such a situation is caused by the historical inadequcy of the data, the fragmentation of plots, and the inaccuracy of measuring methods used in the past. Even though there is an effort to correct these errors by voluntary re-measurements made by individuals, the *ex officio* application of the duty to correct all the errors found by the District Offices and through land consolidation, there are still many discrepancies. Nevertheless, this factor is not seen as significant in relation to application problems as regards real property taxation.

3.2 Title registration

The main role of the Land Registry is the registration of real properties and rights to these properties. Dependant on the legal title of acquisition, extinction, or other changes in ownership or other relevant rights to a particular property, there are three types of registration:

(i) »Entry« concerns the registration of rights to properties arising from contracts.[117] This act is of a constitutive[118] nature since these rights arise, change, or cease to exist by virtue of the act of entry; more precisely, on the basis of the final decision of the District Office on the acceptance of the entry. Before the delivery of a decision, the office reviews the contracts with regard to the fulfilment of all the required criteria.

(ii) »Record« is a form of registration of rights that have already arisen, changed, or ceased to exist, by virtue of law, a decision of a public authority, acquisition in a public auction, prescription, appreciation, processing, and rights certified by a notary. The record is made *ex officio* on the basis of authenticated instruments and other deeds. For this reason, the decision is only declaratory in nature.

(iii) »Note« indicates the reasons for the limitation of the right of the owner of property to dispose of the property or informs on property or a right to property.[119]

Conclusions

Real property taxation in Slovakia consists of one local tax on real properties, comprising a tax on lands, a tax on buildings, and a tax on flats and non-residential premises. The tax is established by statute adopted by the Parliament being the Act on Local Taxes; however, it is imposed by an act of a particular municipality which is also responsible for its administration. The Act itself determines the basic components of the tax but also

[117] Entry is subject to an administrative charge of 66 EUR or 266 EUR in case of express entry (within 15 days) (see Act no. 145/1995 Coll. on administrative charges as amended, Tariff of charges, item 11).

[118] It is legal term – means that it causes the formation, change and termination of legal relations – opposite to declaratory effect

[119] It may be especially important to "note" on the initiation of proceedings on the enforcement of a judicial decision or the enforcement by means of sale of a real property, on the declaration of bankruptcy against owner of the property, on expropriation, and for interim measures the prohibition against the disposal of real property (see Art. 39 (1) of Land Registry Act).

delegates the power to determine other elements to municipalities and thus emphasises the independence of the units of self-government.

The revenue of local taxes, being the own revenue of municipalities as the basic local self-government unit, does not constitute a sufficient revenue source for the functions of the local authorities. As a result, municipalities are dependent on a share of State tax (personal income tax)[120]. This situation is not satisfactory and municipalities need to increase their revenue which should be achieved by a reform of the real property tax. The overall real property tax burden can be considered as low, especially regarding residential premises. The Government is of the opinion that this would be best changed by converting the tax base to an *ad valorem* system as a replacement for the current calibrated area-based system.

The author considers that the proposal of the government to introduce the *ad valorem* system is not the best solution to the problem under current circumstances, which also seem to be acknowleded by the Government itself in the light of its more recent announcment to create the necessary preconditions for such a reform. The author considers it crucial to take into account the problems of an insuficient database necessary for the successful introduction of an *ad valorem* sytem, the high costs of updating the database to keep the the system »fair«, and the necessity to solve other problems of the municipalities asociated with their role and tasks as tax administrators (especially the presence of high amounts of uncollected arrears on local taxes and charges). The application of solutions to the problems in the sphere of administration of real property tax (covering all local taxes and local charges), that may be connected to the inability of municipalities to perform all the necessary tasks of tax administration in a satisfactory way, are of equal importance to solving the problem of »unfairness« in the current system of taxation and might therefore be needed to be resolved before reform of a substantive part of current regulation.

It also seems that because of the general non-acceptance of the change to an *ad valorem* system by the general public (perhaps partly based on the inadequate information provided by the government), and the lack of a sufficiently comprehensive market information database, the Government has not yet presented any specific proposals for its reform despite earlier declarations to do so.
Until conditions enabling the introduction of a successful reform are created, the increase in revenues and the improvement in tax equity may, at least to a certain extent, be achieved by an update of the statutory values of lands and by further adjustments of current tax rates by more factors, because at present, the municipalities are able to reflect a limited number of attributes in fixing the tax base. In this respect, further calibration may help meeting the aforementioned goals, at least temporarily, or, if well adjusted, equitable and efficient, even permanently.

[120] In 2016 amounting to 1,669,165,000 EUR. Budget of public administration for years 2018 - 2020. Available at: http://www.finance.gov.sk/Default.aspx?CatID=11224.

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Act no. 544/1990 Coll. on local charges.
Act no. 554/2003 Coll. on the transfer of taxes and on the change and amendment of the Act no. 36/1967 Coll. on experts and interpreters.
Act no. 564/2004 Coll. on budgetary determination of income tax revenue to local self-government and on change and amendment of certain laws.
Act no. 582/2004 Coll. on local taxes and local charges for municipal and minor construction waste Act no. 563/2009 Coll. on administration of taxes (Code of Tax Procedure) and on change and amendment of certain laws.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
M. Radvan, R. Franzsen, W. J. McCluskey & F. Plimmer

Poland

WIESŁAWA MIEMIEC & PATRYCJA ZAWADZKA

Abstract Considering the Polish real property tax there are three legislative sources: the Act on Local Taxes and Fees – which regulates real estate tax, the Agricultural Tax Act – which regulates agricultural tax, and the Act on Forestry Tax – which regulates forestry tax. The real estate tax is one of the most important revenue sources of communes' budgets. It also has a significant meaning within the local politic in the area of taxation. The commune's council has a power to establish (within statutory boundaries) property tax rates (indirectly farm and forest tax rates). However, it should be emphasized that there are many problems with the establishment and application of the local tax law. It causes many different problems and the judicial practice in this area is very extensive. The question of introducing a cadastral tax has been considered for several years. It does not seem that a cadastral tax will be adopted anytime soon. *De lege lata* Polish model of property taxation has the character of income revenue and wealth tax and is often associated with a legal presumption that the user obtains income from the property.

Keywords: • Poland • property tax • immovable property tax • valuation • tax reform

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1 Real Property Taxes

1.1 Historical overview

Since the first appearance of State structures in Poland, there have been various levies imposed on land, initially collected as taxes in kind, and later in monetary form. Following the end of World War I (1918), three types of land tax were in effect in the former Austrian, Prussian and Russian partitions, as each of the rulers placed a different form of burden on land. In the re-established Polish state, attempts at unifying the rules for taxation of agricultural and forest land continued throughout the entire interwar period. On 4 November 1936, a Decree of the President of the Republic of Poland was issued making amendments to the laws governing the public land tax, which did not contain comprehensive regulation because there were different legislations applicable in the former Austrian, Prussian and Russian partitions.[1] During the period of the Polish People's Republic (1947 - 1989), on 20 March 1946 a decree was issued on municipal taxes, which included the introduction of a property tax.[2] This tax was imposed on land constituting »property« in both the socialized and non-socialized economies.[3]

The subsequent Land Tax Act of 26 October 1971 led to a change in the legal character of the levy[4], transforming it into both an income and a wealth tax.[5] The basis for taxation was no longer exclusively the estimated revenue of the farmstead, but also the total area of land and farmland. The primary objective of this change to the nature of the land tax was to increase the growth of agricultural production.[6] This was to be achieved through preferential taxation policies, such as nationwide uniform rules for tax relief, the reduction in the top tax rates (19% and 20%) and the change from four rather than six tax rates. In spite of expanded agricultural production, this taxation system was burdened with multiple flaws, which led to further reforms.

The next stage in the evolution of land taxation in Poland was the passage of the Agricultural Tax Act of 15 November 1984.[7] Remnants of the rules for taxing agricultural land contained in that Act remain in force to the present day. The legislation differentiated the tax on land from the tax on income from special sectors (branches)[8] of agricultural

[1] OJ L no. 51, item 593.
[2] OJ L no. 19, item 128.
[3] Before 1989 the agricultural economy was divided into two main forms of land ownership: the nationalized (involving cooperatives or the State Farms) and the non-nationalized owned by the individuals. In respect of the former, lower tax rates were applied along with a broader scope of tax relief and exemptions.
[4] OJ L 1971, no. 27, item 254 with amendments.
[5] Wójtowicz, K. System opodatkowania nieruchomości w Polsce. Lublin: Wydawnictwo UMCS, 2007. p. 64.
[6] Ibid. p. 65.
[7] OJ L 2017, item 1892 with amendments, hereinafter ATA.
[8] Special sectors (branches) of agricultural production shall be considered as: cultivation in greenhouses and in heated plastic cloches, cultivation of mushrooms and mushroom spawn, cultivation of plants „in vitro", farm-breeding and raising of poultry for slaughter and of laying poultry, poultry hatcheries, breeding and raising of fur-bearing laboratory animals, breeding of earthworms, breeding of insect eaters, breeding of silkworms, running of apiaries and breeding and raising of other animals beyond agricultural farms.

production, and also established their respective bases for taxation.[9] In addition, a new definition of the term 'farmstead' was created, and a range of tax reliefs and exemptions were eliminated. An important change was the transfer of the regulation on income from special sectors of agricultural production from the Farm Tax Act to the Income Tax Act.

The first regulations on a real property tax were contained in the Act of 11 August 1923 on the temporary stabilization of local government finances. After the Second World War, the Decree of 20 March 1946 on Local Taxes[10] introduced local taxes collected to provide income to local governments. From 1951, regional fees and taxes were either obligatory in nature (land tax, tax on premises) or optional[11] (municipal tax – collected in the form of an additional tax on premises, or a tax on luxury housing assessed on an excessive number of rooms for a small number of residents). In 1955, the Decree on Regional Taxes and Fees came into force, establishing a tax on real property collected by and distributed to local government entities, making up part of the income of cities, boroughs and counties.[12] A significant change in regional taxes and fees was introduced by the Act of 19 December 1975 on some regional taxes and fees[13], which also encompassed the income of national council budgets including the property tax and tax on premises.

The term »local taxes and fees« was introduced by the Act of 14 March 1985 on Local Taxes and Fees.[14] A tax was levied on buildings and/or portions of buildings, as well as on structures which were not fixed to the ground[15]. The 1985 Act repealed the tax on premises (apartments, other parts of buildings). A portion of the regulations concerning the tax on premises was incorporated into the real property tax, as parts of buildings were also subject to taxation.[16] In this regulation, the basis for taxation was the value[17] of the building, the usable building area or area of the land. This was a change from previous regulation which had applied the rental value as the basis for taxation.

[9] In the first case, the basis for taxation was the area of the land, while in the second it was the estimated income calculated on the basis of estimated norms from a given unit of land or animal production.
[10] OJ L 1946, item 128 with amendments, hereinafter DLT.
[11] The State's choice.
[12] Art. 1 of the Decree of 20 May 1955 on Regional Taxes and Fees, OJ L 1955, item 136 with amendments.
[13] OJ L no. 45, item 229 with amendments.
[14] OJ L no. 12, item 50 with amendments. (ALT)
[15] Such a structure can be any building object which is neither a building nor a small architectural object, such as: linear objects (e.g. railways), airports, bridges, railroad bridges, viaducts, tunnels, culverts, technical facilities networks, free-standing aerial masts, free-standing advertisement boards and advertising structures permanently connected to the ground, earthen structures, defense structures (fortifications), protection structures, hydraulic engineering structures, reservoirs, free-standing industrial installations or technical facilities, sewage-treatment plants, waste dumping sites, water treatment plants, back-up structures, pedestrian bridges and pedestrian subways, land technical infrastructure networks, sports structures, cemeteries, monuments, as well as building elements of technical facilities (boilers, industrial furnaces, nuclear power plants and other facilities) and foundations for machinery and facilities, as separate technical components of objects constituting a utility.
[16] Etel, L. Podatki stanowiące dochód budżetu gminy. Podatek od nieruchomości. In Etel, L. (ed.) Prawo podatkowe, Warsaw: Difin, 2008. P. 398.
[17] The value in the communist period was the value determined for statutory insurance purposes.

From 1989 (after leaving the communist bloc) the Polish tax system has been developing gradually.[18] One of the most important changes was the freeing up of the market for land. Taxation on the possession of forest land in post-communist Poland was initially regulated in the Forest Act of 28 September 1991.[19] An independent forest tax was not passed until 30 October 2002[20], and is therefore a newer regulation than the legislation addressing the taxation of farmland. Taxation of real property in Poland is regulated in three acts: Act of 12 January 1991 on Local Taxes and Fees[21], the Agricultural Tax Act (ATA), and the Act of 30 October 2002 on Forestry Tax.[22] Political transformation and the re-establishment of three levels of local government necessitated the adaptation of regulations from the previous regime to a new legal order.

1.2 Position of the real property tax

Article 217 of the Constitution of the Republic of Poland of 2nd April, 1997[23] stipulates that "The imposition of taxes, as well as other public imposts, the specification of those subject to the tax and the rates of taxation, as well as the principles for granting tax reliefs and remissions, along with categories of taxpayers exempt from taxation, shall be indicated by means of statute«.

As already indicated, taxation arising out of the possession of real property are regulated in three pieces of tax legislation. The agricultural land tax, forest tax and real estate tax are treated as separate categories. It should be pointed out that in spite of the differences between these regulations, they do share many common features. First of all the three taxes are a revenue sources for a municipal budget.[24] It should be noted that according to Art. 167 (1) of the Constitution of Poland "units of local government shall be assured public funds adequate for the performance of the duties assigned to them«. This principle comes from the European Charter of Local Self-Government (ECLG) signed in Strasbourg on 15 October, 1985[25] recommending that a large part of local revenues should come from own sources, in particular from taxes. Local authorities therefore are afforded the broadest powers in relation to these sources of tax revenue.[26]

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[18] Sachs, J. The economic transformation of Eastern Europe: the case of Poland. Economics of Planning 1992 (Vo. 25, Issue 1). P. 5 – 19.
[19] OJ L 2011, no. 12, item 59 with amendments.
[20] OJ L 2013, item 465 with amendments, hereinafter FA.
[21] OJ L 2018 item 1445 with amendments, hereinafter LTFA.
[22] OJ L 2017 item 1821 with amendments, hereinafter AFT.
[23] OJ L no 78, item 483 with amendments, hereinafter the Constitution of Poland.
[24] Other kind of taxes which are revenue of municipality's budget are: tax on transport, inheritance and donations (gifts) tax, tax on civil law transactions, fixed amount tax (tax card, being the fixed amount of tax on a small business).
[25] All of the Articles of the ECLG were fully accepted by Poland. See: Miemiec, W. Europejska Karta Samorządu Terytorialnego jako zespół gwarancji zabezpieczających samodzielność finansową gmin – wybrane zagadnienia teoretycznoprawne. Samorząd Terytorialny 1997 (10). P. 56 – 70.
[26] This authority is expressed in municipal councils' power to establish (within statutory boundaries) property tax rates, and indirectly farm and forest tax rates, which gives them a role in determining the extent of those burdens, the right to establish exemptions other than those provided for in statute, and the right in certain situations to collect taxes by way of documentary collection. Miemiec, W. Prawne gwarancje samodzielności

The income of units of local government consist of their own revenues as well as general subsidies and specific grants from the State Budget. The sources of revenues for units of local government are specified by statute (Art. 167 (3) Constitution). To the extent established by statute, units of local government have the right to set the level of local taxes and charges (Art. 168 Constitution). Neither *poviat* nor *vivoidship*[27] can collect their own taxes. Only the municipality has its own taxes, being the real estate tax, agricultural tax, forestry tax, tax on means of transport, tax card, donation and inheritance tax and tax on civil transactions.

1.3 Structural components

As it has already been mentioned the property tax is regulated in the Local Taxes Fees Act. Agricultural and forest land does not fall within the scope of the real estate tax in Poland. Specifically, the real property tax does not apply to agricultural land, wooded land or scrubland within agricultural land or woods, with the exception of land occupied for business purposes. Agricultural lands are taxed according to the Agriculture Taxes Act. The wooded lands are subject to the forest tax according to the Act on Forestry Tax. The scope of the real estate tax is very wide and when the real estate tax is levied, this may result in double taxation with agricultural or forestry tax.

Real property tax in Poland is levied on: land; buildings or their parts; structures or their parts linked to running a business activity. A building is defined as "a building structure which is permanently connected to the ground, separated in spatial terms by means of building partitions and which has foundations and a roof«. Structures are any building object which are neither a building nor a small architectural object. Small architectural objects mean objects of small dimensions, in particular the following: objects for religious worship (such as: shrines, roadside crosses and religious statues); monumental statues, waterworks and other objects of garden architecture; utility objects for the purpose of everyday recreation and the maintenance of order (such as: children's sand-pits, swings, wall-bars and household rubbish disposal cubicles).

According to the Art. 3 (3) the Act of 7 July 1994 Building Law[28], structures include for example: airports, roads, railroad, bridges, trestle bridges, tunnels, technical facilities networks, free-standing aerial masts, free-standing advertising structures permanently connected to the ground, earthen structures, defence fortifications, protection structures, hydraulic engineering structures, reservoirs, free-standing industrial installations or technical facilities, sewage-treatment plants, waste dumping sites, water treatment plants, back-up structures, pedestrian subways and pedestrian bridges, land technical

finansowej gminy w zakresie dochodów publicznoprawnych. Wrocław: Wydawnictwo Uniwersytetu Wrocławskiego, 2005. P. 132-133.

[27] A *poviat* is the second-level unit of local government and administration in Poland, It is an equivalent to a county, district or prefecture in other countries. A *poviat* is usually subdivided into *gmina*s (in English, often referred to as "communes" or "municipalities"). A *poviat* is part of a larger unit, the *voivodeship* (also called "province"). There are 2,478 municipalities, 379 *poviats* and 16 *vivoidships* in Poland.

[28] OJ L 2013 item 1409 with amendments.

infrastructure networks, sports structures, cemeteries, monuments, as well as building elements of technical facilities (boilers, industrial furnaces and other facilities) and foundations for the installation of machinery and facilities, as separate technical components of objects constituting a utility whole. The object of the agricultural tax is land classified in the register of land and buildings (there is no cadastre in Poland) as arable land or wooded land on arable land, with the exception of land used for the purpose of conducting commercial activity other than farming activity (Art. 1 FTA). The reservation that the agricultural tax applies only to land where non-farming commercial activity is not conducted does not mean that farming activity must be performed on that land. The agricultural tax is also applied to land where no activity is conducted, including farming. The concept of »farming activity« is defined as plant and animal husbandry, including the production of seed, nursery, breeding and reproductive material, vegetable production, production of decorative flora, mushroom production, horticulture, cultivation and production of animal, fowl and insect breeding material, industrial animal production, and fish farming (Art. 2(2) FTA).

According to the Art. 2 (1) ATA, the farmstead (which can also include the farm house and buildings) is defined as an area used as arable land, pond or buildings used for farming activity if the total area is greater than 1 hectare or 1 convertible hectare. According to the legislation, a 'convertible hectare' can be »larger« or »smaller« than a normal hectare because of the following factors: quality of soil, type of cultivation, economic climate environment for farming activity (depending on the location in one of four tax regions in Poland).[29] It should be noted that it does not matter whether the area is actually cultivated or not.

The object of the forest tax as defined under the Art. 1 of the Forest Tax Act is freehold title or the actual possession of forests, as defined in the Act. [30] Excluded are forests used for commercial activity other than forestry activity, which are taxed under the property tax regime. The Act defines a forest as woodlands classified in the register of land and buildings as forests..

The taxpayer in these three acts is defined in a similar way. It is an natural person, legal person or organizational entity, including companies without the status of a legal person, which is an owner or autonomous possessor of the land, real estate or civil structures, perpetual usufructuary (and also an owner of State-owned real estate or parts thereof or civil structures or parts of civil structures belonging to the State or a local authority, if ownership results from an agreement concluded with the owner, the Agricultural Property Agency[31] or the State Forests National Forest Holding[32]) or under a different legal title, and also without a legal title. If the object of taxation is owned by an owner-like possessor (for example the tenant, the user in case of a lease), then that owner is obligated to pay

[29] Art. 4 (5) ATA. A convertible hectare is defined in the point "Tax base and tax rate" – below.
[30] See Art. 1(1) *in fine* AFT.
[31] *Agencja Nieruchomości Rolnych* according to the Art. 3(3) ATA.
[32] *Państwowe Gospodarstwo Leśne Lasy Państwowe* – Art. 3 (2) AFT.

the property tax). The agricultural tax is typically paid by the owner of the farm or by the farmer who rents the farm. In the case of co-ownership or co-possession of a unit of land, building or building structure, the tax liability burdens jointly all co-owners or holders.

1.3.1 Tax base and tax rate

Under Art. 4 of the Local Taxes and Fees Act, each taxed object has a separate basis of taxation. These bases are as follows:

- for land – area;
- for buildings and portions thereof – usable area;
- for structures and portions thereof used for commercial activities – the value applied in the calculation of depreciation for a given year;
- for structures to which depreciation is not applied – the market value of those structures as provided by the taxpayer.[33]

Thus, under Art. 4, the basis for taxation of land, buildings and portions of buildings is their usable area, defined as »the area measured along the interior length of walls on all levels, excluding the area of stairwells and elevator shafts«.[34] Usable space is also regulated under Norm PN-ISO 9836:1997, issued by the Polish Committee for Standardization.[35] The area is given in square meters, with precision to two decimal points.[36] Measurements are taken by the taxpayer, who should provide the measurements in a tax return or a separate information declaration. The legislation exempts portions of buildings from taxation which are under 140cm in height. However, 50 percent of the area of buildings between 140cm and 220 cm in height is subject to taxation.[37]

The property tax rate depends on the property type (and sometimes also on the location) but there is no cadastre tax referring to the value of particular real-estate. Tax rates that are determined by the commune cannot exceed levels indicated in Table 3.1.

[33] Art. 4 LTFA.
[34] Art. 1a(1)(5) LTFA.
[35] Norm PN-ISO 9836:1997, October 1997, p. 7.
[36] Similarly: Regulation of the Minister of Finances of 22 April 2004 on a tax register of land, OJ L 2004 no. 107, item 1138 with amendments.
[37] Art. 4(2) LTFA.

Table 3.1: The maximum property tax rates in Poland

Property type	Maximum tax rate
Land designated for the conduct of business	PLN 0.90 /sq m (approx. 0.20 euro/sq m)
Under lakes which are reservoirs basins or hydroelectric power stations	PLN 4.58/1 ha (approx. 1 euro/1 ha)
Other lands	PLN 0.47/sq m (approx. 0.10 euro/sq m)
Residential buildings	PLN 0.75/sq m (approx. 0.17 euro/sq m)
Buildings designated for the conduct of business	PLN 23.13/sq m (approx. 5.40 euro/sq m)
Structures	2 % of the property value (entered as the basis for depreciation)

Source: Authors' own construction based on the Art. 5 LTFA.

Value-based taxation in respect of property tax has been applied by the legislation exclusively in respect of structures and part of structures used for commercial activities. Under Art. 4(1)(3) of the LTFA, the tax basis for structures is »the value referred to in regulations on income tax, as of 1 January of the tax year, constituting the basis for depreciation calculations in that year, not reduced by depreciation write-offs, and in respect of structures entirely written down – their value as of 1 January of the year in which the final depreciation write-off was recorded.«

In the same article the legislation indicates situations in which the tax basis is determined according to other rules. When a structure which is the subject of a lease is taken over by the owner, the tax basis is determined pursuant to the initial value prior to the termination of the lease, updated to account for any improvements made and not reduced by the payment of the book value.[38] Tax law doctrine holds that this rule was introduced in order to eliminate doubts concerning the rules for taxation of structures under leasing contracts.[39]

In the event depreciation write-offs are not applied to a structure, pursuant to Art. 4(5) LTFA the tax basis is »the market value, determined by the taxpayer on the day on which the tax liability is incurred.«

Tax law scholars generally agree that the tax basis applied in property taxation should shift from an area-based approach to one based on the value of the property.[40] It is for this reason that a cadastre tax based on the value of real-estate is currently being considered in Poland.

[38] Art. 4(4) LTFA.
[39] Etel, L. Przepisy ogólne. In Przepisy ogólne. In Podatki i opłaty lokalne. Podatek rolny. Podatek leśny. Komentarz. Etel, L. Presnarowicz, S. Dudar, G. Warszawa: Wolters Kluwer Polska – ABC, 2008. P. 186.
[40] Kotulski, M. Podatek od nieruchomości w praktyce i orzecznictwie, Warsaw: Lexis Nexis, 2002. P. 36; Etel, L. Podatki stanowiące dochód budżetu gminy. Podatek od nieruchomości. In Etel, L. (ed.) Prawo podatkowe, Warsaw: Difin, 2008. P. 399.

An element present in the construction of the agricultural tax and forest tax which is unusual for wealth taxes is the use of the 'convertible hectare' and the associated average purchase prices of rye (agricultural tax) or price of wood (forest tax). Some authors consider that this linkage with determining estimated revenue classifies these levies as income taxes. In respect of other land which does not fulfil the requirements of the area norm, Art. 4(1)(2) defines the tax basis as the number of physical hectares given in the Land and Building Register. According to Art. 4(1)(1) FTA, the tax basis for land belonging to farmsteads is calculated based on the number of convertible hectares comprising a farmstead. The convertible hectare is a stipulated production unit which reflects the income-generating capacity of a farmstead.[41]

The number of convertible hectares is determined by adjusting the real area of a farmstead based on such criteria as class of arable lands (grassland, arable land), quality class of arable land and the presence of a parcel of land in one of four taxation districts.[42] Determination of the tax base is performed using one of the following conversion formulas.

Table 3.2: Polish agricultural tax - Conversion formulas per hectare

Type of ground/land	Arable land				Meadows and pastures			
Taxing district	I	II	III	IV	I	II	III	IV
Category of agricultural area	Conversion factor							
I	1.95	1.80	1.65	1.45	1.75	1.60	1.45	1.35
II	1.80	1.65	1.50	1.35	1.45	1.35	1.25	1.10
IIIa	1.65	1.50	1.40	1.25				
III					1.25	1.15	1.05	0.95
IIIb	1.35	1.25	1.15	1.00				
IVa	1.10	1.00	0.90	0.80				
IV					0.75	0.70	0.60	0.55
IVb	0.80	0.75	0.65	0.60				
V	0.35	0.30	0.25	0.20	0.20	0.20	0.15	0.15
VI	0.20	0.15	0.10	0.05	0.15	0.15	0.10	0.05

Source: Own construction based on the article 4 (5) AFT.

In the case of the agricultural tax, the rate is based on the average market price of rye, the size of the farm and quality of the soil, but the local authority may reduce the tax rate. The rate from one (weighted) hectare is equal to the average market price of 250 kg of rye during the first three quarters of the preceding year. Under Art. 6 ATA, the agricultural tax for a tax year amounts to:

[41] Gomułowicz, A. Małecki, J. Podatki i prawo podatkowe. Warsaw: Lexis Nexis, 2011. P. 690.
[42] Regulation of the Minister of Finances of 10 December 2001 on assigning municipalities and cities to one of four taxation regions, OJ L no. 143, item 1614.

- from 1 convertible ha of farm land constituting a farmstead – the cash equivalent of 2.5 quintals[43] of rye,
- from 1 hectare for other lands – the cash equivalent of 5 quintals of rye.

The price of rye is based on the average purchase price in the preceding tax year. A local council has a similar scope of discretion to decide the tax rate.

Under the present regulations, Art. 3 AFT establishes the tax basis for the Forest Tax as the area of the forest expressed in hectares, as recorded in the Land and Building Register. Pursuant to Art. 4(1) AFT, the tax rate is the cash equivalent of 0.220 m^3 of wood for per hectare. It is determined on the basis of the average sale price of wood obtained by the Forestry Service for the first three quarters of the year preceding the tax year (almost PLN 200 (approx. €4.7) per 1 m^3). A 50 percent reduction in this rate is applied to protected forests as well as those comprising part of nature reserves and national parks (Art. 4(3) AFT). This serves to emphasize the preferential treatment afforded to protected forests, as well as forests making up nature reserves and national parks.

The Forest Tax Act extends to municipal councils the same powers as under the Agricultural Tax Act allowing the local authority to reduce the average wood sale price.

However, it would seem that the farm and forest taxes are actually wealth taxes, as the element of taxation on property plays the dominant role. The main argument in support of this position is the fact that the basis of taxation in the farm and forest taxes is, essentially, the area of the land, not the revenue or income generated from it. Also of importance is that the tax obligation is always determined by the fact of possession of a given parcel of land. It is of no significance whether agricultural or forestry activity is conducted, nor does it matter whether such activity is profitable or unprofitable. The amount of the levy is therefore constant[44], which is different from income taxes where the taxpayer's obligations depend on future factual and legal events. Furthermore, these taxes are considered encumbrances, which links them with the properties of the farmstead, rather than the farmer as taxpayer.

[43] The "quintal" (also "center") is a historical unit of mass in many countries which is usually defined as 100 base units of either pounds or kilograms. It is commonly used for grain prices in wholesale markets where 1 quintal = 100 kg.
[44] Mastalski, R. Prawo podatkowe. 5th ed. Warsaw: C.H. Beck, 2009. P. 599.

1.3.2 Exclusions and exemptions

In respect of the property tax, the legislation has established several exceptions: including arable land, wooded land on arable land, and also forests where commercial activity is not conducted.[45] In addition:

- subject to reciprocity: land constituting the property of foreign states or international organizations or given to such entities under perpetual usufruct, used for the purposes of accommodating diplomatic missions, consular offices and other missions taking advantage of privileges and immunities on the basis of statute, agreement or international custom (Art. 2(3)(1) LTFA),
- land under flowing surface water and maritime canals, except lakes and land used for retention tanks and hydroelectric power stations (Art. 2(3)(2) LTFA),
- land under internal sea waters (Art. 2(2a) LTFA),
- land and property and parts thereof occupied to serve the needs of local government authorities, including offices, municipal buildings, county commissioners and marshal's offices (Art. 2(3)(3) LTFA),
- land used for public rights of way as defined under legislation governing public rights of way as well as structures located on them – with the exception of those associated with commercial activity other than the use of tolled motorways (Art. 2(3)(4) LTFA).

The Local Taxes and Fees Act (LTFA) 1991 introduced an expansive catalogue of real property exempt from the property tax (including structures constituting railway infrastructure as well as buildings, structures and land underneath buildings and structures forming public-use airports, properties having a status of historical monuments, schools, universities, sport field-grounds – Art. 7 LTFA).

There are several tax exemptions from the agricultural land tax such as:

- farms on soils of the poorest quality (V and VI classes),
- areas of land bought by the farmer in order to enlarge an existing farm or to create a new farm[46],
- farms on which the production has been stopped, but for no longer than three years.

There are also categories of taxpayers who are entitled for reductions, such as:

- a reduction in tax related to investments to modernise a farm for 15 years (the value of reduction is 25 percent of the value of an investment);
- 60 percent reduction for farms belonging to soldiers who serve their compulsory military service;

[45] Art. 2(2) LTFA.
[46] The tax exemption applies for 5 years and only to farms which are not larger than 100 ha.

- 30 percent or 60 percent reduction (depending on the quality of the soil) for farms in mountain villages[47];
- reductions granted in the case of natural disasters.

The municipal council has the power to grant some additional exemptions from real estate taxes which are not included in the ALT. These cannot refer to a specific group of taxpayers but to categories of activities on specific land types. The wording of Art.1 ATA implies the importance of the proper determination of the object of taxation and the amount of the tax liability in the Land and Building Register. Indeed, the absence of an entry concerning a given parcel of land in the Land and Building Register renders it impossible to assess for farm tax purposes. This position is supported in the relevant jurisprudence. Rulings by administrative courts hold that the register is of primary importance in assessing the tax under discussion here. The register is an official public document, and information contained in the register must be considered as authoritative and correct.[48] The Regulation in force concerning the Land and Building Register sets out not only the rules for maintaining the register, but also determines particular categories of land.[49] County commissioners are responsible for maintaining the register, and they are authorized to update the content of register entries *ex officio* as well as to make changes upon application by a taxpayer or other authorized entity. Such changes can be neither initiated nor effected by a revenue authority.

1.4 Administration and proceedings

The tax authority of the first instance is located in a commune – a village mayor, a town mayor or president of a city.[50] The local government board of appeals is an appellate authority for decisions of a village administrator, mayor of a town (president of a city).
It is worth noting that the relevant village administrator, town mayor (president of the city) as a tax authority has the power to issue individual interpretations of the tax law provisions on local taxes and which deal with a specific entity.
An application for an individual interpretation can refer to the facts of a case or to future events. The party applying for an individual interpretation is obliged to present the facts

[47] The mountain village is defined as a village in which more than 50% of the agriculture area is located at more than 350 meters above sea level.
[48] Verdict of the Supreme Administrative Court of 15.04.2008, case no. II FSK 372/07. Similarly: Verdict of the Provincial Administrative Court in Szczecin of 29.04.2009, case no. I SA/Sz 739/08.
[49] Regulation of the Minister of Regional Development and Construction of 29 March 2001 on the Land and Building Register (OJ L 2001 no. 38, item 454), which is secondary legislation issued on the basis of Art. 26(2) of the Geodesy and Cartography Act of 17 May 1989, OJ L 2010 no. 193, item 1287 with amendments.
[50] According to Art. 13 para. 1 Tax Ordinance Act of 29 August 1997 (OJ L 2017, item 201 as amended; hereinafter TO) tax authorities in Poland are divided into two types:
- state tax authorities: a head of a tax office, a head of a customs office, a village administrator, a mayor of a town (president of a city), a starost or a voivodship marshal, a director of a tax chamber, a director of a customs chamber; minister of finances;
- local government tax authorities: in commune (*gmina*) – a village mayor, a town mayor or president of a city, in a district (powiat) – a starost, in a vivodship – voivodship marshal; in second instance – local government board of appeals.

of the case or future events, as well as a personal opinion on the legal interpretation of these matters (para. 3 TO). The party applying for an individual interpretation must make a declaration, under threat of criminal liability for false testimony, that the elements of the facts of the case that are subject to an application for an individual interpretation on the date of the filing of the application are not the subject of any on-going tax proceedings, a tax inspection or the tax inspection proceedings of the authority or tax inspection authority, and that no decision on the merits of the case has been issued by the tax authority or tax inspection authority. If this declaration is revealed to be false, the individual interpretation has no legal effect (para. 4 TO). No individual interpretation is issued in cases that, on the date of issuing the application for an individual interpretation, are subject to (on-going) tax proceedings, a tax inspection or tax inspection proceedings of the tax inspection authority, or where a decision on the case's merits has been issued by the tax authority or tax inspection.

It is worth noting that the application of an individual interpretation has a special effect. The application of an individual interpretation before a change or before delivering to the tax authority a copy of the final and valid judgment of the administrative court reversing the individual interpretation must not be detrimental to the applicant, also where it has not been taken into account in the resolution of the tax case[51]. The application of a general interpretation before a change must not be detrimental to the applicant, also where it has been not taken into account in the resolution of the tax case[52] .

If tax consequences connected with the event corresponding to the facts forming the subject of the interpretation occur before the delivery of the individual interpretation, the application of the interpretation will not exempt the applicant from the duty to pay tax. If an individual interpretation has not been issued within 3 months, it will be deemed that, on the day following the day when the deadline for issuing an interpretation elapsed, the interpretation confirming the applicant's viewpoint as fully correct was issued[53].

A request for a tax ruling is subject to a PLN 40 (approx.. 9.3 euros) fee for each tax case described in application and should be paid within seven days of filing the application. The fee for issuing an individual interpretation is included as part of the income of the local government unit budget. Individual interpretations, together with applications for interpretation, after removing the applicant's identifying data and other entities indicated in the context of the interpretation, is published in the Bulletin of Public Information.

In the case of a natural person it is an obligation of the tax authority to deliver the decision indicating the amount to be paid by taxpayer.

The annual rates of the real estate tax are set by a resolution of the municipal (city) council. The maximum amount of the tax is imposed by the ALT and annually adjusted

[51] Art. 14k para. 1 TO.
[52] Art. 14k para. 1 TO.
[53] Art. 14o para. 1 TO.

against inflation. When setting a tax rate a municipal council is obliged to consider the following aspects of the property: its location, the activity carried out there, the type of development, its designated use and the method of exploiting the land.

The mayor of a commune is responsible for the property tax collection and administration. Individuals are required to inform the tax office with the jurisdiction for the real estate within 14 days after its purchase of a change of ownership. In the case of a private individual a tax obligation arises on the day when the decision of a tax authority is delivered whereby the amount of that obligation is determined. The tax authority establishes the amount of the tax to be paid. When a private individual has also to pay either the agricultural tax or forestry tax, one decision indicating total amount of those taxes is sent to the taxpayer. Real estate tax is payable in quarterly instalments, but is due only from the date of receipt of the tax authority's decision on the amount of the tax liability.

In the case of legal entities, the taxpayer is required to calculate and pay its tax without any notification from the tax authority. The legal person or organisational entity without legal personality is obliged to complete and deliver an annual declaration by 31 January. No notification (decision) from tax the authority is delivered. In this case, the real estate tax is payable monthly. The same method is used in the case of the forestry tax. The agricultural tax is payable in quarterly instalments by private individuals as well as by another taxpayers.

1.4.1 Enforcement

The main sources of revenues for local government units (communes/municipalities) are taxes (including the property tax, agricultural tax and forest tax) [54] and fees or charges[55]. Where such payments are not made on time by taxpayers, local tax authorities must take steps to collect taxes through enforcement. The mayor (or the president of the city) is obliged to systematically monitor the timely payment of a monetary obligation. Proceedings relating to compulsory obligations are provided under the rules of administrative law. Unpaid taxes are regulated by the Act of 17 June 1966 on Administrative Enforcement Proceedings.[56]

If the tax has not been paid, the mayor sends to the taxpayer a reminder (warning), with the threat of proceedings after seven days from the date of delivery. Reminders (warning) should be sent with a return receipt. At the next stage, the return receipt should be attached to the enforceable title, as proof of delivery of the reminder to the taxpayer. Continued failure to pay (despite a reminder being sent) makes it necessary to initiate enforcement proceedings. An administrative enforcement title is issued in accordance with the model

[54] Another tax revenues are: approx. 39% of personal income tax; 6.71 % of corporate income tax; tax card; inheritance and donation tax; tax on civil law transactions; transport vehicles tax.
[55] For example: stamp duty, market fee, local charge, fee for owning a dog, advertising fees.
[56] OJ L 2017 item 1201 as amended.

specified in law. The issue of reminders and deadlines for the issuance of enforcement titles and discipline issues is regulated by the mayor under internal rules such as, "instructions on local taxes and fees«. In cases where co-owners are liable to pay, the mayor can direct the writ of execution to each of them.

It should be noted that the mayor is not an enforcement authority. The executive title should be sent to the local tax office. As a party to the proceedings, the mayor can also monitor the progress of the proceedings.

1.5 Revenue importance and revenue performance

Revenue from the real property tax constitutes a significant source for the budgets of communes (municipalities).

Studies have also shown that the amount of income forgone by communities as a result of the reduction of maximum rates of tax on real estate by commune councils and the decisions on the reliefs, exemptions, deferrals and redemptions, comprised between 23.8 percent (2008) and 27.7 percent (2010) of the amount of income actually received from this source. Similarly, the loss of revenue resulting from the reduction in the upper rates achieved in relation to the proceeds of the property tax ranged from 16.2 percent (2008) to 18.7 percent (2011).[57] Cities with *poviat* status, have in their decisions to lower the maximum rates of the real estate tax and to award reliefs, exemptions, deferrals and redemptions for this tax, reduced their income by 0.4 billion PLN (in 2008 and 2012) and 0.6 billion PLN (in 2011). Loss of income in relation to the proceeds received from property tax ranged from 10.5 percent (2007) to 6.7 percent (2012). Reducing potential income from the real estate tax was spread between the effects of the reduction in the maximum tax rate and the financial implications of granting reliefs, exemptions, deferrals and redemptions. Compared with the municipalities of cities with *poviat* status relatively more reduced their revenue from the property tax due to the decision to grant reliefs, exemptions, deferrals (deferment of the payment of the tax) and redemptions for this tax.[58]

1.6 Equity and fairness

Equity and fairness are desirable attributes for any tax system. Adam Smith stressed that taxation must ensure justice. The canon of equality or equity implies that the burden of taxation must be distributed equally or equitably in relation to the ability of the tax payers.[59] Fairness is a moral and social concept reflecting two general rules of fairness –

[57] Korolewska M., Polityka podatkowa gmin i miast na prawach powiatu w zakresie podatku od nieruchomości a wspieranie przedsiębiorczości przez samorząd terytorialny. Studia BAS 2014 (1). P. 92.
[58] Ibid.
[59] See: Smith, A. An Inquiry into the Nature and Causes of the Wealth of Nations. Chicago: The University of Chicago Press, 1976 [reprint].

(1) treat others as we would want to be treated; and (2) be benevolent to those who are less fortunate.[60]

According to the Art. 84 of Polish Constitution "Everyone shall comply with his responsibilities and public duties, including the payment of taxes, as specified by statute«. It should be noted that citizens not only enjoy freedoms and rights, but also have constitutional responsibilities.[61] This provision establishes the principle of the universality and equality of taxation, and – to a certain extent – is an expression of the principle of equality under the Polish tax law.[62]

1.7 Future developments

Property taxation creates many practical problems in Poland. There are a lot of legal processes before administrative courts (provincial administrative courts and the Supreme Administrative Court) as well as the Constitutional Tribunal.
Referring to the real estate tax, it should be noted that many municipal councils have tried to grant/adopt specific exemptions to individual taxpayers. Such decisions are unlawful. In some municipalities (e.g., Lubin) the municipal council introduced an exemption from the property tax for the residents. In other municipalities the tax is obligatory for all residents. One should consider the issues of taxpayer equity and fairness in this area. The question of introducing a cadastral tax has been considered for several years. It does not seem that a cadastral tax will be adopted anytime soon. *De lege lata* Polish model of property taxation has the character of income revenue and wealth tax and is often associated with a legal presumption that the user obtains income from the property.

2 Evolution of real estate market

The present local government structure is a result of decentralisation reform. The first stage took place in 1990, when the local government system was introduced at a municipal (*gmina*) level. The second stage of the reform (in 1999) introduced two new tiers of elected sub-national governments. As a result of this process there are three levels/tiers of territorial governments: communes/municipalities, counties and regions[63].

The revenues of units of local government in Poland consist of their own revenues as well as general subsidies and specific grants from the State Budget.[64] Only communes/municipalities have their own taxes (including the property tax). All units of local governments receive shares of the personal income tax and corporate income tax.

[60] Guiding Principles for Tax Equity and Fairness. New York: American Institute of Certified Public Accountants, Inc., 2007. P. 2.
[61] Judgement of 20th November 2002 of Polish Constitutional Tribunal, K 41/02, OTK-A 2002, no. 6, item 83.
[62] Ibid.
[63] See footnote No 26.
[64] Article 167 (2) Constitution of Poland.

Only the councils of communes (considering all tiers of local government) have a limited power of taxation *inter alia* in the field of property tax.

2.1 Property restitution

The issue of property taken over by the Polish State between 1944 and 1962 should be considered within the historical context. Important changes took place during and after the Second World War. Given the size, scope and complexity of these historical processes and changes forcibly imposed on the Polish people, it was impossible to apply one simple formula to all the claims of persons deprived of their property during this time.[65] Property restitution is regulated by the Act of 23 April 1964 Civil Code[66] and the Act of 14 June 1960 Code of Administrative Procedure.[67]

Under the Potsdam Agreement of 1945, Poland relinquished almost one-half of its pre-war territory to the Soviet Union and was compensated for this by receiving a part of the Eastern territories of the Third Reich and the area of the Free City of Gdańsk. As a result, Poland's territory was diminished by approximately 1/5 of its pre-war size.[68]

During the communist period (1945 – 1989) a large number of properties were confiscated by the State under various regulations. There are several legal acts dealing with property restitution. They can be divided into eight categories[69]:
(a) Private property
(b) Immovable property of churches and other religious associations
(c) Immovable property involving nationalized industry
(d) Immovable property connected/related with the agrarian reform
(e) Immovable property located in the capital city of Warsaw
(f) Claims relating to the loss of movable property left beyond the present borders of the Republic of Poland
(g) Claims for works of art and movable cultural heritage seized by the State after World War II

(a) The most important act is the Constitution of Poland. According to the Art. 77 "Everyone shall have the right to compensation for any harm done to him by any action of an organ of public authority contrary to law. Statutes shall not bar the recourse by any person to the courts in pursuit of claims alleging infringement of freedoms or rights«. Additionally the legal protection is provided by the Polish Civil Code[70] where a party to the proceedings that was injured has the right to assert claims

[65] Property Restitution in Poland – Information Website http://propertyrestitution.pl/Historical,background«1939-1945,17.html, 30.8.2015.
[66] OJ L 2014 item 121 with amendments, hereinafter CC.
[67] OJ L 2013 item 267 with amendments, hereinafter CAP.
[68] Property Restitution in Poland – Information Website http://propertyrestitution.pl/Historical,background«1939-1945,17.html, 30.8.2015.
[69] See: Ibid.
[70] Articles 417 and 417^1 CC. $417^{1.}$

for the damage actually suffered (*damnum emergens)*. Furthermore a public administration body shall invalidate any decision which was issued without legal authority or in blatant breach of the law; which was not enforceable at the date of issue and such non-enforceability is of a permanent nature; and would result in a criminal act if enforced[71].

(b) Restitution of immovable property by the State to churches and other religious associations has been carried out through the work of property restitution commissions which have a character similar to arbitration courts.[72] These commissions used to take decisions in favour of claims when they are in doubt. The result of such proceedings can be: restitution *in rem*; compensation or monetary damages; or giving similar property of comparable value.

(c) Restitution is possible according to the Code of Administrative Proceedings[73] which requires that the public administration body shall invalidate any decision which was issued without legal authority or in blatant breach of the law.

(d) After the Second World War agricultural enterprises and farmland were nationalized in Poland. There is a *lex specialis* which can be the basis for the procedure aimed at the restitution of such lands.[74] Application should be made to a common court to obtain a decision establishing ownership title pursuant to the procedure provided for in Article 189 of the Code of Civil Procedure. In the course of the proceedings, the legal successors of former owners may present arguments to support the claim that the real property taken over pursuant to the above decree did not fulfil the conditions permitting their ownership transfer to the State Treasury. In some cases the competent authority is also the Voivode[75] whose decisions may be appealed against to the Minister of Agriculture and Rural Development.

(e) There are several ways depending on the authority which has issued the decision in the matter of transferring a property to the municipality of the Capital City of Warsaw. An application should be submitted to: the Local Government Board of Appeals (in case of the municipal property), the Voivode of the Mazowieckie Voivodeship (in case of the State Treasury's property), the Minister of Transport, Construction and Maritime Economy or the Mayor of the capital city of Warsaw.[76]

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[71] Art. 156 para. 1 point 3, 5 & 6 CAP.

[72] There have been set up few such commissions: the Property Commission, Commission for the Restitution of Property of the Polish Autocephalous Orthodox Church; the Property Restitution Commission; the Commission for the Restitution of Property of Jewish Religious Communities; Commission for the Restitution of Property of Other Churches.

[73] Art. 156 para. 1 point 2 CAP.

[74] The Ordinance of the Minister of Agriculture and Agrarian Reforms of 1 March 1945 implementing the PKWN Decree of 6 September 1944 on Agrarian Reform (OJ L 1945 no. 10, item 51, as amended).

[75] Vivode (governor) is the authority of the vivodeship.

[76] According to the Art. 215 of the Law of 21 August 1997 on Real Property Management (OJ L 2016, item 2147, as amended).

(f) Compensation can be claimed under the Law of 8 July 2005 on Exercising the Right to Compensation for Immovable Property Left outside the Borders of the Republic of Poland[77] providing that the following criteria have been met: (i) the owner was a Polish citizen as at 1 September 1939 and was resettled from that territory for reasons referred to in the Law[78]; (ii) is currently a citizen of the Republic of Poland. The payments are made out of the Compensation Fund, a special-purpose fund administered by the Minister of the Treasury. Eligible claimants receive twenty percent of the value of immovable property left outside the present borders of the Republic of Poland in the form of cash payments[79].

(g) A claim can be pursued for confiscated works of art and movable cultural heritage against the possessor (e.g. museum, library) in a civil court. In such cases the restitution regulations are the common civil law regulations.

Table 3.3: Proceedings in cases of property previously belonging to churches and other religious associations (as of 31 December, 2014)

	Industry enterprises	- In the early 1990s, most cases ended in restitution *in rem*. - The damages totalled PLN 191.7 million (approx. 44,6 million euro).
1.	Property Commission	- total area amounts to 65,538ha - payments: PLN 143,534,231 (approx. 33,48 million euro)
2.	Inter-Church Restitution Commission	award of substitute property or damages
3.	The Restitution Commission for the Polish Autocephalous Orthodox Church	- undeveloped pieces of landed property totalling 5171.9109ha, - developed pieces of landed property totalling 39.3503ha, - residential and business premises totalling 1,749.63m2, - 13 cemeteries with a total area of 5.413ha. - Damages worth PLN 18,030,988 (4,18 mln euro) were awarded
4.	The Restitution Commission for the Evangelical Church of the Augsburg Confession in the Republic of Poland*	- undeveloped landed property totalling 402,76ha - developed landed property totalling 47.2ha was subject to restitution or returned; - payments: approximately PLN 2,176,618

[77] OJ L 2014 item 1090, as amended.
[78] The Constitutional Court ruled that the requirement of residence within the former territory of the Republic of Poland on 1 September 1939 is unconstitutional (judgment of 23 October 2012, SK 11/12, OTK-A 2012/9/107; OJ L 2012, item 1195).
[79] Ibidem.

5.	Commission for the Restitution of Property of Jewish Religious Communities	- settlements reached before the Restitution Commission provide for the payment of PLN 27,999,035 (approx. 6,5 mln euro) as cash compensation for the Union of Jewish Religious Communities in Poland, - in addition, applicants were awarded damages totalling PLN 56,282,315 (approx.13 mln euro).
	Real estate in Warsaw	3,486 pieces of real property were subject to restitution *in rem* payments: PLN 520 million (approx. 121 mln euro)
	Real estate in large cities	lack of data
	Landed real property taken over pursuant to the Decree on Agrarian Reform	lack of data
	Property Beyond the Bug River **	payments exceeded PLN 2.3 billion (approx.0,54 bilion euro) 43% of filed claims were processed

* As of 8 January 2015
** As of 20 April 2012
Source: Property Restitution in Poland, Information Website – http://propertyrestitution.pl/Databases,and,maps,21.html, 30.8.2015.

2.2 Privatization

Privatization was the mechanism of transformation in Poland as in the other countries of Central and Eastern Europe.[80] There were several legal acts dealing with corporate privatization in Poland:

- the Act of September 25, 1981 on State Enterprises,
- the Act of July 13, 1990 on Privatization of State Enterprises,
- the Act of February 3, 1993 on Financial Restructuring of Enterprises and Banks and the change on certain other acts,
- the Act of April 30, 1993 on National Investment Funds and their privatization,
- the Act of August 30 1996 on Commercialization and Privatization of State Enterprises.

The private sector has been developed through the formation of new businesses made through economic liberalization and through the privatization of existing state property. Five basic procedures of ownership transformation of state-owned enterprises were applied by the Ministry of the Treasury in the Republic of Poland:

(1) capital method (indirect privatization, i.e. the primary privatization path of medium-sized and large enterprises usually employing over 300 people (this method can be divided into: public offer, public tender, public invitation to negotiate));

[80] During the communist period (1945 – 1989) the enterprises' activity was largely determined by the central plan.

(2) liquidation in the legal sense (direct privatization which consists in the disposal of all of the financial components of a State enterprise by the Treasury (this method can be divided into: giving for use against payment, sale for a token or equivalent sale, contribution into a company));
(3) liquidation in the economic sense (a form of denationalization of the assets of mainly small- and medium-sized enterprises);
(4) contribution of shares to National Investment Funds (NIF) (the Treasury created 15 NIF joint-stock companies in the form of sole shareholder companies of the State Treasury which were equipped with the shares of 512 previously commercialized "floor« companies[81]);
(5) banking settlement procedure (the financial restructuring of enterprises leading a State-owned enterprise to restructuring and subsequent privatization).[82]

2.3 Nature of the property market

Poland's accession to the EU in 2004 caused a period of rapid economic growth. The price of real estate has been growing until 2008. The Polish developer companies' reaction to the 2009 crisis was to slow down the launching of new projects, while many of the ongoing schemes were withdrawn from the market in order to be redesigned or reduce their size and adjust them to the new market conditions (change of the living/commercial area ratio, reduction of the average floor area of units, lowering of finishing standards and cost reduction and most importantly reduction of prices) as well as to adjust the project to the altered expectations of financial institutions.[83] Today the property market in Poland seems to be developed and stable. Prices are lower than before the financial crisis.

Table 3.4: Housing inhabited and uninhabited by forms of ownership

Owner	Flats in family houses	Square metres
Housing association	2,248,625	111,522,268
Communal	934,863	41,585,794
Employer	105,304	5,992,565
State Treasury	30,527	1,505,781
Social housing associations	92,066	4,530,294
Housing associations of private individuals	2,523,692	131,516,661
Private individuals	7,917,819	716,235,474
Total	**13,852,896**	**1,012,888,837**

Source: http://stat.gov.pl/obszary-tematyczne/infrastruktura-komunalna-nieruchomosci/nieruchomosci-budynki-infrastruktura-komunalna/gospodarka-mieszkaniowa-w-2013-r-,7,9.html, end of 2013, 30.8.2015.

[81] They have been liquidated in 2012.
[82] Lis, P. Mazurkiewicz, J. Zwierzchlewski, S. Privatization Model in Poland: Commercial or Social? International Journal of Business and Social Science 2013 (vol. 4, no. 14). P. 43-44 & 50.
[83] Kirejczyk, K. Twenty years of developer sector in Poland, NBP Working Paper, 2014 (no. 182, vol. 1). P. 79.

Table 3.5: Average price per square metre of usable floor space of a residential building (flat) in Poland (in PLN)

Year	1Q	2Q	3 Q	4Q
2017	4,424	4,014	4,097	
2016	4,177	4,063	3,976	4,000
2015	3,926	4,066	3,961	3,925
2014	4,129	4,141	3,880	3,984
2013	4,019	3,879	3,975	4,228
2012	4,130	4,103	3,915	3,837
2011	3,797	3,819	3,988	3,829
2010	4,372	4,433	4,657	3,979
2009	3,895	3,924	3,783	3,964
2008	2,970	3,186	3,478	3,631
2007	2,683	2,650	3,041	2,890
2006	2,560	2,445	2,557	2,619
2005	2,505	2,336	2,528	2,388
2004	2,412	2,562	2,386	2,195

Source: http://stat.gov.pl/obszary-tematyczne/przemysl-budownictwo-srodki-trwale/budownictwo/cena-1-m2-powierzchni-uzytkowej-budynku-mieszkalnego-oddanego-do-uzytkowania,8,1.html [12.12.2017].

3 Property Data

3.1 Register of property tax

Poland maintains a land register, but does not have a separate register of buildings containing information necessary for calculating the basis for taxation, i.e. area. This leads to numerous difficulties, particularly in the taxation of homeowners' associations (which are entities without legal personalities according to Polish law). Usable areas throughout the entire building must be calculated, as well as premises occupied by individuals, and remaining spaces such as basements, attics, etc.

In determining the area of land for the property tax, the information recorded in the land register maintained for a particular locality is used. A detailed list of the information contained in land register entries is provided in the Regulation of the Minister of Regional Development and Construction of 29 March 2001 on the Land and Building Register.[84] The land register is a public document which is relied on concerning the area of land. Information from the land register constitutes the basis for calculating property tax assessed on land.[85]

[84] Regulation of the Minister of Regional Development and Construction of 29 March 2001 on the Land and Building Register, OJ L 2001, no. 38, item 454.
[85] See Verdict of the Supreme Administrative Court of 28 May 1992, SA/Kr 139/92.

The taxpayer is under a duty to document the area of land in a tax return, which serves as the starting point for calculating the basis for taxation and the property tax liability. The revenue authority has the right to call into question information provided by the taxpayer if it believes that such information is inconsistent with that contained in the land register. In such an event the revenue authority can require the taxpayer to file an amended submission. If the taxpayer fails to do so, the revenue authority may initiate tax proceedings and issue a decision as to the amount of the tax due based on data contained in the land register.

The registers kept by the tax authorities are not be the only basis for making a tax decision. Tax records on real estate are of secondary importance in relation to information on land and buildings. In the case of a conflict between the data records of tax authorities, the data contained in the register of land and buildings take priority.[86]

For the purposes of the calculation and collection of real estate tax, as well as the agricultural and forestry taxes, authorities keep an electronic register for the purpose of property tax calculation. This is the Estate Tax Registry. It contains data about taxpayers and objects of taxation, in particular those arising from the information and declarations made by taxpayers on the basis of the provisions of the Act and the regulations on agricultural tax and forest tax. There are various data sources including the following land registers, the register of land and buildings and:

- notarial acts;
- records of zoning and land use, and issued decisions on the building permit;
- spatial development plan;
- the registers kept by the tax authorities;
- Central Register of Entities – National Register of Taxpayers.

3.2 Land or property ownership and title registration

In Poland there are two main rights connected with a property i.e. legal ownership and perpetual usufruct (possession). Ownership of real estate is the most important. Real estate is part of the earth's surface constituting a separate object of ownership (land), as well as buildings permanently attached to the land, and parts of such buildings if, under specific regulations, they constitute an object of ownership separate from the land[87]. The owner has the exclusive right to use the property, collect income from renting and the ability to dispose of it.

The perpetual usufruct may be established by a strictly defined group of property owners (State Treasury or local authority units) in favour of another legal entity by concluding a contract to let on perpetual usufruct. Land owned by the State Treasury and located within the administrative boundaries of cities and land owned by the State Treasury located

[86] Etel, L. Dane z ewidencji gruntów i budynków jako podstawa opodatkowania gruntów i budynków. Finanse Komunalne 2008 (6). P. 24.
[87] Art. 46 § 1 CC.

outside those boundaries but included in the city's master plan and allocated for performance of the tasks of its economy, as well as land owned by local government units or their associations may be given in perpetual usufruct to natural and legal persons[88]. In cases provided for in specific regulations, other land owned by the State Treasury, local government units or their associations may also be the subject of perpetual usufruct[89].

The legal status of real estate is reflected in the land and mortgage registers. They are administered by the courts which keep a separate land and mortgage register for each property. All land, buildings and premises are also contained in the land and buildings description records kept by county administrators.

In the case of foreigners purchasing real estate a special permit is required. It is regulated in the Act of 24 March 1920 on Purchase of Real Estate by Foreigners.[90] The permit is issued by way of an administrative decision by the Minister of Interior, provided the Minister of National Defence does not raise any objection, and in case of agricultural real estate, if the Minister of Rural Development does not raise any objection[91].

The acquisition of real estate by a foreigner in violation of the provisions of the 1920 Act is invalid.

There are certain situations when a permit is not required:

- acquisition of a separate residential property;
- acquisition of a separate business premises intended for garages or a share in such premises, if it relates to satisfying the housing needs of the purchaser or owner of real estate or separate residential premises;
- acquisition of real estate by a foreigner residing in the Republic of Poland for at least five years following the granting of the permanent residence permit or EU long-term residence permit;
- acquisition by a foreigner, being a spouse of a Polish citizen and residing in the Republic of Poland for least two years following the granting of the permanent residence permit or European Community long-term residence permit of real estate which, as a result of the acquisition, constitutes spousal joint property;
- acquisition of real estate by a foreigner, if on the day of the acquisition, the foreigner is entitled to intestate succession from the real estate seller and the real estate seller has been the owner or perpetual user thereof for at least five years,
- acquisition by a controlled corporate entity, for its statutory purposes, of undeveloped real estate the total area of which in the entire country does not exceed 0.4 ha in cities;

[88] Art. 232 § 1 CC.
[89] Art. 232 § 2 CC.
[90] OJ L 2014 item 167 with amendments.
[91] Art. 1 (1) APREF.

- acquisition of real estate by a foreigner, being a bank and also mortgagee, through taking over the ownership of real estate as a result of an unsuccessful auction under enforcement proceedings;

Exemption from the obligation to obtain a permit does not apply to real estate situated in the vicinity of State borders and for agricultural land of more than 1 hectare[92].

Conclusion

Considering the Polish real property tax there are three legislative sources: the Act on Local Taxes and Fees – which regulates real estate tax, the Agricultural Tax Act – which regulates agricultural tax, and the Act on Forestry Tax – which regulates forestry tax. The real estate tax is one of the most important revenue sources of communes' budgets. It also has a significant meaning within the local politic in the area of taxation. The commune's council has a power to establish (within statutory boundaries) property tax rates (indirectly farm and forest tax rates).

However, it should be emphasized that there are many problems with the establishment and application of the local tax law. It causes many different problems and the judicial practice in this area is very extensive.

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[92] Article 8 (3) APREF.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
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Hungary

GÁBOR HULKÓ & JÚLIA FEHÉR

Abstract In the last two decades, there have been several attempts in Hungary to introduce a more general, unified State-wide system of property tax regulation, but without any real success. Firstly there has always been the question, whether the property tax should be applied only to real property or whether it should also include other types of property (high-value movables, luxury goods, artworks etc.). There is probably no definitive answer to this: it is primarily dependent on the effectiveness of the tax assessment and the costs of administration and control. But the taxing of large property assets is always a popular item on the political agenda. Regarding the revenue generated by property-type local taxes, there is a growing share in terms of percentages, as well as in absolute numbers. However more important than this growth, is the position of the real property taxes compared to other local taxes. These are not the most relevant sources for the local governments' budgets, because the local business tax exceeds these significantly, both from the point of absolute numbers at Statewide level, and the revenue generated to individual authorities. The importance of certain local taxes may differ for many reasons, although mainly because of the size of the given settlement. In general, it can be concluded, therefore, that the relevance of real property taxes is mediocre.

Keywords: • Hungary • property tax • immovable property tax • valuation • tax reform

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Introduction

Real property taxes in Hungary are levied at a local level and regulated by the Local Taxes Act 1990, which defines several types of local taxes. As far as their budgetary importance goes, local taxes based on real estate play a limited role in the system of local taxes, compared to the other income sources of local governments. This study reflects on the country's real property taxes and also considers the state of its real estate markets which present a rather diversified picture, dependant mainly on geographical factors. Therefore this paper provides a more generalised view on this subject.

1 Property tax and real property tax

1.1 History of property taxes

There have been numerous changes in the system of property taxes in Hungary in the last decade. The reason behind these changes is the lack of a complex, system-wide solution on the issues affecting property taxation. According to Hungarian legislation, property tax can be characterised as any type of tax, which is based on property ownership. Thus, it is a levy on property that the owner is required to pay, regardless the type of the property (immovables or movables, and not exclusively real estate).

As far as it goes, property taxation is quite an efficient form of taxation: the assessment of the tax is easy, the supervision simple and effective, without the requirement for complex control systems or specialised management. Also the object of tax cannot easily be hidden (ownership of real estate is often registered by the State), so it is more than suitable for taxation purposes.[1]

The first properly documented appearance of any kind of property-based tax in Hungarian legal history can be dated back to the XIIIth century. The so called *terragium*, was a fiscal charge based on land ownership, and paid by landlords.[2] Later, during the reign of Matthias Corvinus (1458-1490), several major changes were implemented in the State´s financial system, which included the implementation of the *tributum fisci regalis*, which can be described as the country's first real estate tax. The tax system of Mattihas Corvinus basically remained in effect until the XVIIIth century.

The next relevant stage was the issuing of the Rent Ordinance by Empress Maria Theresa which represented a unified and detailed regulation of the tax obligation of serfs. Landlords, on the other hand, pledged service to the Empress. However, as stated at the

[1] Szilovics, Cs. Az ingatlan- és vagyonadóztatás magyarországi helyzete. in http://www.mjsz.uni-miskolc.hu/201202/5_szilovicscsaba.pdf, 20. 7. 2017. pp. 37-38.
[2] Kurunczi, G., Ráth, O. Az ingatlanadó nemzetközi vetületei. in http://plwp.eu/docs/wp/2015/2015-3_Kurunczi-Rath.pdf, 20. 7. 2017. p. 38.

time in Act No. 8 of 1741, with land (land ownership), there *shall never be public burdens connected*,[3] meaning, that taxation will never been imposed on land owners.

Later, in the XIXth and XXth centuries, property taxes gained in importance as the Austrian and German models were implemented in Hungarian law. During World War I, a property tax was implemented[4]. The tax applied a rate initially about 1.2%, increasing to 5% until the end of the War, based on the value of the property. The end of the War brought radical changes to property taxation, developed by the Ministry of Finance. Firstly, these changes aimed to include all types of property within the ambit of the tax (including immovables, movables, bank accounts, securities, and foreign currency) at a rate of between 15 - 20% of the tax base. Needless to say, that after the war such measures met with taxpayer resistance and no significant income resulted from this stabilisation plan, which had been abandoned by the end of 1920.[5] In the later period (1920-1939 between the two World Wars), property taxes - primarily a land tax and a building tax - gained in importance and became a significant part of the State´s fiscal system.

After World War II, a special property tax was applied to various tax objects, such as art works, valuable carpets, and business capital. Extraordinary one-off property taxes were also implemented, as part of the post-war stabilisation process. The rates of these special and extraordinary taxes were immense, in some cases they could reach as high as 75% of the property value (the tax base).[6]

During the socialistic regime (between 1945 and 1989), property taxes included house and building taxes, (which were assessed in many forms, such as a house rent tax, a house value tax, and a building tax), a land tax and a motor vehicle tax. The system of property taxes was reformed in 1975, with the introduction of a unified, Statewide regulation.

After the so-called 'Velvet Revolution' in 1989, the system of property taxes was fundamentally changed. The property tax was not implemented on a nationwide basis; instead the system of property taxation was delegated to the local governments, and the object of the tax refined. In this way, property taxes became local real property taxes, defined by the 1990 legislation[7], a framework regulation, which authorises local governments to levy a real estate property tax within their jurisdiction, and reflecting local conditions and needs.[8] In addition, property taxes which comprise taxes on vehicles are regulated State-wide by legislation[9], which provides for two taxes: a motor vehicle tax and company car tax.

[3] Ibid. p. 38.
[4] By Act No. XXXII of in 1916.
[5] Ibid. p. 39.
[6] Ibid. p. 40.
[7] *Act No. C of 1990 on Local Taxes*.
[8] Ibid. p. 40.
[9] Act No. LXXXII of 1991 on Taxes on Vehicles.

1.2 Transaction fees

With regard to the system of property taxes the 1990 regulation[10] authorises several types of duties (fees) connected to various property transactions, as a result of which duties on the free acquisition of property (inheritance duty and duty on gifts) and duties on the transfer of property for full consideration apply.

The obligation to pay inheritance duty pertains to all inheritance located in Hungary, with no exception, and to movable estate inherited by a Hungarian citizen or a non-Hungarian citizen resident in Hungary. The obligation also extends to a domestic-registered legal entity, where the estate is located abroad, as well as to rights of a pecuniary value that are part of a foreign estate, if no inheritance duty or tax corresponding thereto is payable in the state in which such estate is situated. Verification of the fact of payment of duty or tax abroad is the responsibility of the heir(s). The provisions on inheritance duty do not apply to real property situated abroad.

In the case of real property, the general inheritance duty rate is 18%; and in the case of residential property it is 9%. The inheritance by linear relatives (including adoptive) and the spouse of the deceased are exempt from duties. If the heir is the deceased's stepchild, foster child, step-parent or step-child, then 20 million HUF[11] of the net value of the inherited share acquired by such an heir is exempt from inheritance duty[12].

The obligation to pay the duty on gifts applies in the following cases:

- To real property situated in Hungary, vehicles and trailers registered or to be registered in Hungary and rights representing the pecuniary value pertaining thereto;
- To the acquisition of moveable property through a legal transaction or to rights of a pecuniary value pertaining to movable property if the transfer of such movable property or the acquisition of such rights of a pecuniary value has taken place in Hungary; and
- Waiver of an outstanding claim through assignation, transfer of debt or any other similar manner of acquiring wealth, if the person acquiring the wealth is a resident private individual in accordance with the Personal Income Tax Act, or is an organisation registered in Hungary.

In the case of real property, the general rate of duty rate is 18%, and in the case of residential property 9%, similar to the inheritance duty rates. A gift donated to linear relatives (including adoptive) and spouses is regarded as exempt from duties. Also

[10] Act No. XCIII. of 1990 on Duties.
[11] 1 HUF (Hungarian Forint) = 0.0031 EUR.
[12] When this exemption is applied, it is primarily the duty base established on the residential property or the right of pecuniary value related to the housing unit acquired by the heir that must be reduced. If the net value of the housing unit is below 20 million HUF, the properties otherwise subject to a general inheritance duty are exempt from duty up to the amount that remains after the net value of the housing unit is deducted from 20 million HUF. Amounts and rates of duties, https://en.nav.gov.hu/taxation/taxinfo/Fees_charges_duties.html, 20.07.2017.

exempt from the gift tax are transfers between spouses of property and the acquisition of assets, and these are also tax free on the termination of marital community property.[13]

The acquisition of real property as well as of certain movable property and rights of pecuniary value, for consideration are not subject to the duty on inheritance or gifts in any other way, but instead is subject to the duty on the onerous transfer of property. The provisions governing the duties on the onerous transfer of property apply to real property situated in Hungary, motor vehicles and trailers registered or to be registered in Hungary, and rights representing a pecuniary value pertaining thereto, and are also applied to holdings in a company owning real property in Hungary unless otherwise provided for by an international agreement.[14]

Based on this, the obligation to pay duty applies to real property[15], moveable property[16] and rights of pecuniary value[17]. The rate of duty on the onerous transfer of real property is 4% up to 1 billion HUF per property, and 2% on the part of the sale price above this, but not exceeding 200 million HUF per property[18]. In the case of the acquisition of real property by credit institutions, the rate increases to 3% (depending on various factors), while in the case of real estate acquisition by regulated property investment companies a 2% fee applies. Concerning the acquisition of residential property special rules apply, as in these cases of exchanging ownership, the duty is 4% on the increase in the full market value of the housing units depending on the time between the acquisition and the sale of the property[19].

[13] Amounts and rates of duties, https://en.nav.gov.hu/taxation/taxinfo/Fees_charges_duties.html, 20.07.2017.
[14] The provisions of the Act on Duties apply to the acquisition through a legal transaction of other moveable property or rights of pecuniary value pertaining to other similar movable property, if the transfer of such movable property or the acquisition of such rights of pecuniary value has taken place in Hungary. For the amounts and rates of duties, see: https://en.nav.gov.hu/taxation/taxinfo/Fees_charges_duties.html, 20.07.2017.
[15] Land and all things inseparably attached to land.
[16] Payment instruments, securities, holdings in companies, and all other things not construed as real property.
[17] Payment instruments, securities, holdings in companies, and all other things not construed as real property.
[18] Furthermore: (a) In the case of the acquisition of co-ownership in a property, the 4% duty shall be applied to a part of the 1 billion HUF corresponding to the share held in the property in co-ownership, or the maximum amount of 200 million HUF per property shall be considered in proportion to the share in the co-ownership. (b) In the case of the acquisition of property (residence other immovable property) - related rights of a property value, the 4% duty shall be applied to a part of the 1 billion HUF of the taxable value, or a part of the 200 million HUF shall be considered, corresponding to the value of the property-related rights compared to the sale value of the property. (c) In the case of the acquisition of property (residence other immovable property) burdened with rights of property value, including rights of property value established simultaneously with the acquisition ownership, the sale value shall be reduced by the value of the rights of property value and the 4% duty rate shall be applied to a part of the 1 billion HUF, or a part of the 200 million HUF shall be considered, corresponding to the value of the property-related rights compared to the sale value of the property. (d) In the case of the acquisition of capital share in a company with domestic property assets, the duty shall be 4% up to 1 billion HUF per property and 2% on the part of the sale value above this but not exceeding 200 million HUF. For the amounts and rates of duties, see: https://en.nav.gov.hu/taxation/taxinfo/ Fees_charges_duties.html, 20.07.2017.
[19] In more detail: (a) In the case of purchase or sale of residential property within 1 year, 4% on the difference between the increase in value of the properties is paid by the private individual. (b) In the case of exchanging and purchasing ownership of housing units, if a private individual sells the other ownership of the housing unit in the previous or following year counting from the purchase and if the market value of the ownership of purchased housing unit is lower than that of the exchanged or sold housing unit, it is regarded an exempt from

1.3 Position of the real property tax as a local tax

Hungary´s constitution, the Fundamental Law, contains a regulatory framework on taxes in general. The right to create a normative regulation over tax issues is given to the Parliament through various acts, as a result of which, the general and detailed regulation is provided by Parliament alone in relation to central government taxes, while in the case of local government taxes, a regulatory framework is given by the Parliament, which is supplemented with the detailed regulations introduced by the decrees of local government units (normative administrative acts)[20].

Acts regulating tax issues in general, have a special status, in that they are excluded from being the subject of a national referendum (Article 8 section 3 letter (b) Fundamental Law). More precisely, the legislation states *»that no national referendum may be held on ... the contents of the Acts on the central budget, the implementation of the central budget, central taxes, duties, contributions, customs duties or the central conditions for local taxes.«*

Another constitutional limit is provided by Article 37 section 4 of the Fundamental Law, which states that reviewing acts for conformity with the Fundamental Law relating to the central budget, central taxes, duties and contributions, customs duties and the central conditions for local taxes is beyond the jurisdiction of the Constitutional Court, as long as the country's debt exceeds one half of the Gross Domestic Product. However, the

duties. (c) If a private individual transfers more than one residential property by way of exchange, or purchases or sells more than one residential property within one year, when establishing the value differential on which the duty is based, only the exchange or sale that produces a more favorable duty base for the person who is subject to payment obligation and that takes place immediately before or after the acquisition may be applied in terms of each and every exchange or purchase of residential property. If the private individual is unable to verify the exchange or sale of other residential property(ies), in compliance with the aforementioned conditions, to offset additional transfers by way of exchange or purchases of residential properties, the duty on such exchanges or acquisitions of residential properties shall be levied according to the general regulations. (d) In that case, if a private individual declares at the latest imposition of duty a notification of an intention to buy a residential property within one year after the residential property sales and calls for the State tax authority to ascertain the duty on the acquisition of residential property according to the rules of purchase replacement, then the State tax authority determines the market value of the purchased residential property, and suspends the process without disclosing the decision. (e) When the private individual demonstrates that within a year of buying a residential property another residential property is sold, the suspended procedure shall be conducted, and establishes the amount of duty payable under the difference between the market value of the purchased and sold residential property. (f) In that case, however, if the private individual declares an intention to sell the residential property as described above, and requests that under the rules of purchase replacing the change should be applied for the establishing of the duty payable, however, does not justify the sale of the residential property within 13 months after buying a residential property, then the State tax authority may impose additional fees calculated according to the rate of double the prevailing central bank base rate on the basis of difference between the market value of the purchased residential property from the submission date of private individual's declaration. Amounts and rates of duties, https://en.nav.gov.hu/taxation/taxinfo/Fees_charges_duties.html, 20.07.2017.

[20] In accordance with Art. 32 section 1 of the Fundamental Law, which states that "in the management of local public affairs and within the framework of an act, local governments ... shall decide on the types and rates of local taxes."

jurisdiction of the Constitution Court extends to matters *»...in connection with the rights to life and human dignity, to the protection of personal data, to freedom of thought, conscience and religion, or the rights related to Hungarian citizenship.«*; as well as cases involving breaches of constitutional procedural requirements. This basically provides an economic indicator as a binding constraint to constitutional review, which applies also to property taxation, as well as to local tax issues.

To sum up, the system of property taxes in Hungary is fragmented: only some objects fall under the tax obligation (immovable property and vehicles), and the normative regulation places an emphasis on local regulation based on Statewide rules. This is especially true in the case of real property taxes, the framework of which are regulated on a Statewide level, where the Statewide regulation enumerates all the possible local taxes and defines their basic characteristics and limits (such as the types of tax base, minimum and maximum tax rates, cases of tax exemption). The implementation of a local tax is then up to the individual local government units, who can decide which type(s) of local taxes will be implemented on their territory, and under what conditions, in accordance with the terms provided for by the State regulation.[21] As far as real property taxes are concerned, those are administered and applied by the local government units, which act as a tax authority in the matters of local taxes.

In accordance with the actual legislation, it is possible to distinguish between the following local taxes:

- Property-type taxes:
  - Building tax;
  - Land tax;
- Communal-type taxes:
  - Communal tax of individuals;
  - Tax on tourism;
- Local business tax; and the
- Settlement tax.[22]

A special note should be made of the latest relevant change of the 1990 Act, on the implementation of settlement tax(es) from 1 January 2015. This revised tax is regulated only in a very general way, without specifically defining the object of the tax, the tax base or the rate. In a manner of speaking, it is a subsidiary type of tax, which can be applied in

[21] In this way, for instance, different tax types can be applied by different local government units, or different rates can be applied by different local governments. A simple example: in the case of the local business tax the State regulation requires that the tax rate can be a maximum of 2% of the tax base. It is up to the individual local government unit to decide about the actual rate applied (which can be between 0 to 2%) and which is applicable only within that local government.

[22] In *stricto sensu*, the settlement tax is a *sui generis* local tax. Section 1 § (1) of the 1990 Act states, that the local governments' city councils are responsible for local taxes and settlement taxes. Thus, settlement taxes are not subsumed under the term "local taxes" and can be treated as a diverse, or special group. Based on common sense, and the prevailing sum of similar characteristics, for the purposes of this study, settlement tax/taxes are considered as "local".

cases where no other public burden (State or local) is attached to a potential tax object. In this way, a settlement tax can be introduced in situations in which: (a) the law does not explicitly prohibits its application; (b) the taxpayers are individuals (natural persons); and (c) it can be applied to any object, provided that object is not subject to any other public burden.

Details of the tax are regulated by the local governments' ordinances. However, as there is no detailed framework regulation, definition of the tax base nor of the tax rate, the only real limitation to the application of the Settlement Tax is the creativity of the local government units. The detailed rules of tax administration in the case of the settlement tax (formation, termination, exemptions, suspension, the tax base and tax rate) are regulated by each individual local government unit's ordinances; so there is a fragmentation of regulation across the country regarding such matters as the taxable object, tax base, tax rate and other relevant characteristics. Needless to say, this situation raises several constitutional and legal issues in its practical, everyday use.

At the moment, a large number of municipalities[23] are using this tax type, often for the taxation of agricultural land (which is excluded from the definition of »land« for the purposes of the land tax). In addition, there are some interesting kinds of taxes, such as a boat-tax (levied on motorised boats or yachts), a tractor-tax (covering agricultural machineries/vehicles), electronic devices, slow vehicles, congestion charges, and a tower-tax (based on the height of a building or structure and mainly focusing on the taxing of radio towers).

It is clear that the full creative potential of settlement taxes is not used by the local regulators. As a settlement tax has almost always some connection to property, it can be viewed as a real property tax (foremost in the case of the taxing agricultural land), but its character can differ from case to case, as it could be applied to other tax objects as well (such as livestock animals, selected services, the height of buildings, electronic devices, slow vehicles, congestion/traffic jams).

The 1990 Act defines two basic types of real property tax: building tax and land tax. Despite this, however, it is not only building and land taxes which show the characteristics of real property taxes. The communal tax on individuals is also derived from property ownership. Further on, this study deals with these three types of property taxes, namely: building law, land law and the communal tax of individuals, despite the fact that, within the legislation, the latter is not included among property taxes.

The 1990 Act on Local Taxes provides a framework regulation which is complemented by regulations made at the local level. Thus, the 1990 Act includes most of the necessary structural components, such as the definition of taxpayers, objects of taxation, the tax

[23] Around two-thirds of the local self government units use settlement taxes. Várkonyi I., Megállíthatatlanul terjednek az új települési adók. in Világgazdaság (06.0 7.2016) https://www.vg.hu/gazdasag/megallithatatlanul-terjednek-az-uj- telepulesi-adok- 472296/, 20.07.2017.

base, maximum tax rates, correction components, and exemptions. The local taxes are administered by municipalities, and the revenue from these taxes forms part of the local budget. The units of local government have a limited ability to influence the structural components of these taxes (as stated above); however, they play an important role in the assessment, collection and management of the taxes. As far as everyday use goes, from the total number of approximately 3,200 local government units, the most popular local tax type is the local business tax (implemented by around 2,800 local self government units), followed by the communal tax of individuals (used by around 2,200 local governments), the tax on tourism (around 800), the building tax (around 600) and the land tax (around 500 local self-government units).[24]

1.4 Real property taxes[25]

1.4.1 Building tax

Based on Section 11 (1) of the 1990 Act, »*residential and non-residential buildings, that is all buildings and parts of buildings, regardless of their function and use, are objects of the tax obligation«*. The 1990 Act uses its own terminology regarding the determination of the building tax obligation, hence such structures or parts of such structures are regarded as »buildings« which are partially or entirely formed from artificial structural elements, and which form a separate place from the outside space, and as a result, provide permanent or occasional residence and usage, including such individual premises in which the floor-to-ceiling height is totally or partially located under the surrounding ground level[26]. The tax obligation covers all rooms of the buildings (buildings/parts of buildings), regardless of their function and usage. Thus, all buildings/parts of buildings are objects of taxation even if they are empty or unused. Not all structures are covered by the building tax, for example, roads and parking lots are excluded.

In addition to buildings, the 1990 Act recognises parts of a building as separate, individual objects of taxation. Thus, rooms or a group of rooms which are separately functioning parts of a building, with an entrance from the outside or from the building's common hall, meet the conditions necessary to be classified as »buildings« for estates, tourist resorts, commercial units or buildings for other purposes in the real estate registry, even if they are not identified as separate buildings[27]. Where parts of buildings have an individual function separate from that of the main building (such as garages, yards formed within detached houses), are technically separate (separated with architecture elements), and

[24] Ibid. and A leggyakrabban kommunális és a helyi iparűzési adót vetnek ki a települési önkormányzatok (08.04.2015). in http://www.kormany.hu/hu/miniszterelnokseg/teruleti-kozigazgatasert-felelos-allamtitkar/hirek/ a-leggyakrabban-kommunalis-es-a-helyi-iparuzesi-adot-vetnek-ki-a-telepulesi-onkormanyzatok. 20.07.2017.

[25] For sub-chapters *Building tax*, *Land tax* and *Communal tax of individuals* as basic source and main literature was used the following monograph: Heizer-Kiss, Zs., Kanyó L. A helyi adók és gépjárműadó jogmagyarázata 2014. Budapest: SALDO Pénzügyi Tanácsadó és Informatikai Zrt., 2014. pp. 29-65.

[26] According to explanatory regulation in Section 52 (5).

[27] Point 6 of Section 52.

have a separate entrance, these are also classified as »buildings« for the purpose of building tax.

A Object of Tax and General Rules

When determining the building tax obligation, the legislation basically creates two tax object groups: residential and non-residential buildings, or parts of such buildings. A residential building[28] is regarded as an »apartment« which is registered as, or is in the process of being registered as an apartment block, residential building, apartment, castle, villa or mansion in the real estate registry. The definition of »apartment« depends on two conditions. On the one hand, it complies with the requirements mentioned above (i.e. being capable of being listed into comfort degrees); and on the other hand, its denomination in the real estate registry shall confirm its »apartment« usage. It is significant that, as the 1990 Act defines »apartment« with regard to local taxes and the obligation to taxation only relates to local governments, it is not possible for local government to refine the definition of the term »apartment« in a broader or tighter way.

Compared to the definition of »apartments«, a non-residential building (or parts of such a building) is a common term which covers all buildings (or parts of buildings), regardless of their function, provided that they do not fall into the definition of »apartment«. Therefore, such buildings include holiday resorts, retail units, garages, units for vehicle storage, greenhouses, factories, cold stores, and industrial units.

According to the 1990 Act[29], the tax obligation can be one of two types, depending on whether an occupancy permit has been issued on the property. If there is a permit, the tax obligation on the building starts immediately on its occupation or when the permit becomes legal binding. Whether such a permit is temporary or permanent is irrelevant to the tax obligation. If no occupation permit is issued, the occupation is simply »acknowledged«. In such cases the actual occupation is recognised by the tax authority after having undertaken a site inspection, testimonies and other evidence. In such a case, the tax to be paid is determined afterwards by an administrative decision.

It is important to note that the fact of issuing the occupation permit only has importance for the first occupation following the construction of the building. The taxable nature of such a »building« only terminates if the building or part of building ceases to exist (i.e. it is demolished or destroyed). The reconstruction or a change in the function of an existing building resulting in the issuance of a new occupation permit has no relevance regarding the tax obligation because the property's nature as a tax object is continuous. The tax obligation in the case of obtaining and afterwards rebuilding a tax object begins from the first day of the year of acquisition, regardless of whether the property can be used during the period of reconstruction or not. If any change occurs in the status of the tax object

[28] Based on Act LXXVIII of 1993 on Certain Rules of the Lease and Alienation of Residential and Non-Residential Premises.
[29] Section 14 (1) of 1990 Act.

which has an effect on the tax obligation (such as a change in the useful basic area of the building as a result of an extension, addition, or demolition), the effect of this change has to be taken into consideration from the first day of the following tax year, even if in the changed status already existed for the greater part of the year when the change took place. According to the 1990 Act, a break in the use of a building does not affect the tax obligation, thus a tax obligation cannot be suspended, only terminated on the demolition or destruction of the building.

As a general rule, the building tax obligation terminates on the last day of the year of the building's existence (assuming human activities such as demolition). As an exemption, if the termination is caused by other means (such as natural disaster or fire) in the first semester of the year, the tax obligation is not valid for the second semester of the year (i.e. there is no obligation to pay tax on the building for the second half of the year).

The building tax is annual levy. Therefore, the local government unit as the tax authority adjusts it to the status existing on the first day of the year. The property tax's subject[30] is the owner of the building (or part of building) as on the first day of the calendar year. In the case of more than one owner, owners are subject to building tax based on their share in the property. With regard to local taxes, the definition of »owner« covers those natural or legal persons or organisations identified as owner in the real estate registry. If contracts for the change of ownership of a real estate are handed in at the real estate registry and this fact is countersigned by the office, the contracting party has to be regarded as owner.

The nature of »ownership« is basically connected to the status recorded in the real estate registry. However, because of the special nature of the procedure within the real estate registry (namely its long period), such cases when the acquisition of ownership has already taken place, but the acquiring party has not yet been registered as owner, also have to be recognised. In this case, the person waiting to be registered as »owner« can also be regarded as the taxable owner. Only this solution results in a reasonable and equitable situation, because, according to real estate registry rules, the status position of the person waiting to be registered as »owner« has retrospective effect, beginning on the day of the creation of the index attached to title deed, and the seller's owner status terminates on the same day – again with retrospective effect.[31]

[30] According to main rule set in Section 12 (1) of 1990 Act.

[31] In this context, it is important to note also, that in the event of a sale with the retention of title, becoming a tax subject starts on the first day of the calendar year after the year when the contract was handed in at the real estate authority, regardless of whether the purchase price is paid in installments, even if it is payable over several years. Regarding other types of property acquisition besides transfer (such as inheritance, adverse possession or expropriation), the date of the acquisition of ownership is set in the Act No. V of 2013 on the Civil Code. This also means that the acquisition of ownership is independent of the announcement of the claim of acquisition at the tax authority. In the case of inheritance, ownership starts on the first day of the year following the calendar year when the testator died; in the case of adverse possession on the first day following the calendar year when it happened; and in the matter of expropriation, on the first day following the calendar year when the decision became final.

The tax subject is different if the property has an intangible asset right recorded in the real estate registry, which grants the right's beneficiary disposition over the tax object, like an attendant right, trustee right, land use and long-term land use, beneficiary right, land use and rent. In these cases the tax subject is the beneficiary of these rights. It must be noted however, that despite the fact that the 1990 Act lists »rental« among the intangible asset rights, rental rights are not registered in the real estate registry and therefore a tenant can never be the subject of the tax.

As for undivided common property, owners are tax subjects based on their share in the property, and their tax liability reflects the division of the land between the owners based on their property share. Hence, regardless of an agreement on sharing the right for use among themselves, all joint owners have to prepare a tax declaration on the whole property, but joint owners pay the proportional amount of tax which reflects the proportion of their ownership.

In case of joint owners[32], the law provides that, based on a written agreement provided to the tax authority (local government), joint owners can appoint one person among them who fulfills the tax obligation, and who has contact with the tax authority (including the delivery of the tax declaration, and the payment of the tax). This agreement does not annul the tax liability of other joint owners, it only serves as an administrative convenience if only one person is in contact with the tax authority.

Special cases of joint ownership are condominiums, joint garages and joint resort ownerships. In the case of such ownerships, owners of individual apartments are tax payers, however, for the rooms and parts of buildings used jointly, and the tax obligation falls on the owner's community of condominiums, joint garages and joint resorts, as a whole.

B Exemptions from building tax

Exemption falls into two categories: one regarding the building, as an object; and the other part, regarding the use of the building. Thus, the following exemptions from the building tax apply:

- Emergency housing is excluded from the definition of taxable objects;
- Places exclusively used for the provision of health care by general practitioners (GPs) are exempt from taxation. (Places/parts of buildings used for private health care, attract no exemption)[33];
- Buildings used exclusively for the storage of radioactive waste or for holding burned-out nuclear fuel; and

[32] Section12 (2) of 1990 Act.
[33] According to Act No. LXXXIV of 2003 on Medical Services.

- Other exemptions include buildings used for animal husbandry, or growing plants as well as associated buildings (such as horse stables, green houses, grain storages, granaries).

Also exempt are historic buildings, which are residential and / or non residential buildings (or part of such buildings), which have historical preservation and/or protection status. Based on an application, they may be exempt from property taxation, for a maximum period of three years. The condition of the exemption is that the historical building has to be renovated, according to the requirements of the public authority responsible for cultural heritage, during the period of non-payment of the building tax. At the end of the tax-free period the tax authority contacts the authority responsible for cultural heritage in order to confirm the execution and duration of the renovation. If the tax authority ascertains that the renovation was not carried out or was not finished in time, the tax authority levies the exempted tax with interest.

C Tax suspension

Tax suspension is the right of the taxpayer to postpone tax payment, while interest accrues on the outstanding debt. The idea is based on the principle that the wealth-ratio public burden which reflects the revenue expectations of society is not always achieved i.e. taxpayers being 'asset rich', but 'cash poor'. Possessing (asset) wealth does not always go hand in hand with high income, hence, certain groups of the society face challenges that seem to be insoluble when it comes to paying the building tax. Tax suspension provides a solution to this problem, as a result of which property owners' property tax obligation is suspended until a change of tax payer's occurs – in case which case such a claim is declared[34].

Reflecting the fact that the aim of this deferring of the tax obligation is to reflect social realities, only a specified group of taxpayers is entitled to benefit from this[35]. The right of tax suspension only applies in respect of the apartment which is the taxpayer's principle private residence. Under the legislation, it is theoretically possible for this relief to last for an unlimited period of time, effectively until the death of the entitled person. It also terminates if the person entitled to the tax suspension relinquishes occupational rights over the dwelling. If there is mortgage on the apartment it has no effect regarding the tax suspension, nor does the value of the real estate. The taxpayer can make a request for tax suspension at the local government offices, which (if the legal conditions are fulfilled) registers the entitlement.

Hence, subject to meeting the necessary conditions, tax suspension is a basic right of a person, and local governments are obliged to reduce or remit payment for those in financial hardship. Local governments do not have power to discriminate against (or in favour of) certain tax payers. As a security, the tax authority places a lien on the affected

[34] Section 14/A of 1990 Act.
[35] According to Section 14/A of 1990 Act, such as pensioners over the age of 65.

properties in the amount of the suspended tax with interest accruing, in order to guarantee the debt. The suspended tax has to be paid with interest[36], if the property is alienated, burdened with intangible assets, the taxpayer dies or the taxpayer asks for the termination of the suspension. Termination has to be notified to the tax authority within eight days after the day of termination. Regarding the payment of tax and the interest for the period of tax suspension, the tax authority confirms it with a decision *ex post*. In the case of a sale of the tax object, the payment of the suspended tax with interest has to be completed by the purchaser before the sale transaction can be completed. If there is another debt attached to the property, this shall be paid by the seller (the entitled subject). If the person entitled to the tax suspension dies, the tax and accrued interest are paid by the beneficiaries of the deceased.

D The base and rate of the building tax

According to the regulation[37] and depending on the decision of local governments, there are two potential tax bases:

(a) useful basic area in terms of square metres; or
(b) the building's adjusted market value.

The choice in this matter rests with the local government unit. However, in making their choice, all property types of the given local government unit have to be valued using the same tax base. Thus, it is not possible for a municipality to use different tax bases in the case of the building tax and the land tax - the tax bases have to be the same. This tax base uniformity, however, does not mean that if the local government introduces either the building or the land tax, the other type of tax will also be introduced. Their coherence in terms of the tax base only occurs when both types of taxes are implemented at same time, in the same judicial area.

For the building tax, the tax base is the useful basic area of the tax object building's (building or part of building). The 'useful basic area' is defined as the total basic area of all rooms, except expansion rooms, outbuildings (parts) of flats, resorts and as regards multi-storey dwellings, horizontal projections of the quarters' inner stair[38] to include space where the internal height is at least 1.9 metres. Roofed outside spaces enclosed from three sides (lodges, covered and enclosed balconies), covered terraces, as well as 50% of porches belonging to houses are included within the useful basic area. In the case of apartments, 70% of rooms built at the level of a basement or cellar are also included in the useful basic area.

The legislation defines the upper level of the tax rate in the case of taxation based on the useful basic area at 1,100 HUF per square metre, but local governments have the right to define a higher tax rate in their normative ordinances[39]: the tax rate maximum is corrected

[36] The interest is calculated with the central bank base rate.
[37] Section 15 of 1990 Act.
[38] By point 9 of Section 52 of 1990 Act.
[39] See Section 6 c) of 1990 Act.

with a factor for inflation (the base year being 2003), which means that tax rate maximum is not the same as the upper level set in the legislation, as it can be modified by inflation rates.

With reference to taxation based on an adjusted market value, the base of the tax is the value of both the building and the part of land necessary for its proper use. The adjusted market value[40] is 50% of the sale value[41], which is primarily determined by an announcement by the property's owner (the so called »announced value«). However, if this value differs from the sales value registered by the National Tax and Customs Office (as the authority responsible according to the 1990 Act on Duties), the latter determines the adjusted market value for taxation purposes. The National Tax and Customs Office´s registry of sales value contains data collected by various means, including also data provided by local governments. Thus, where necessary, the local governments should carry out local inspections, or at least create a value register, which assists in the determination of whether the taxpayer has declared a realistic sale value or not. Also, where necessary, experts in the real estate sales market assist this work of local governments.

Currently, only a few municipalities levy the tax on buildings based on the adjusted market value. In doing so, taxpayers declare the value of their property in their national tax declaration and the tax authorities usually accept these. The legislative upper level of the tax rate and the maximum tax rate which local governments cannot exceed, when using an adjusted market value is 3.6% of the tax base. In this case, the tax rate is not adjusted by inflation.

1.4.2 Land tax

Land tax[42], is levied on lands within the local governments' administrative jurisdiction. The land which is regarded as a tax object is not built on, whether with buildings or with structures, regardless of whether the land is located in urban or peri-urban areas. Excluded from the land tax are:

- Agricultural land in urban areas, provided it is under actual agricultural usage/cultivation;
- Agricultural land located in peri-urban areas;
- Farms;
- Public roads;
- Railroad and ancillaries;
- Cemeteries;
- Water surfaces and water reservoirs[43];
- Forests; and

[40] According to point 13 of Section 52 1990 Act.
[41] According to the Act No. XCIII of 1990 on Duties.
[42] According to Section 17 of 1990 Act.
[43] Defined in Act No. CII. of 2013. Fisheries and The Protection of Fish.

- Territories registered in the real estate registry as marshes or mud flats/swamps.

A Object of the land tax and general rules

Agricultural land is defined as land used for grapevines, orchards, gardens, meadow, pasture (grass), reeds, and areas with trees or fishponds registered in the cultivation branch of the real estate registry. The taxation of agricultural land depends on whether they are located in urban or peri-urban areas. Agricultural lands located in peri-urban areas are not liable to the land tax, regardless of whether they are cultivated or not. Agricultural lands in urban areas are subject to taxation if they are registered in the real estate-registry as agricultural land. Agricultural lands in urban areas only avoids the land tax if they are, at least partially, cultivated. No exact information can be given regarding this condition, the decision on whether the land is, in fact, cultivated, is always subjective.[44]

Farms and marshes or mud flats (swamps) are not subject to the land tax either, and this exemption applies only to such lands which are registered in the real estate register with such a description.

'Public roads', are defined as public property, which are used for pedestrian and vehicle traffic.[45]

There is no tax liability for forests, water surfaces, water reservoirs and cemeteries, regardless of their location within a settlement. The definition of 'forests' not only covers areas registered as such in the real estate registry, but also areas registered as 'forest' in the Hungarian Forest Management's database, regardless of their description in the real estate registry. As to water reservoirs, the relevant legislation defines 'water reservoirs' to include their ancillaries, such as buildings and structures, that are built for the temporary or permanent collection and storage of surface waters.

The exemption for cemeteries applies only to those areas which belong within the definition of 'cemetery', that is: specific areas, located within the administration area of a settlement, having piety and/or sanitation purposes, where their main function is the burial of the deceased and/or the placement of ashes. Legislation recognises only operating or closed cemeteries as 'cemeteries': so called 'reserve areas', which serve as areas for cemetery expansion, are not regarded as such, hence they are subject to taxation.

To sum up, all lands are subject to the land tax provided that they are not covered by a building or part of building (i.e. not covered by an object liable to the building tax), nor qualify for exemption according to the 1990 Act. In this regard, developed lands are also subject to land tax, but only in respect of that part which is not built on. This also means

[44] Agricultural land - as a rule - is excluded from land taxation, but since January 2015, it can be included under the settlement tax.
[45] For the definition of railroad and their attachments see Act No. CLXXXIII. of 2005 on Railroad Transport.

that land covered by structures, which are not subject to building tax (such as parking lots and private roads), are liable to become land tax objects.

The liability to the tax begins on the first day following the calendar year, when the change occurred in the nature of the tax object, and based on this change, the land became an object of land tax. There is only one exception: if a certain building or part of building is destroyed or demolished, the tax obligation begins on the first day of the following semester after the building's destruction. In the case of areas not having a special character, the tax obligation starts on the first day of following year, when the areas ceased to meet the conditions for exemptions from land tax[46].
As regards the subjects of the land tax, they completely match the rules on the subjects of the building tax; that is, the subject of taxation is the owner of the tax object (land), and, in certain cases, the person entitled to an intangible asset right. Furthermore, the rules referring to additional owners (tax subjects) and the agreements of owners have to be applied by analogy to the rules mentioned above for the building tax.

B Exemptions from land tax

The 1990 Act differentiates four land tax exemption categories, as following:

- For land which is partly built on. Parcels belonging to a building (which falls under the building tax obligation), are excluded from the land tax for the area equal to the useful area of the building (tax base of building tax). This exemption reflects the fact that a certain part of land is always necessary for the proper usage of a building, which is normally larger than the area strictly covered by the foot print of building. This exemption only applies for land which is partially built on;

[46] The date of the formation of the tax obligation differs in certain cases. In the case of agricultural land in urban areas, the tax obligation starts on the first day of the year following the year when the land was registered in the real estate registry as uncultivated agricultural land; or the first day of the year after the year when the actual agricultural cultivation was ended. In the case of peri-urban agricultural land, the tax obligation starts on the first day of the following year when the real estate registry changes its entry on the character of the land. In the case of forests, the regulation is a bit special, because forests are not only registered by the real estate registry, but also by the Hungarian Forest Management (HFM). In this way, the area of the forest becomes the object of taxation on the first day of the following year, when the real estate registry changes its entry on the use of the land from forest to something else, provided that the HFM's database does not register the given area as a forest. If it is registered as a forest within the HFM's database, the tax obligation does not come to effect, until it is deleted from the HFM's database. In this case, the tax obligation starts on the first day of the year following the deletion. Regarding the tax obligation of land previously registered as a 'farm', it starts on the first day of the calendar year following the cancelation of the land character as a 'farm' by the real estate registry. In general, tax obligations terminate on the last day of the year, when such relevant changes comes to effect. There are some special cases regarding the termination of the land tax obligation. Thus, for the areas registered in the real estate registry as uncultivated areas within urban areas and not being under agricultural cultivation, the tax obligation terminates on the last day of the year, when it becomes registered as agricultural land in cultivation (it is not relevant which branch of cultivation is recorded) in the real estate register. In the case of peri-urban agricultural land and farms, the tax obligation of the land terminates on the last day of the year, when the area becomes registered as 'agricultural land' or as a 'farm' in the real estate register. In the case of forests (regardless of whether they are located in urban or peri-urban areas), the tax obligation ends on the last day of the year when the forestry nature of the area is registered by the real estate registry or in the HFM's database.

- Lands in urban areas, registered by the real estate registry as 'not cultivated' agricultural land, but in reality agriculturally cultivated. Regular cultivation is certified by the responsible agricultural authority, for the current tax year. In this case, the agricultural authority can issue a decision, confirming that the area in question is regularly cultivated for agricultural purposes. Based on such a certificate, the tax authority grants an exemption from the land tax for the current year. If the tax authority carries out a local inspection, based on which it becomes clear that the land is not (or cannot be) under actual cultivation (because of a public right of way or due to the presence of infrastructure necessary for the provision of public utilities, for example), the tax authority is obliged to reject the request for tax exemption, regardless of the existence of the certificate;
- Land tax exemption is guaranteed, up to 50% of the area, in the case of land under a prohibition to build, re-develop or alter a building.[47] The decision on prohibition is filed by the real estate registry. Hence, partial exemption only exists when 50% of land's taxable area is not built on, and which is affected by these prohibitions; and
- Protection-safety areas[48] (buffer zones) declared by law or an administrative decision, belonging to taxpayers' product manufactory, are also free from taxation if, prior to the given tax year, at least 50% of the taxpayer's annual net income came from the selling of their products[49].

C The base and rate of the land tax

As regards the land tax, local governments can choose from two methods in determining the tax base. The tax base, depending on the decision of the local government, can be either the land's area or its adjusted market value.

In the case of the tax base according to area, the starting point is the whole area of the land as recorded in the real estate register. If a structure regarded as a 'building' or part of 'building' is located on the parcel, the area is reduced by an area equal to the land covered by the building. It is the size of area calculated in this way to which the land tax is applied, but the tax base is determined after the application of any exemptions. If the exempted area's exceeds the whole size of the land, the tax base is 0 m^2. The legislative maximum of the tax in the case of taxation based on area is 200 HUF/m^2. However, local governments can ascertain a higher settlement tax rate (corrected by inflation) in their ordinance. As in the case of the building tax, inflation has the same base year of 2003.

[47] Under the construction prohibition is meant prohibition to build, to restructure or to alter, stated in an administrative decision based on the regulation of Act No. LXXVIII of 1997 on the Formation and Protection of the Built Environment.
[48] According to subsection (d) of Section 19 of 1990 Act.
[49] A product manufactory is a permanent business establishment (building, construction), which is used directly or as a subsidiary (storage, transportation and serving facilities, or other constructions connected to the production) for the product made or prepared by the taxpayer.

As regards taxation based on the adjusted market value, the adjusted market value is 50% of the sales value; that is, the part of the land which is not covered by the building. Where municipalities adopt this tax base, the legislative maximum tax rate is 3% of the tax base. As with the building tax, this rate may not be corrected for inflation.

1.4.3 Communal tax of individuals

Most local governments have introduced the communal tax of individuals and, because of its simplicity, it is one of the most popular local tax. Its rules and definition refer back to the system of the building and land taxes, and the objects to which this tax is applied are basically the same as those covered by the property-type local taxes. According to the legislation, the communal tax of individuals is not included among the 'property' type local taxes, however it basically fulfils the definition elements of a property tax.

The 1990 Act approaches the obligation to the communal tax of individuals from the point of view of taxpayers (rather than land and/or buildings). It defines the subjects of the communal tax obligation as natural persons, who are also taxpayers of the building tax and/or land tax, that is owners of such a building, part of building or land registered in the real estate registry. Thus, the objects of the tax are all properties (buildings, part of buildings, lands) being (at least partially) in the possession of individuals or burdened with the intangible asset rights of an individual, and apartments being in the possession of a non-private person, rented by an individual.

Regarding the formation and termination of the tax obligation[50], rules referring to the formation and taxation of building tax and land tax are applied *per analogiam*.

If the communal tax obligation is established by a rental agreement, the tax obligation starts on the first day of the year following the year when the rental relation was formed and it terminates on the last day of the year when the legal relation ends.

It has to be noted, that regardless of whether the object of individuals' communal tax liability is identical to the object of building tax and/or land tax, the same taxpayer is not required to pay two types of local tax on the same tax object at the same time. To avoid double taxation on any one property of one taxpayer, only one type of local tax can be levied, either the community tax of individuals or the property type tax[51].

The subjects of the communal tax of individuals can only be individuals i.e. natural persons, who are registered owners of a building, part of building or land included in the

[50] According to exact reference of Section 25 (1) of 1990 Act.
[51] This is guaranteed by Section 7 (a) of 1990 Act, which states that regarding the same tax object the taxpayer can only be obliged to pay one type of tax – based on local governments' ordinance. In practice, this means that if the unit of local government introduces the communal tax of individuals as well as building tax and/or land tax, taxpayers potentially being liable under both types of tax have to be exempted from one of them, because of the sameness of the tax object.

real estate registry. If the property is burdened with intangible asset rights, then it is the entitled person, as well as the person having tenant's rights with regards to apartments, owned by non-private persons/legal persons who are the taxpayers. In the case of two or more owners having intangible asset rights, the rules stated above referring to building tax and land tax are applied.
The communal tax of individuals is an itemised tax, which means that the tax obligation has to be paid in one amount for each tax object. In this way, the tax base is defined as one real property, and is not based on its area or value.

The highest legislative rate of tax is 17,000 HUF per tax object. However, local governments can determine a higher rate of settlement tax in their regulations, similar to the building and land taxes, corrected by inflation.

Subjects[52] of the communal tax of individuals can also benefit from the right of tax suspension (see above). These rules, as well as those entitled, the conditions of application etc. are applied as regulated in the building tax.

1.5 Real property tax revenues

Table 4.1: Revenue performance*

Year	2013	2014	2015	2016
Tax revenues at national level[53] (enterprises+citizens+consumption taxes; local tax revenues excluded)	6,861,725	7,394,753	7,977,591	8,125,897
All tax revenues at local level (included local income from social security payments)	674,469	698,132	770,376	805,446
Building tax	102,719	105,022	112,419	118,538
Land tax	19,395	17,937	19,102	22,112
Communal tax of individuals	13,175	13,002	13,443	14,589
Real property tax (RPT) revenues summarised (building+land+communal tax of individuals)	135,289	135,961	144,964	155,239
Local business tax	500,868	523,125	584,380	608,981

[52] Based on Section 26/A of 1990 Act.
[53] Hungarian Central Statistical Office, Excel chart see rows: 22, 30 and 37, http://www.ksh.hu/docs/hun/xstadat/xstadat_evkozi/xls/3_7_3h.xls, 20.12.2017.

RPT revenue as % compared to national tax revenues	1.97%	1.84%	1.82%	1.91%
RPT revenue as % compared to all local tax revenues	20.05%	19.47%	18.82%	19.27%

* All numbers in million HUF.
Source: www.ksh.hu[54].

1.6 Summary and possible adjustments

In summarising and discussing possible avenues for reform in the field of real property taxes, several aspects have to be taken into consideration. Firstly, real property taxes represent a lower-than-mediocre source of income for local budgets. Their main purpose is to help establish a balanced budget-management system, but, because of their revenue rates, they cannot serve as an instrument which guarantees local governments' autonomy: at best, they have a complementary-balancing function.[55]

Secondly, in the case of small settlements, the communal tax of individuals (which seems to be preferred rather than property type taxes) plays a more significant role, because, in these cases there is usually a smaller income from the local business tax. In the case of larger settlements (where the most used real property tax is building tax), the ratio of real property taxes versus local business tax is reversed, with the local business tax producing more income. For instance, in »county right cities«[56], 77% of all local tax income is generated by the local business tax, 20% by the building tax, and a marginal 3% by all other local taxes. In this way, the most relevant tax, from a revenue point of view, is the local business tax.

Thirdly, even local taxes play an important role in a taxpayer's financial life. From the perspective of a local government´s fiscal management, the backbone of the municipalities' income are transfers from the central budget. Although this can differ between municipalities, in general, the dependence of local governments on central government is quite high. Even those cases where local tax incomes are extremely high, cannot change the fact that settlements in Hungary are not able to sustain themselves financially without these State transfers.

Fourthly, the system of local taxes is undergoing a process of change from a closed listed system (where central legislation lists the possible local taxes together with their main characteristics, and the freedom of local governments is limited to choosing from the taxes listed and applying them within the flexibility given by the regulatory framework

[54] Hungarian Central Statistical Office, http://www.ksh.hu/docs/hun/xstadat/xstadat_eves/i_qp011c.html, 20.12.2017.
[55] Kecső, G. A helyi adók jellemzői és a működtetett helyi adók négy külföldi jogrendszerben. in http://jog.tk.mta.hu/uploads/files/mtalwp/2015_02_Kecso.pdf 20.07. 2017. pp. 92-94.
[56] Basically these are the largest towns, after the capital. There are 23 of them with a sum total of around 2 million inhabitants, which is 20% of the population of Hungary.

relating to the base, rate, exemption and suspension rules etc.)[57] to a relatively open system under which any local tax can be introduced, provided it is not prohibited by central legislation[58].

While the closed system guarantees the integrity of the local tax system, an open system has the potential to introduce inconsistencies and insecurities for the taxpayers, despite the fact, that it gives local authorities an opportunity to cater for their special local needs in a creative and individual way. However, the ingenuity of local governments versus the overall positive effect of an open system is a matter for debate, and in this regard, it will be interesting to see how in the long run, the relationship of other local taxes with regard to the settlement tax develops, based on the limitations of the settlement tax's object (i.e. not prohibited, not charged with public burden and only for natural persons) and on the political caution of local governments. Thus, it is likely that the settlement tax's budgetary importance is going to be marginal, because it cannot fully replace the existing local taxes (without a system-wide change).

A great addition to this process could be the improved access to the real estate register for local governments, which could serve as a baseline database for tax liability verification and the evidence of the owner (thus tax subject). Several improvements could be applied in the field of computerisation of the tax administration. In terms of increasing revenues, the further control over the rate of tax and a reduction of tax evasion is required. A positive characteristic of both the building and land taxes is the potential to adjust tax rates by inflation. This ensures that (under the condition of positive inflation), a permanent, and more or less automatic, adjustment of tax rate, is achieved without the need for an explicit rate increase.

As to the legal regulation itself, the recent practice of the Curia of Hungary (Supreme Court) raises a few issues. The Curia carries out the normative control of the local governments´ ordinances and in this way influences the trends of local taxes. First of all, the Curia attributes increased importance to the fact that local taxes have to adequately reflect local circumstances, and in this respect plays an important role. The legislation itself gives no definition nor describes any process as to how this principle should be applied or fulfilled: therefore the role of the Curia is of major relevance.

Another issue is the use of an adjusted market value as a tax base, which is strengthened by the fact that real property prices have begun to grow in the last two years. However, the use of an adjusted market value is not popular among local authorities. The problem with its use is connected to the process of assessing the value of real property: specifically its methodology, what administrative organ should determine it, and when and how often it should be determined. Therefore, this current uncertainty represents an administrative

[57] Kecső, G. A helyi önkormányzatok gazdálkodásának egyes kérdései nemzetközi kitekintésben. in Új Magyar Közigazgatás, 2013/1. pp. 11-12.
[58] Kecső, G. A helyi adók jellemzői és a működtetett helyi adók négy külföldi jogrendszerben. in http://jog.tk.mta.hu/uploads/files/mtalwp/2015_02_Kecso.pdf 20. 07. 2017. p. 10.

burden, which only several jurisdictions are prepared to undertake. With the requirement that the tax base should be appropriate to local circumstances, adjusted market value gains in importance. Adjusted market value as tax base with the proper tax rate is able to reflect on local conditions more effectively (and also more fairly) than a flat per square metre tax base, as the latter does not takes into consideration the location of the real property, where different locations can mean different property values, often in a very substantial way.

Another issue with the real property taxes is that the legislation defines only buildings and land, as the two main tax base categories, and does not differentiate these into sub-categories. In this way it is up to the individual municipality to define individual sub-categories within a given group (for example, in the case of the building tax, to differentiate between housing units and non-housing units) according to local conditions and also to determine the tax rate for each sub-category. This can lead to different practices from settlement to settlement, which itself creates in a very fragmented system.

From a broader point of view, an interesting issue of real property taxes in general is the question of 'fairness' (or balance). The ownership of real property does not automatically mean a higher financial potential or increased income for the taxpayer, so a relevant question is, is it 'fair' to levy taxes on immovable property? A lot of wealth is connected with movables or other types of property (not real estate) rights, like immaterial rights, various types of securities, jewels, artworks. The basic question is, if real property is charged with public burdens, why are other assets also of great value not considered as tax objects from the view of property taxation? From a general point of view a real estate tax can be justified as part of a balanced system of taxation, whereas other forms of wealth are also subject to different tax obligations[59].

2 Evolution of real estate markets

2.1 Privatisation

The process of the privatisation of State property is divided into several time periods in Hungary, namely: 'spontaneous' privatisation (1987–1990), centrally-controlled privatisation (1990-1994) and the final phase (1994-1997).

The first period of mass privatisation of State property into private ownership is the so called 'spontaneous' privatisation (1987–1990), which took place under the socialistic regime. During this stage, domestic and foreign individuals and businesses, in close cooperation with the management of State-owned companies, acquired assets owned by the State under very favorable conditions. The main characteristic of this period of privatisation was that it was not State controlled, and the government did not exercise any influence over the process. Instead the privatisation processes were based on deliberate

[59] For a more detailed explanation see: paragraph 2.2 of the IAAO Standard on Property Tax Policy. https://www.iaao.org/media/standards/Standard_on_Property_Tax_Policy.pdf, 20.07.2017.

corporate decisions made by the companies' management, who chose their privatisation partner(s), and the manner and terms of the process, which often reflected only their own private interests, rather than that of the companies. From a boarder historical perspective it had some benefits, being the first step in the development of the private economy and Hungary's transition to a market economy. In these three years, 300 million USD of working capital flowed into the country.[60]

In the fall (autumn) of 1989, work was undertaken to create the legal foundation for the second phase, the centrally-controlled privatisation (1990-1994). During this phase, the State Property Agency (SPA) was established on 1 March 1990, as basically the State's assets management company. The legal status of the SPA was very controversial and quite unusual from an administrative point of view. The SPA was an autonomous body, its activities unconnected to the government. Moreover the SPA was competing with the government in its ownership and management of State assets. The SPA's property assets included public companies (some 40-50 billion HUF-worth of 26 companies), the other State corporate interests (such as bank shares) and its remaining assets were corporate liquidations. Overall, between 1990-1994, some 310 billion HUF in assets was privatised, involving 55% of foreign investment, and 45% from domestic investors. During this period, the emerging private economy produced 60 - 65% of the country's GDP.[61]

Later, the SPA was replaced by the single State-owned Hungarian Privatisation and State Holding Co., which was responsible for the continuation of the process of privatisation of State assets and the long-term management of the remaining State-owned assets. Effectively, the privatisation process ended in 1997, with the process between 1990 and 1997 resulted in 86% of revenues coming from foreign investors, with the domestic share being only 14%.

Overall, the privatisation process in Hungary played a significant role in the country's transition to a market economy. It is also clear that a sharp struggle resulted between different interest groups, domestic and foreign investors, and political forces; and that funds flowed to acquire valuable property at prices which did not reflect their true value. The world views the privatisation in Hungary between 1989-1997 as »successful«, because in 1997, almost 80% of the country's GDP was produced by the private sector, and the structure of the economy changed significantly, towards a market economy.[62]

[60] A spontán privatizáció időszaka (1987–1990). in Kollega Tarsoly, I. (ed.). Magyarország a XX. században. Babits Kiadó, Szekszárd, 1996-2000. http://mek.oszk.hu/02100/02185/html/394.html, 20.07.2017.
[61] A központilag vezérelt privatizáció 1990–1994 közötti szakasza. in Kollega Tarsoly, I. (ed.). Magyarország a XX. században. Babits Kiadó, Szekszárd, 1996-2000. http://mek.oszk.hu/02100/02185/html/395.html, 20. 7. 2017.
[62] Privatizáció az 1994. évi kormányváltástól 1997 közepéig. In: In: Kollega Tarsoly, I. (ed.). Magyarország a XX. században. Babits Kiadó, Szekszárd, 1996-2000. http://mek.oszk.hu/02100/02185/html/400.html, 20. 7. 2017.

2.2 Restitution

Restitution, as a legal process in Hungary, meant the payment of partial compensation for private property confiscated between 1939-1990 by the State. Only natural persons were eligible for restitution, as a compensation for damages by the State activities from May 1939 until the change of the regime in 1990.

Underlying the philosophy of the regulation, there were two fundamentally different political and legal positions, regardless of the fact that the injustice of the socialistic ownership was undisputed by the vast majority of society. According to one approach, the history of socialism was an anomalous and illegitimate episode, its laws null and void, and private property can be restored without special enacting legislation, as ownership does not expire. The other position recognises that, based on natural law and moral foundations, the then regime´s legislation against the former owners could be viewed as reprehensible, but the laws under which the properties were taken were valid at that time, so they have to be respected. Therefore only moral satisfaction is achieved, without property restitution. The basic underlying principle and the basis for restitution is the moral foundation, however it is recognised that some kind of restitution must compensate for the unfair practices of the former regime.

Those seeking restitution received compensation vouchers, which they could use to:
(a) participate in purchase of State property, assets or land;
(b) purchase their former flats under certain conditions;
(c) exchange the vouchers for a modest living allowance; or
(d) sell them as shares (on the Stock Exchange).

In total, some 1.8 million people participated in the restitution process, which is a relatively low number, being about 18% of the whole population. Also, the level of the restitution of property for each claimant was limited to a maximum of 5 million HUF. Full restitution was possible only up to the 200,000 HUF limit, and above this a decreasing percentage rate was applied. Based on this, the view remains that the restitution process was unfair, partly because it was claimed only by a small portion of society and partly because it had strict and regressive limits, considering the value of restituted property per person.

2.3 Limitations on land/property ownership

The real estate market in Hungary is similar to the real estate markets in other Central European countries. While it is opened to foreigners, there are several restrictions imposed, but the general rule is, that EU citizens fall under the same regulation as Hungarian citizens.[63]

[63] The basis of the legal regulation is given by Act No. CXXII of 2013 on Agricultural and Forestry Land Alienation; Act No. CCXII of 2013 on Certain Rules and Transitional Arrangements According to Act No. CXXII of 2013 on Agricultural and Forestry Land Alienation; Act LXXVIII of 1993 on Certain Rules of the

In the first place, there is a distinction between EU citizens and foreigners from non-EU states and there is also a different legal regime for agricultural (forestry) land and other real property. Thus, there is a general ban on non-EU citizens acquiring this type of real estate. As for EU citizens (as well as Hungarian citizens), there are no restrictions on real estate acquisition where the purchaser has the status of a 'farmer'. Where this is not the case, the maximum area of land ownership cannot exceed 1 hectare per person, unless it results from an acquisition between close relatives. As far as agricultural and forestry land goes, the general rule is that only natural (and not legal) persons are eligible to acquire ownership of such land (with a few exceptions).

Other immovable property can be acquired by EU and Hungarian citizens without any specific restrictions; however, the acquisition by non-EU foreigners of real property in the country is subject to authorisation by the County Government Office, an organ of State administration. The authorisation must be made in advance of the acquisition and is started by an application.

2.4 Nature of the property market

The real estate market while relatively stable, is extremely region-dependant, as there are major differences between real property prices in the different regions of Hungary: naturally the highest prices are in the capital, Budapest. Generally it can be stated, that prices tend to be higher in the western regions of Hungary, in county seat (large) cities and close to recreational zones (such as in the vicinity of lake Balaton), rather than on the eastern side of the country.

As with global trends, from 2007-2008 the market was quite passive, and the rental levels and purchase prices were more or less stagnant. However, from 2013 a period of continuous growth was observed in all sectors of the real property markets, which has had positive effects on prices. In 2014, trading on the market reached the level achieved before the economic crisis and a positive sign is that there is also a high demand for premium real estate, whether for rent or purchase, so the expectations of real property agencies are very optimistic. In recent years there is a statewide tendency of increased real property prices, especially in the capital and county right cities, where a major price-boom can be observed.

Beginning in 2013/2014 a steady growth of prices was evident on the real property markets. EUROSTAT has registered a constant growth during past years: for instance comparing data for 2013 with that for 2017 shows that there was almost a 30% rise in prices of residential units.[64] Parallel with this, the volume of building construction and

Lease and Alienation of Residential and Non-Residential Premises and lastly Government Regulation No. 251/2014 regarding the acquisition of real property for foreigners, which is not classified as agricultural and forestry land.

[64] https://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tipsho10&plugin=1, 28.07.2017.

the trade in housing units also shows stable growth (see Tables 4.2 and 4.4). On the part of the investors, there is a shift from foreign companies to domestic companies, although the speculative purchase of real estate is at a low level. The most important share of the property market is represented by the activity in residential units (flats, houses, recreational etc.), while it is interesting to point out, that in the last two years, in the case of newly-built residential property, there are only minor differences in prices (see Table 4.5) between those realised in the capital and in other parts of the country. This indicates a growing demand for newly-built property, which it may be assumed, serves rather as an investment by private persons rather than for personal occupation.

Table 4.2: Housing units (residential property) number

Total number of housing units	
Year	**Number**
2011	4,390,302
2012	4,393,631
2013	4,402,008
2014	4,408,050
2015	4,414,684
2016	4,420,296
2017	4,427,805

Source: Hungarian Central Statistical Office[65].

[65] Hungarian Central Statistical Office.
http://www.ksh.hu/docs/hun/xstadat/xstadat_eves/i_wde001b.html, 28.12. 2017.

Table 4.3: Price indices change of housing units (residential property)

Price indices (%) change of housing units, 2015 = 100%		
Year	**New units**	**Used units**
2009	64.3	83.3
2010	90.9	89.6
2011	87.6	85.3
2012	88.2	82.4
2013	88.0	81.0
2014	92.2	86.6
2015	100	100
2016	107.6	105.3
2017	126.9	125.3

Source: Hungarian Central Statistical Office[66], numbers in average based on all yearly quarters.

Table 4.4: Number of sold housing units (residential property)

Number of sold housing units (in thousands)			
Year	**Total**	**New units**	**Re-sold units**
2009	91.1	8.3	82.9
2010	90.3	4.8	85.5
2011	87.7	3.9	83.9
2012	86.0	2.6	83.3
2013	88.7	2.3	86.4
2014	113.8	3.3	110.5
2015	134.1	3.4	141.4
2016	146.3	4.9	100.8
2017	134.2	4.5	129.7

Source: Hungarian Central Statistical Office[67].

[66] Hungarian Central Statistical Office.
http://www.ksh.hu/docs/hun/xstadat/xstadat_evkozi/e_zrs006.html, 28.12.2017.
[67] Hungarian Central Statistical Office, http://www.ksh.hu/docs/hun/xstadat/xstadat_evkozi/e_zrs003b.html. 28.12.2017.

Table 4.5: Mean price of sold housing units (residential property)

Mean price of sold housing units (in million HUF)				
Year	**Used units**		**New units**	
	Budapest	Statewide	Budapest	Statewide
2011	14.5	10.2	18.0	15.7
2012	14.2	9.9	17.5	15.8
2013	13.6	9.7	18.1	16.1
2014	14.5	10.3	19.3	17.0
2015	17.4	11.6	21.1	18.3
2016	21.2	12.7	23.6	19.7
2017	23.8	13.6	26.5	22.1

Source: Hungarian Central Statistical Office[68].

3 Property data

3.1 Real estate registry/cadaster

In Hungary, the cadastral survey began in 1786, during the Austro-Hungarian Empire, at which time the cadastre and land registers were used in parallel. This system was used continuously after the fall of the Empire by the successor states. Today´s regulation is based on Act No. CXLI of 1997 on the real estate register. The register comprises a list, description, character, geometry, and location information of all real estate. Ownership and other rights to the real estate are registered here. However, the integration of the cadastral database into other databases (such as the register of inhabitants) has not yet been achieved. Effectively, therefore, the real estate registry works independently from other databases. For the purposes of property taxation, local governments use both their own databases, and the real estate register.

The administration is provided by the institutional network of land offices, which consists of 19 such offices at the county level, one in the capital, and 174 at the district level. The land offices form part of the departments of the County Government Offices, but operate under the professional direction, supervision and control of the Ministry of Agriculture. The main tasks of these offices are: real property registration, land surveying, land protection and the supply of data.

[68] Hungarian Central Statistical Office, Excel chart see table 2 for details. http://www.ksh.hu/docs/hun/xftp/stattukor/lakaspiacar/lakaspiacar174.xls.

The following property-related rights are recorded in real estate registers:

- ownership rights; and, in respect of State-owned real estate, the organisation exercising the State's ownership and asset management rights;
- permanent right of use by members of housing cooperatives;
- land use on the basis of an agreement or court decision;
- usufruct and the right of use;
- lease rights over arable land;
- easement rights;
- permanent geodetic markings, land survey pilot areas, easements for the placement of power supply equipment, cable rights, water line and mining easement rights (basically the rights of utilisation in the public interest);
- right of first refusal, and the right of repurchase and purchase;
- mortgage right (independent lien); and
- fishing rights, and the right to lease such[69].

Data in the property register is publicly available, but there are several rules governing its the access. The real estate register is public, and the citizens may get information about the content of the property sheets without limitation. Anybody can view it, may take notes from it or may request authenticated copies. This data servicing – including viewing– is available on written request only. The land office employees check the data given by comparing them with those indicated in the personal identity documents of the clients. The use of identity data of a natural person (e.g. owner's name) is only permitted for the courts, the attorney's office or investigating authorities, for certain official tasks indicated in the legislation, or for the inheritance procedures by the public notary.

Conclusion

In the last two decades, there have been several attempts in Hungary to introduce a more general, unified State-wide system of property tax regulation, but without any real success. Firstly there has always been the question, whether the property tax should be applied only to real property or whether it should also include other types of property (high-value movables, luxury goods, artworks etc.). There is probably no definitive

[69] In addition to these rights, some relevant facts, related to the property may also be registered, such as: reference to the right-holder of record being under the legal age, or having such person placed under guardianship; the liquidation or voluntary dissolution proceedings instituted against the right-holder of record; ownership restriction(s) by virtue of legal regulation or court decision; the ban on lot formation and construction, and other construction-related restrictions; commencement of expropriation and lot formation proceedings; appeal and petition for legal remedy against a land title office resolution; petition for the court review of a court decision serving as the basis for the registration or related to such; the property's legal status; a ban on alienation or encumbrance on the basis of a contract or testamentary disposition; commencement of lawsuits or criminal proceedings specified in this Act; the scheduling of an auction or the failure of such; sale by retaining ownership; the rejection of registration; retaining the ranking of a canceled lien; or the waiver of the right of disposition of the ranking; advance reservation of ranking for mortgage; other facts in connection with the enforcement, transfer or termination of a lien; the fact of construction or demolition of a building; the suspension of proceedings; and the extent and nature of permanent environmental damage established by a definitive regulatory or court resolution.

answer to this: it is primarily dependent on the effectiveness of the tax assessment and the costs of administration and control. But the taxing of large property assets is always a popular item on the political agenda.

The first attempt to introduce a so-called luxury tax was the Act No. CXXI of 2005 on Luxury Tax. The object of the tax was real property, to be more specific, flats and holiday accommodation with a value exceeding 100,000,000 HUF, where the tax rate of 0.5% was imposed on the sum exceeding this limit. Among several other issues, the most problematic was the stated (or estimated) value of the property. The Constitutional Court abolished this Law in 2008. After this decision, a second regulation was passed, namely Act No. LXXVIII of 2009 on the Tax Due of Certain High Value Property Assets, with the aim of taxing valuable housing units, water and air vehicles, and high-performance cars, which was also canceled by a ruling (No. 8/2010 (I.28.)) of the Constitutional Court.[70]

To summarise, real property taxes in Hungary are part of the local taxes. The legal or framework regulation is contained in the Act of 1990 on Local Taxes, and while detailed regulations are provided by the ordinances local government units. These taxes are administered by local governments and comprise, basically, three local taxes: building tax, land tax and the communal tax of individuals (which can be considered, as a property tax, despite the fact, that the legislation does not list it among the local taxes). The settlement tax plays a special role, as it can also be considered under some circumstances, as a real property tax.

Considering the relevance of real property taxes among other local taxes, probably the most important factor is the revenue raised. Of course, the exact ratios can differ from municipality to municipality, but it is clear that, at the national level, the most important local tax is the local business tax, which produces over 75% of the tax income of local governments, indicating that the property type taxes are of mediocre relevance.

The local tax revenues are unevenly distributed, from a geographical point of view, as by far the greatest »producer« of local tax revenue is the capital city, mainly because of the income generated by the local business tax. It is also characteristic that the communal tax of individuals is used mostly by small municipalities, as its administration and supervision is far less complicated compared to that of the other real property taxes. At the same time, the communal tax of individuals represents a smaller liability for the taxpayers. Larger local governments (the capital, and »county right cities«) however prefer the building and land taxes (especially the building tax) to the communal tax of individuals, because it generates a higher level of fiscal income.

Regarding the revenue generated by property-type local taxes, there is a growing share in terms of percentages, as well as in absolute numbers. However more important than this

[70] Kurunczi, G., Ráth, O. Az ingatlanadó nemzetközi vetületei. in http://plwp.eu/docs/wp/2015/2015-3_Kurunczi-Rath.pdf, 20. 07. 2017. P. 2.

growth, is the position of the real property taxes compared to other local taxes., These are not the most relevant sources for the local governments' budgets, because the local business tax exceeds these significantly, both from the point of absolute numbers at Statewide level, and the revenue generated to individual authorities. The importance of certain local taxes may differ for many reasons, although mainly because of the size of the given settlement. In general, it can be concluded, therefore, that the relevance of real property taxes is mediocre.

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http://www.geoindex.hu/uzleti-szolgaltatasok/elemzes/ingatlanarak-alakulasa-2008-2012-kozott-magyarorszagon/ (July 20, 2017).

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
M. Radvan, R. Franzsen, W. J. McCluskey & F. Plimmer

Broad-Based Low-Rate Property Tax in Lithuania

DOVILĖ MINGĖLAITĖ & LIUCIJA BIRŠKYTĖ

Abstract It can be argued that the potential of the real property tax as an important source of local government revenue has not been fully exploited in Lithuania. Much has been done to improve the quality of real property assessments. Both buildings and land taxes are ad valorem taxes and the standard for assessment is a true market value. Mass valuation methods are used and the tax base of all property has to be reassessed every five years. The information on the value of property is easily accessible. In the case of discrepancies between the value produced by mass valuation and an individual valuation, the taxpayer has a right to appeal. In order to have a more productive and »equitable« real estate tax, several improvements are possible. The unification of taxation rules for real estate property (buildings and other structures) and land under a single law would produce a more transparent, simpler tax system that would also be easier to understand and administer. At the same time, the tax base could be broadened by eliminating many of the abundant exemptions and other consessions. In addition, policy makers should set the threshold for the taxation of residential real property that would be both socially just and which woud generate revenue at socially acceptable and economically feasible rates.

Keywords: • Lithuania • property tax • immovable property tax • valuation • tax reform

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Introduction

Correctly structured and applied, real property taxes have a potential to be reliable and stable sources of revenue for local self-governments. Scholars in the field of taxation and fiscal dentralization consider real property taxes „ideal" taxes for small lower units of government and in some countries, like the USA, where real property taxes yield substantial amount of revenue, are „the lifeblood for fiscal independence of local governments".[1] Because of their usefulness as a source of budget revenue subject to local control, they can serve as an important element of fiscal decentralization in countries like Lithuania.

The aim of this chapter is to review the position of real property property taxation in Lithuania through the lense of an „ideal" tax for local governments. A good („ideal") local tax should possess, among others, the following characteristics:

1) the tax base should be immobile to allow some latitude to decision makers to set different rates without the tax base vanishing;
2) the tax yield should be stable and predictable over time;
3) the tax should be easy to administer efficiently and effectively;
4) the tax base should be visible to ensure accountability[2].

In addition, for the tax to be truly local:

1) it should be assessed by local government;
2) rates should be set by local government;
3) it should be collected by that government; and
4) the revenue should accrue to that government. (ibid.)

As viewed from this theoretical framework the major problems with Lithuanian real property taxes were identified.

A further objective of this chapter is to describe the historical development and current status of real property taxation in Lithuania, as well as to address some issues related to policy and to the administration of real property taxes. It describes the legal framework of real property taxation, outlines and evaluates previous reforms with an aim to providing insights for possible future improvements in order to make real estate taxes more transparent and productive.

In Lithuania, real property taxes are not universal (currently only the land tax is universal), and are almost solely applied only to commercial property used for economic activities. The system of real property taxation is complex and lacks transparency.

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[1] Mikesell, J. L. Fiscal Administration: Analysis and Application for the Public Sector. 9th ed. Boston: Wadsworth, Cengate Learning, 2014. P. 488.
[2] Bird, R. M. Threading the Fiscal Labyrinth: Some Issues in Fiscal Decentralization. National Tax Journal, 1993 (46/2). P. 207-227.

The taxation of real estate is governed by two separate laws. Buildings and structures are taxed under the Law on Immovable Property Tax, while land parcels are taxed under the Law on Land Tax. Both laws are riddled with exemptions and other complex provisions making administration inefficient and ineffective. Compliance with the tax on high value residential property is very low.

What is most important is that local governments have only limited control over the application of both taxes. Local government councils have discretion to set rates only within the range provided by the law. They also have the right to grant exemptions but only at the expense of local budgets. Recently the tax base has been broadened to cover high value residential property as well. Revenue collected from that segment of the tax base is meager and the revenue from this source accrues to the central government budget, not to local government budgets. Therefore the real property taxes in Lithuania fall short of being „ideal" taxes for local governments. They are not imposed by local authorities and major elements of the tax structure are decided at the central level. In addition, revenue from these taxes only partially accrues to local budgets. These drawbacks of the current system of real property taxation significantly diminish the advantages of real property tax as stable and reliable source of revenue for local governments.

The tax on real property is still far from being a broad-based low-rate tax that could be a productive source of revenue for local goverments. This is a major problem facing policy makers currently.

The literature on real property taxation and real estate market in Lithuania is very scarce. A more recent and comprehensive analysis of real property taxes has been accomplished by Sulija, V. (2004, 2006, 2012). The current reforms have been described and analyzed by Liumparaitė, D., Tatol, R., and Mingėlaitė, D. (2013). The problem of local taxes in Lithuania and the role property taxes could play for financing local self-goverment have been discussed by Astrauskas A. (2000), and Davulis G. (2006). Birskyte, L. (2013) studied the quality of property assessments and their determinants.

The chapter is organized in the following way. In section one the history of the taxation of real property in Lithuania is presented. Small subsections are devoted to the description of the structural components of real property taxes today and the current administration of the taxes. The position of real property taxes in modern Lithuania is explained. The real property valuation methods for tax purposes are presented in subsection 1.5. The following subsection presents statistical data to illustrate the significance of real property tax revenue to state and local government budgets. In subsection 1.7 the efforts to reform real property taxes are explained. Section 2 is devoted to the evolution of the real estate market in Lithuania, including such topics as property restitution, the steps forward in privatization, the limits on real estate and land ownership, and the nature of the real property market. It also contains charts illustrating trends and fluctuations of real estate market in Lithuania for the last 17 years. In section 3 the management of real property data and procedure of title registration is described. Finally, the last section concludes.

1 Real Property Tax

1.1 History

The rudiments of immovable property tax are found as early as the agrarian communities, where the tax comprised certain established percentages from the yearly value of the crop yield.[3] As urbanisation developed, this tax was also levied on buildings. In some sources it was found that ancient Chinese were the first to apply the immovable property tax (around 2700 - 2200 BC). "1/9 of the received yield from the cultivated land was given to the state, which was equal to 11 % tax rate, which was paid depending on fertility of land«.[4]

More attention to taxation was given in the 13th century, during the formation of the Lithuanian State.[5] In a feudal Lithuania, until the 16th century, taxes were usually paid in kind and only later, when monetary relations were established, tributes in kind were replaced by money (paid as tax).[6] The Grand Duchy of Lithuania did not have a common monetary system (taxes on the lands occupied by Belarusians, Ukrainians and Russians differed), however certain conscriptions (tribute, poll-tax, silver, tribute in livestock) were present in the entire Grand Duchy of Lithuania.[7]

In the Grand Duchy of Lithuania, among the types of immovable property taxes, there were also such taxes as a plough tax, chimney-money, as well as land and town immovable property taxes. The taxable unit of the plough tax was considered to be a particular area of cultivated land. A plough was a two-ox or –horse yoke. The plough tax demanded 15 groats from an ox plough and 7.5 groats from a horse plough. The levied land was determined primitively, therefore the tax was also inaccurate. The tax was paid also by those residents whose plots of land were small and who had neither an ox nor a horse. This tax was also paid by the town residents, who owned land.[8] The chimney-money was taken from a peasant's courtyard (also called a chimney) from the 15th century. In 1775, the final form of chimney-money was established (all chimneys in a duke's and in private estate lands, taverns and town houses, except for Jewish houses (because Jews paid different kinds of taxes) were subject to taxation).[9]

In 1918, after Lithuania re-established its statehood, a new state taxation system was established as a result of the great need for revenues for the state. On 23 January 1919, the Cabinet of Ministers adopted the Law on Taxes, which temporarily kept the former taxes which had been levied during the Tsarist period on Lithuanian lands (land tax, main

[3] Šulija, V. Reform of real property taxation and its feasibility in Lithuania. Jurisprudencija. 2004 (59(51).
[4] Ibid. P. 118.
[5] Buškevičiūtė E., Pukelienė V. State Tax System. Kaunas: Technologija. 1998. P. 15. Buškevičiūtė E. Tax System. Kaunas: Technologija. 2005. P. 17.
[6] Žilėnas A. Financial Foundations of the Grand Duchy of Lithuania. Vilnius. 1996. P. 57.
[7] Ibid., p. 59.
[8] Ibid, p. 74-75.
[9] Ibid., p. 81-82.

trade and industrial company tax, tax for real estate in towns, etc.). Later other normative acts were adopted in the area of taxation.[10]

On 2 November 1923, the Law on Land Tax was announced. According to this law, land was divided into five types according to its fertility, for example, soil, which was attributed to the first type, was described in detail, while the land attributed to the fourth type had the poorest productivity (forests older than 20 years and lakes suitable for fishing, simple meadows, etc.). Land attributed to the fifth type did not yield any profit, and was therefore not taxable.[11] The land tax was stable and paid once a year. "For one hectare of the first type of land one had to pay 9 LTL[12], for the second type – 7.5 LTL, for the third type – 5 LTL and for the fourth type – 1.5 LTL. The municipalities kept 35-40 % of revenue of the state tax«.[13] The immovable property tax "was charged in cities and towns, and was calculated from the immovable property's profitability or its value. The movable property tax comprised 7-15 % of the total tax revenue directly received by local authorities«.[14] A similar situation existed with taxes which related to the acquisition of immovable property, for example, the sale and purchase tax of immovable property which were also calculated based on the purchase price or value of inheritance. [15]

During Soviet times (1940 – 1989) the taxation system of the independent interwar Lithuania collapsed. "During those years Lithuania did not have taxation independency, because a centralised taxation procedure was applied, which was directed against private activities and collective oppression was introduced«. [16]

The taxation of immovable property was reintroduced right from the re-establishment of the Lithuania's independence in 1990. The old centralised taxation procedure was replaced by new fiscal regulations.[17] The taxation of immovable property was established by two separate laws: Republic of Lithuania Law on Immovable Property Tax of Enterprises and Organizations of 20 July 1994, which came into force on 1 January 1995

[10] Buškevičiūtė E. Tax System. Kaunas: Technologija. 2005. P. 18. Stačiokas R., Rimas J. Municipal Taxes and Charges. Kaunas. 1996. P. 45.
[11] Stačiokas R., Rimas J. Municipal Taxes and Charges. Kaunas. 1996. P. 37-45; Rimas J.Local Taxes. Kaunas: Technologija. 2000. P. 51.
[12] LTL (litas) was the currency used in Lithuania between 1922 and 1941 (1 LTL was equal to 0.150462 grams of pure gold). Litas (LTL) became the official currency of Lithuania again in 1993 after the independence of the country was restored in 1990.
[13] Stačiokas R., Rimas J. Municipal Taxes and Charges. Kaunas. 1996. P. 37. Rimas J.Local Taxes. Kaunas: Technologija. 2000. P. 51.
[14] Meidūnas V., Puzinauskas P. Taxes: Theory, Role, History. Vilnius: Teisinės informacijos centras. 2001. P.48.
[15] Ibid. P. 48-49.
[16] Buškevičiūtė E., Pukelienė V. State Tax System. Kaunas: Technologija. 1998. P. 19. Buškevičiūtė E. Tax System. Kaunas: Technologija. 2005. P. 21.
[17] Ibid. P. 23.

and was valid until 31 December 2005[18] and the Republic of Lithuania Law on Land Tax of 25 June 1992.[19]

Pursuant to the Law on Immovable Property Tax of Enterprises and Organisations of 20 July 1994, the tax was paid by the legal persons (subjects of taxation), which owned immovable property in the Republic of Lithuania in accordance with the right of ownership. Foreign legal persons and organisations started paying taxes for immovable property in the Republic of Lithuania owned by them in accordance with the right of ownership from 1 January 2002. The object of taxation was immovable property within the territory of the Republic of Lithuania owned by legal persons in accordance with the right of ownership (buildings, structures, other premises), except land, aircrafts and vessels. A 1 % rate on the taxation value of immovable property was imposed on immovable property used for activities stated in tax payers incorporation documents.[20]

Pursuant to the Law on Land Tax[21] of 25 June 1992, payers of the land tax are private owners of land, who re-established their right to land, forest, water bodies, etc. The annual land tax rate was established at 1.5 % of the land price (value of forest land excluded the value of timber) (until 31 December 2012).

By the end of 2004, greater attention was being paid to the reform of the Immovable Property Tax. On 7 June 2005 the Republic of Lithuania Law on Immovable Property Tax was passed, which came into force on 1 January 2006.[22] The aim of the new law was to modernise the taxation procedure, broaden the base of immovable property by eliminating the numerous exemptions, and closing the tax loopholes. However, it is believed that this law did not solve all the problems related to taxation of immovable property.[23]

This law expanded the circle of taxpayers by taxing the natural persons (individuals) as well as legal persons. "According to section 1 Article 4 of the Law on Immovable Property Tax, immovable property (or part thereof) is taxed, except structures (premises) intended for residential purposes, gardens, garages, homesteads, greenhouses, farms, science, religion, and recreation, fish-farming structures as well as other structures if such

[18] The Law on Immovable Property Tax of Enterprises and Organizations of the Republic of Lithuania. Official Gazette *Valstybės žinios*. 1994 (59-1565). (Void).
[19] The Law on Land Tax of the Republic of Lithuania. Official Gazette *Valstybės žinios*. 1992 (21-612).
[20] Liumparaitė D, Tatol R., Mingėlaitė D. Immovable property tax in Lithuania: changes and concerning problems. Practice and research in private and public sector - 2013: 3rd international scientific conference: Conference proceedings, April 11-12, 2013. Mykolas Romeris university. Vilnius: Mykolo Romerio Universitetas. 2013, P. 252-262. Law on Immovable Property Tax of Enterprises and Organizations of the Republic of Lithuania. Official Gazette *Valstybės žinios.* 1994 (59-1565).
[21] The Law on Land Tax of the Republic of Lithuania. Official Gazette *Valstybės žinios*. 1992 (21-612).
[22] The Law on Immovable Property Tax. Official Gazette *Valstybės žinios*. 2005 (76-2741).
[23] Šulija V. Modernizing the Taxation of Real Property in Lithuania. Jurisprudencija. 2006 (2 (80)). P. 116.

immovable property is not used for economic or for business operations, or if they are not transferred for use for more than one month or longer to legal persons«.[24]

At the end of 2011, Lithuania adopted supplements to the Law on Immovable Property Tax and the Law on Land Tax, with amendments that broadened the base of immovable property tax. As a result the object of immovable property tax became all property, not only immovable property, used for commercial purposes owned by the residents. According to this amendment the residential immovable property the value of which exceeds 1 million LTL[25] became taxable at a rate of 1 %. The law was amended again taking effect from 1 January 2015, if the total value of the immovable property of natural persons owned by a family unit in accordance to the right of ownership exceeds 220,000 EUR, the excess is taxable at 0.5 % rate of immovable property tax.[26] It should be noted that for taxation purposes, the value of all objects of immovable property owned by a family was totalled. Starting with the 2018 fiscal year, a progressive tax rate structure comes into effect with marginal rates varying from 0.5% to 2% depending upon the value of the property.[27]

The taxable value is determined by mass valuation methods.[28] As of 1 January 2013, a tax rate of between 0.3 % and 3 % taxable value of immovable property was established for the property used for commercial purposes.[29] According to the new Law on Land Tax (2013), for the first time in Lithuania, the base of the land tax is the market value determined using the land valuation maps prepared following the mass appraisal of land. Another novelty established in the law was the introduction of the concept of "neglected agricultural land« to which tax exemption is not applicable. The law also established land tax rates from 0.01 % to 4 % based on the value of the land. The specific rate is at the discretion of the Municipality's Council which can set the rate within the criteria established in law.[30]

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[24] Liumparaitė D, Tatol R., Mingėlaitė D. Immovable property tax in Lithuania: changes and concerning problems. Practice and research in private and public sector - 2013: 3rd international scientific conference: Conference proceedings, April 11-12, 2013. Mykolas Romeris university. Vilnius: Mykolo Romerio Uuniversitetas. 2013, P. 252-262. The Law on Immovable Property Tax of the Republic of Lithuania. Official Gazette *Valstybės žinios*. 2005 (76-2741).

[25] An equivalent of 290,000 EUR at the exchange rate of 1 EUR=3.45 LTL.

[26] Republic of Lithuania Law No. XII-1390 amending Article 6 and 7 of the Law on Immovable Property Tax. No. X-233 adopted on 09 12 2014 / Available at: https://www.e-tar.lt/portal/legalAct.html?documentId=4ad92e9089e911e4a98a9f2247652cf4 [accessed on 02 05 2017].

[27] Please, see section "Reform" below for more details.

[28] The Law of Amendments Suplemments to Articles 2, 4, 6, 7, 11, 12, 14 of the Law on Immovable Property Tax of the Republic of Lithuania. Official Gazette *Valstybės žinios.* 2011 (163-7742).

[29] Republic of Lithuania Law amending Article 6 of the Law on Immovable Property Tax. Official Gazette *Valstybės žinios.* 2012 (82-4265).

[30] Šulija V. Theories Substantiating Taxation of Immovable Property and their Implementation at the Time of Amendment of the Immovable Property Tax Law and Land Tax Law. Problems of tax policy: 1'st international scientific conference: May 17, 2012. Vilnius: Mykolas Romeris University, 2012. ISBN 9789955194224. P. 73. Available at: http://www.mruni.eu/en/university/faculties/ekonomikos_fakultetas/katedros/finansu_mokesciu_katedra/conference_problems_of_tax_policy/ [accessed 30/ 03/2015].

1.2 Tax legislation

According to Article 127 of the Constitution of the Republic of Lithuania [31], Lithuania's budgetary system comprises the independent budget of the state of the Republic of Lithuania and the independent budgets of local municipalities. In Lithuania, taxes, other revenue sources, and charges are established only by the laws of the Republic. Two legislative acts regulate the taxation of immovable property: the Republic of Lithuania Law on Immovable Property Tax (2005)[32] and the Republic of Lithuania Law on Land Tax (1992)[33], as well as the procedure for the collection of these taxes. Thus, established in these laws are the main elements of the taxes: including the object of taxation, taxpayers, tax rates, reliefs, tax period, tax calculation, declaration, payment and procedure of depositing taxes into a budget/budgets. Without violating the procedure established by the law, municipal councils have a right to reduce the rate of immovable property tax or land tax at the expense of their budget, or to fully exempt certain taxpayers from taxes (i.e. to determine and apply tax reliefs).

Under the Republic of Lithuania Law on Local Self-Government[34], the municipal councils have the right to receive part of the revenues from taxes and have the right to adjust the rates without exceeding the limits provided by law.[35] This means that specific rates of the land tax and immovable property tax are established by each municipality individually (i.e. the municipal council adopts a decision) before the 1st of June of the current tax period: however such rates cannot exceed the limits established by law. The law stipulates that the immovable property tax rate is within the range of 0.3 % and 3 % of the taxable value of immovable property, while the land tax rate provided in the Law on Land Tax is between 0.01 % and 4 % of the taxable value of land. If a municipal council does not determine specific rates for the immovable property tax and land tax before the indicated period, a 0.3 % tax rate of immovable property and 0.01 % of land tax rate will be applicable within that municipality.

The revenue from the land tax and immovable property tax is the main source of tax revenue for the budget of the municipality[36], where land and immovable property are situated. If land and/or immovable property occupy are within the boundaries of several municipalities, the land tax and immovable property tax revenues are shared proportionally to the part of a land plot and immovable property that are situated in each particular municipality.

There is one exception related to the revenue collected from the immovable property tax. As of 1 January 2015, if the total value of immovable property owned by natural persons

[31] Constitution of the Republic of Lithuania Official Gazette *Valstybės žinios.* 1992 (33-1014).
[32] Which replaced the Republic of Lithuania Law on Immovable Property of Enterprises and Organizations. Official Gazette. Valstybes Zinios. 1994 (59-1156). Void since 01-01-2006.
[33] Republic of Lithuania Law on Land Tax. Official Gazette *Valstybės žinios*. 1992 (21-612).
[34] According to Article 50 (2).
[35] Republic of Lithuania Law on Local Self-government. Official Gazette *Valstybės žinios.* 2008 (113-4290).
[36] Other sources of revenue include state transfers.

in accordance with the right of ownership or acquired by them, exceeds 220,000 EUR, then value which exceeds this limit is taxable at 0.5 % under the immovable property tax. The revenue from this tax is paid into the state budget, not municipality budget.[37] This provision applies to structures (premises) intended for dwelling purposes, gardens, garages, homesteads, greenhouses, farms, subsidiary farms, science, religion, and recreation, fish-farming structures as well as engineering structures. Some scholars argue that this decision of the government to allocate this part of tax revenue into the state budget instead of to that of the municipalities, diminishes the autonomy of local self-government.[38]

1.3 Structural components

In Lithuania, the provisions of real estate taxation are provided in two separate laws: the Law on Immovable Property Tax and the Law on Land Tax.

1.3.1 Objects of the taxes (tax bases)

The object of the immovable property tax is all immovable property situated on the territory of the Republic of Lithuania, with the exception of the following immovable property: [39]

- Unused immovable property, the construction of which is not completed according to the procedure established by the Republic of Lithuania Law on Construction. If construction is not completed, but property is in use, such real property is liable to the immovable property tax. It should be noted that, according to the Republic of Lithuania Law on Construction, construction comprises operations, the purpose of which is to build (construct) a new structure, or to reconstruct, repair or demolish an existing structure;[40]
- Immovable property created or acquired on the basis of a government and private entities' partnership, as defined by the Republic of Lithuania Law on Investments, for the duration of such a partnership agreement, and provided that this immovable property is used in accordance with the purpose established in the agreement. In accordance with such a partnership agreement, a private entity can be granted the right to carry out operations related to infrastructure, as well as the design,

[37] Republic of Lithuania Law on Immovable Property Tax. Official Gazette *Valstybės žinios.* 2005 (76-2741). Republic of Lithuania Law on Land Tax. Official Gazette *Valstybės žinios*. 1992 (21-612). State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania. Available at: http://www.vmi.lt/ [accessed 25/06/2016].

[38] Šulija V. Theories Substantiating Taxation of Immovable Property and their Implementation at the Time of Amendment of the Immovable Property Tax Law and Land Tax Law. Problems of tax policy: 1'st international scientific conference: May 17, 2012. Vilnius: Mykolas Romeris University, 2012. ISBN 9789955194224, P. 73. Available at: http://www.mruni.eu/en/university/faculties/ekonomikos_fakultetas/katedros/finansu_mokesciu_katedra/conference_problems_of_tax_policy/ [accessed 30/03/2015].

[39] Republic of Lithuania Law on Immovable Property Tax. Official Gazette *Valstybės žinios.* 2005 (76-2741) Art. 4.

[40] Republic of Lithuania Law on Construction. Official Gazette *Valstybės žinios.* 2001 (101-3597).

construction, reconstruction, repair, renewal, management, use and maintenance of new property or to the state or municipal property transferred into its management and use. Private entities can also supply public services in the certain areas including transportation, education, health and social security, culture, tourism, public order and public safety.[41]

Article 7 of the Law on Immovable Property Tax listed a number of objects, which were not subject to taxation, for example, the immovable property (or part thereof) used by a natural person for the manufacture of objects related to burial ceremonies[42], as well as for social services; the immovable property (or part thereof) was used by a natural person for educational purposes; the immovable property (or part thereof) used by a natural person for the provision of burial services or located in the grounds of a cemetery[43]. However, these provisions have been repealed and such property is now taxable.

Immovable property is not subject to the immovable property tax if it is owned by certain legal entities, for example:

- diplomatic missions and consular posts of foreign states, international inter-governmental organisations or their missions; state-owned or municipal immovable property[44];
- the immovable property of free economic zones; the immovable property (or part thereof) used for burial services or located in the grounds of a cemetery;
- the immovable property (or part thereof) of trade unions used solely for the non-commercial activities provided for in their articles of association;
- the immovable property of the Bank of Lithuania; the immovable property (or part thereof) used solely for the provision of health care services;
- the immovable property used for environmental protection and fire prevention and general-purpose objects;
- the immovable property of legal entities over 50 % of whose income over the tax period consists of income from agricultural activities,[45] (including the income the cooperatives received from the sale of agricultural products received from their members and produced by them); and
- the immovable property, which is entirely or partially used for earning income from agricultural activities and/or the income of the cooperatives from the sale of agricultural products received from their members and produced by them.[46]

[41] Republic of Lithuania Law on Investments. Official Gazette *Valstybės žinios.* 1999 (66-2127).
[42] Abolished since January 1, 2018.
[43] Abolished since January 1, 2018.
[44] Public enterprises (state companies) pay a tax for using state-owned property as established in Republic of Lithuania Law on the Tax for Using State Property in Fiduciary Relationship. Official Gazette *Valstybės žinios.* TAR, 1996 (117-4369).
[45]As defined in paragraph 28 of Article 2 of the Republic of Lithuania Law on Corporate Income Tax (i.e. as defined by the Republic of Lithuania Law on Income Tax of Individuals Official Gazette *Valstybės žinios.* 2001 (110-3992)).
[46] Republic of Lithuania Law on Immovable Property Tax. Official Gazette *Valstybės žinios.* 2005 (76-2741).

The object of the land tax is private land within the territory of the Republic of Lithuania owned by natural and legal persons in accordance to the right of ownership (except for forest land and land used for agricultural purposes, where a forest is planted). The list of land exempt from taxation is significant:[47]

- land being public roads; land publicly used by amateur gardeners;
- land belonging to natural persons, who, at the beginning of tax period, comprise a family of which there are no individuals with working capacity, and who have a 0 - 40 % working capacity level, or pensioners and minors;
- several plots of land owned by a natural person in accordance with the right of ownership, which are situated in the same municipal jurisdiction, as the same area of non-taxable plot is allocated, is considered to be one plot of land. If a natural person has a right to a tax relief and owns more than one plot of land, the highest relief to one plot of land is applied. The application of this provision encompasses a family, (i.e. spouses, single parents (including adoptive parents) and children (including adopted children, step children) under the age of 18 living with them);
- land of national parks, regional parks, areas of landscape, cultural, geological, geomorphological, botanical, zoological, botanical and zoological, hydrographical and reserves to preserve rare species and protected land zones thereof, except agricultural landed property situated on the aforementioned territories, as well as areas with structures, roads and bodies of water;
- land of protected belts on the shores of bodies of water;
- land of natural monuments, except territories with structures and roads;
- land comprising immovable cultural heritage of archaeological (except cultural layers of old towns) and memorial (abandoned grave yards and burial sites) objects, included on the list of the Register of Cultural Heritage, except territories with structures, land with roads and bodies of water situated on the aforementioned territories;
- land of immovable cultural heritage of historical, architectural and art objects included in the Register of Cultural Heritage, and land of ethnic homesteads in rural areas and territories of ethnic villages; and
- land acquired by a farmer for establishing a farm. The exemptions covers three tax periods from the acquisition of the right of ownership and the relief is applicable to the same person only once.

1.3.2 Taxpayers

Pursuant to Article 3 of the Law on Immovable Property Tax, taxpayers are natural persons (citizens of the Republic of Lithuania, citizens of foreign countries and stateless persons) and legal persons (i.e. legal persons registered in accordance with the procedure established by the legal acts of the Republic of Lithuania, and legal persons of foreign countries and any foreign organisation, which is recognised as the subject of the law) of

[47] Republic of Lithuania Law on Land Tax. Official Gazette *Valstybės žinios.*2011 (163-7743*).* Part 2, Article 8.

the Republic of Lithuania and foreign states. As of 1 January 2012, the immovable property tax is paid by all natural persons (both permanent and temporary residents of Lithuania) for all immovable property in their ownership or acquired by them (i.e. under a sale and purchase instalment contract).

The following exceptions are established for natural persons:

- immovable property or part thereof transferred for use to a legal person indefinitely, or for a period longer than one month (the legal person is the taxpayer for this period);
- structures (premises) intended for use as a dwelling, gardens, garages, homesteads, greenhouses, farms, subsidiary farms, used for the purposes of science, religion, and recreation, and fish-farming structures as well as engineering structures, if their total value does not exceed 220,000 EUR (as of 1 January 2015).[48] From 1 January 2015 another exception was introduced – families raising three and more children (including adopted children) under 18 years of age, and families raising a disabled child (including adopted child) under 18 years of age, as well as an older disabled child (including adopted child), in relation to whose special need continuous care has been determined. In such cases, the value of the non-taxable immovable property is increased by 30 %.[49]

It should be noted that "if a natural person obtains immovable property according to a financial lease agreement, which provides for the transfer and acceptance of ownership, and according to a sale and purchase instalment contract or mortgage agreement, and if the information about a corresponding agreement is registered in a public state register, the immovable property tax shall be paid by a natural person, even though according to the data of State Enterprise Centre of Registers the indicated owner of immovable property is e.g. a leasing company, seller or another person«.[50]

Pursuant to the Republic of Lithuania Law on Land Tax, the payers of land tax are the owners of private land, both natural persons (who acquired the land by means of purchase, sale, inheritance and other legal ways), and legal persons (who are registered in the Register of Legal Entities), who own plots of land in accordance with the right of ownership. As of 1 January 2013, the management companies of a collective investment entity are also included as taxpayers. The following entities are exempt of the land tax:

- diplomatic missions and consular posts of foreign states, international inter-governmental organisations and their missions;
- bankrupt companies;

[48] Republic of Lithuania Law on Immovable Property Tax. Official Gazette *Valstybės žinios.* 2005 (76-2741). State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania. Available at: http://www.vmi.lt/ [accessed 25/06/2016].
[49] State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania. About Immovable Property Tax for Individuals. Publication. For Legal Persons. Available at: http://www.vmi.lt/ [accessed 24. 6. 2016].
[50] Republic of Lithuania Law on Immovable Property Tax. Official Gazette *Valstybės žinios.* 2005 (76-2741). State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania. Available at: http://www.vmi.lt/ [accessed 25/06/2016].

- the Bank of Lithuania;
- land owners, where the tax payable by them during the tax period for all plots of land owned does not exceed 5 LTL (1.45 EUR) and as of 2015, does not exceed 2 EUR[51].

1.4 Tax Rates

The immovable property tax rate is between 0.3 % and 3 % of the taxable value of immovable property. The land tax rate is between 0.01 % and 4 % of the taxable value of land. As stated earlier (section 1.2), municipalities have the right to determine specific rates of immovable property tax and land tax, within the limits established by the law. Moreover, in accordance with the Republic of Lithuania Law on Immovable Property Tax, the municipal councils can establish several specific tax rates within the range of 0.3 % and 3 % of the taxable value of immovable property, which are differentiated with respect to one or several of the following criteria: the purpose of immovable property, its use, its legal status, its technical characteristics, maintenance condition, the categories of taxpayers (size, legal form, or social status), or the location of immovable property within the jurisdiction of a municipality (according to the priorities indicated in the municipality's strategic planning and planning documents).

The same rights are granted to municipal councils in relation to establishing specific land tax rates. Differentiation of the land tax rates is based on one or more of the following criteria: the main purpose of the use of the land, the manner of its use, the exploitation or its absence of a plot of land, the size of the land, the categories of taxpayers (size, legal form, or social status), and the location of the land within the jurisdiction of a municipality.[52]

The lists of criteria stipulated by the law are final. For example: for 2015, Vilnius' City Municipal Council approved the following rates for the immovable property tax:[53]

- 0.7 % tax rate for hotels and recreation-type structures, etc.;
- 3 % rate for premises and structures, which are not exploited or which are exploited but not in accordance to its original purpose, or which are abandoned or neglected, etc.;
- 1 % rate for all other categories of immovable property, which do not fall under either the 0.7 % or the 3 % rate categories.

[51] Republic of Lithuania Law on Land Tax. Official Gazette *Valstybės žinios.* 1992 (21-612).
[52] Republic of Lithuania Law on Immovable Property Tax. Official Gazette *Valstybės žinios.* 2005 (76-2741). Republic of Lithuania Law on Land Tax. Official Gazette *Valstybės žinios.* 1992 (21-612).
[53] Decision of the Vilnius City Municipality Council on determination of the tax rates of immovable property for 2016 No. 1-2348 of 15 April 2015 and Decision of the Vilnius City Municipality Council on determination of the tax rates of land for 2016 No. 1-2347 of 15 April 2015. http://vilnius.lt [accessed 15.06. 2016].

Vilnius City Municipality Council has also established the following tax rates for 2015 for private land situated within the administrative boundary of the Vilnius City Municipality:[54]

- 0.4 % of the taxable value of land used for commercial, industrial and warehousing purposes;
- 3 % of the taxable value of unexploited plots of land;
- 0.2 % of taxable value of land for other categories of land, which do not fall under 0.4 % or the 3 % rate categories.

Moreover, the Vilnius City Municipality determined a taxation threshold (up to 10 are) for the land holdings of certain categories of persons, e.g. persons with a 0 - 40 % working capability (before 30 June 2007 – I and II groups of disability), persons on a pension, minors (under 18 years of age), if the family of such persons does not have any family member with official working capacity.

The land tax is reduced in the amount of 70 % to taxpayers, whose land falls under the category of non-urbanised locations (as provided in the relevant planning documents). A list of these plots of land are provided to the State Tax Inspectorate (under the jurisdiction of the Ministry of Finance of the Republic of Lithuania) (hereinafter STI) before the 1st of June of the coming year. The State Tax Inspectorate informs the State Tax Inspectorate of Vilnius County about the decision adopted on the determined specific rates of immovable property tax and land tax no later than before the 10th of that month.[55]

Decisions of the Municipal Council concerning the rates of land tax and immovable property tax are announced in the local press or by an official statement in the press concerning the adopted decisions, while the full text is published on the internet website of the corresponding municipality. The land tax and the immovable property tax rates valid in the municipalities are also announced on the internet website of the State Tax Inspectorate.[56]

1.5 Administration

The administration of immovable property and land taxes is regulated by the Republic of Lithuania Law on Tax Administration, Republic of Lithuania Law on Immovable Property Tax (LIPT, Articles 11 and 12), and Republic of Lithuania Law on Land Tax (Article 12 and 13). The Law on Tax Administration (LTA) establishes the main concepts and rules, determines the functions, rights and duties of the tax administrator, the rights and duties of taxpayers, the calculation and payment procedure of taxes, procedure for the examination of pre-trial taxation disputes, etc.[57] The administrator of the immovable

[54] Ibid.
[55] Ibid.
[56] State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania. Available at: http://www.vmi.lt/ [accessed 24. 6. 2016].
[57] Republic of Lithuania Law on Tax Administration. Official Gazette *Valstybės žinios.* 2004 (63-2243).

property tax and land tax is the State Tax Inspectorate and the territorial state tax inspectorates (part of the structure of the State Tax Inspectorate). The tax period for the immovable property tax is a calendar year.

The immovable property tax is calculated, declared and paid by the taxpayer based on the taxable (basic) value. The value is established by the property assessor (i.e. State Enterprise Centre of Registers). Taxpayers can find the value of immovable property in EUR using the taxable structure's unique number on the internet website of the State Enterprise Centre of Registers: www.registrucentras.lt. Data of the Real Property Register and Real Property Cadastre required for the calculation of taxes is provided by the property assessor to a local tax administrator twice a year, i.e. before the 1st of February and before the 1st of August. (LIPT, Art. 11(1)).

Natural persons begin the calculation of the immovable property tax from the month after they acquired ownership to the immovable property, accepted the management responsibility of the acquired immovable property, or when the rented (loaned for use) immovable property was returned to a citizen by a legal person.

The immovable property tax is not calculated from the month following the transfer of ownership, rights to the acquired immovable property were transferred or immovable property was rented or loaned for use to a legal person.[58] Legal persons begin the calculation of the immovable property tax starting from the month, following that month in which: (1) they acquire the right of ownership to immovable property; (2) take over the management of the immovable property being acquired; (3) the taxpayer restored the rights to the immovable property being acquired, or rights by which immovable property is transferred to them during the period the immovable property (or part thereof) owned by a natural person in accordance with the right of ownership is transferred indefinitely or for a period longer than one month for use by a legal person or is acquired by them, the immovable property tax shall be paid by that legal person. Legal persons cease to calculate the tax starting from the month, following that month in which they: (1) transfer the right of ownership to immovable property; or (2) transfer rights to the immovable property being acquired or lose these rights. When immovable property is returned to a natural person (in the case indicated in Article 3(3) of the Law on Immovable Property), tax shall not be calculated from the month, following that month, in which immovable property is returned.[59]

Taxpayers (natural persons) provide a tax return to the territorial state tax inspectorate before 15 December of the current tax period, on their immovable property for structures (premises) intended for dwelling purposes, gardens, garages, homesteads, greenhouses, farms, subsidiary farms, science, religion, and recreation, fish-farming structures as well

[58] Information about Immovable Property Tax. State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania. Available at: http://www.vmi.lt/ [accessed 24. 6. 2016].
[59] Republic of Lithuania Law on Immovable Property Tax. Official Gazette *Valstybės žinios.* 2005 (76-2741).

as engineering structures that they own or that they are in the process of acquiring, and the total value of which exceeds 220,000 EUR.

The immovable property tax for the other immovable properties of taxpayers (both natural and legal persons) is paid and the tax return submitted before the 1st of February of the next year.[60]

Co-owners calculate, declare and pay the tax in proportion to the value of immovable property held (or acquired) by them. The tax imposed on the immovable property held under (or being acquired by) joint ownership may be calculated, declared and paid by one of co-owners. (LIPT, Art. 12 (2))
Legal persons are required to make advance payments of the tax but only in respect of the immovable property owned by that legal person as at 1 January of the current calendar year, and only if the annual amount of tax levied on this property is greater than 435 EUR a year. Moreover, where the taxable value of immovable property during the current calendar year exceeds the tax value during the previous calendar year, the advance payment for this immovable property may be calculated on the basis of the taxable value of immovable property during the previous calendar year.[61]
Advanced payments have to be declared in the tax return, thus providing an audit trail. Advanced payments may not be made by legal persons for any immovable property which they took over from a natural person. Advance payments are not required from natural persons for their immovable property.

The tax period for the land tax is also a calendar year. The territorial tax inspectorates calculate the tax in accordance with the procedure established by the central tax administrator (STI) and provide demands for payment to the taxpayers (both natural and legal persons) by 1st of November of the current tax period. Taxpayers are obliged to pay the land taxes before 15th November of the current tax period.

New owners of land must pay tax according to the following procedure:

- if the land is acquired in the first six months of a year, tax is payable for the whole year;
- if the land is acquired in the last six months of a year, tax is payable from the beginning of the following calendar year.

Land tax is not payable when:

- land is transferred in the first six months of a year - applicable in the same year;

[60] Republic of Lithuania Law on Immovable Property Tax. Official Gazette *Valstybės žinios.* 2005 (76-2741). Information about Immovable Property Tax. State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania. Decree No VA-40 of the Head of State Tax Inspectorate under the Ministry of Finance of 29 May 2007(real property tax declaration form). Official Gazette *Valstybės žinios.* 2007 (63-2449). Available at: http://www.vmi.lt/ [accessed 24. 6. 2016].
[61] Ibid.

- land is transferred in the last six months of a year – applicable starting the following year.[62]

Taxable values of land can be found on the internet website of the property assessor State Enterprise Centre of Registers (www.registrucentras.lt) by entering the unique cadastral number of the land. In accordance with Article 13(1) of the Republic of Lithuania Law on Land Tax, "data of the Real Property Register and Real Property Cadastre required for the calculation of taxes, as well as data on abandoned agricultural land shall be provided by a property valuation company to a tax administrator in the manner and within a period provided for in the agreement between the property valuation company and the central tax administrator, in any event, no later than 1st September of every tax period«.[63]

It is the duty of a taxpayer to calculate the tax and to pay the correct amount. If a taxpayer fails to calculate the tax correctly or to pay it in full and on time, the tax payable is calculated by the State tax inspectorate. The State Tax Administrator calculates the tax on the basis of tax returns submitted by taxpayers, accounting and other documents, or by using other special methods of tax calculation (e.g. tax calculation with the application of the principle of substance over form.). Article 68 of the Republic of Lithuania Law on Tax Administration establishes a statute of limitations on tax calculation and recalculation. Taxpayers or tax administrators can calculate or recalculate tax for no more than the current and five previous calendar years, counting back from the 1 January of the year taxes were first calculated or recalculated. Longer periods can be taken into account only when a criminal case requires the determination of damages to the state, and the statute of limitations for the passing or execution of a judgement of conviction established in the Criminal Code has not yet expired.

Different methods of enforcement of the tax obligation can be applied in cases of non-performance or improper performance of fiscal obligations (e.g. the additional payment of interest on the outstanding debt, property seizure, instructions given to a credit or payment or electronic money institution to terminate the withdrawal and transfer of money from the taxpayer's account(s) ; mortgage; or guarantee). Interest on late payment is calculated beginning with the day after the day on which the immovable property tax and land tax was due to be paid. Such interest is calculated for a period not exceeding 180 days from the day following the expiry of the time limit provided by the law.[64] (LTA, Art. 95-100). The amount of interest and the procedure of its calculation is established by the Minister of Finance of the Republic of Lithuania. For example, as of 1 July 2016, the established amount of interest for unpaid or the delayed payment of tax for the third quarter of 2016 is 0.03 % for each day of delay.[65]

[62] Medelienė A., Sudavičius B. Tax Law. Vilnius: State Enterprise Centre of Registers. 2011. P. 397.
[63] Republic of Lithuania Law on Land Tax. Official Gazette *Valstybės žinios.* 1992 (21-612).
[64] LTA, Art. 95-100.
[65] Ministry of Finance of the Republic of Lithuania. Available at: http://finmin.lrv.lt/ [accessed 24. 6. 2016].

Moreover, an economic sanction (fine) can be imposed on a taxpayer for an illegal reduction of tax due. If the tax administrator determines during the course of an examination that a taxpayer has failed to calculate taxes or has failed to declare taxes or has intentionally applied a lower tax rate, which has resulted in an illegal reduction of payable tax,[66] a penalty is imposed on a taxpayer. In this case, the amount of tax underpaid is calculated and a penalty equal to between 10% to 50 % of the amount underpaid is imposed. The amount of the actual penalty is conditional on the type of violation, on whether the taxpayer has cooperated with the tax administrator, on the acknowledgment of having committed a violation of tax laws, and on other circumstances.

Taxpayers are also entitled to be credited and refunded of tax overpaid against any arrears in payment of the taxpayer (the crediting procedure is established by the central tax administrator). The tax administrator has the right to verify whether or not the taxpayer's request for a refund of any overpayment is substantiated. If the request is substantiated, the overpayment is refunded within 30 days from the date of receipt of a written request to refund the tax overpayment (LTA, Art. 87). Upon examination of a taxpayer's request, the tax administrator may adopt a decision to refuse or to refund the amount overpaid. The decision of a local tax administrator to refuse a refund or to credit the taxpayer for an overpayment can be appealed to the Central Tax Administrator (State Tax Inspectorate).

The compulsory pre-hearing procedure is applied to the settlement of tax disputes[67] (including the decision to refuse the refund (credit) of tax overpayment) as well as any appeals filed by the taxpayer against the tax administrator's decision to refuse an exemption from penalties and/or the payment of interest. The following are the institutions which may be party to such a hearing:

1) Central Tax Administrator (which examines tax disputes arising between the taxpayer and the territorial tax administrator (LTA, Art. 150);
2) Commission on Tax Disputes under the Government of the Republic of Lithuania (responsible for dealing with tax disputes arising between the taxpayer and the central tax administrator; tax disputes arising between the taxpayer and the central tax administrator over decisions adopted by the central tax administrator after the examination of appeals filed by the taxpayer against the decisions made by the territorial tax administrator; and tax disputes arising between the taxpayer and the central tax administrator where the central tax administrator has failed to adopt a decision in a tax dispute within the time limits laid down in the Law on Tax Administration (LTA, Art. 151)).

[66] Article 139 of the Law of the Republic of Lithuania on Tax Administration.

[67] In accordance with Art. 2(21) of the Law on Tax Administration of the Republic of Lithuania currently in force "tax disputes" means *"disputes arising between the taxpayer and the tax administrator over a decision on the approval of an inspection report or any other similar decision on the basis of which the tax is calculated anew and the taxpayer is instructed to pay it, also over a decision made by a tax administrator to refuse the refund (crediting) of a tax overpayment (tax difference)."* Official Gazette *Valstybės žinios*. 2004 (63-2243).

Following a corresponding decision of the central tax administrator concerning tax disputes, a taxpayer has a right of appeal against the decision in a court of law. Judicial institutions for tax disputes are the following: the Vilnius District Administrative Court and Lithuanian Supreme Administrative Court (in the procedure of appeal).

1.6 Valuation

According to the Law on Immovable Property Tax (Art. 8), the taxable value of immovable property is the average market value of that immovable property. The value of immovable property used for commerce, and the immovable property intended for dwelling purposes, gardens and garages (e.g. car garages, and boathouses) and subsidiary farms (household buildings located on private land parcels of house holdings, land parcels of agricultural land of farmsteads, land parcels of gardens and intended for meeting the basic needs of the inhabitants on a sustained basis) is established in accordance with the latest documents on the mass valuation of immovable property approved by the Government of the Republic of Lithuania in an established procedure [68]

The taxable value of engineering structures and other immovable property not specified earlier cannot be older than the last past five years. As mentioned before, the valuation of immovable property is performed by the property assessors of the State Enterprise Centre of Registers. Taxable values of immovable property (engineering structures) are established on 1 January 2011 and are used to calculate tax for a five year period (in 2011, 2012, 2013, 2014 and 2015).

The valuation of immovable property reflects the purpose of the property. Thus:

- the valuation of immovable property used for commerce (i.e. administration, trade, medical, scientific and other types of structures) is based on the comparative method of valuation (comparable sales) or the value-in-use (capitalisation of income or discounted cash flows) by applying mass valuation principles to the transactional data on the immovable property;
- the valuation of immovable property intended for dwelling purposes, gardens and garages and subsidiary farms (household buildings located in private land parcels of house holdings, land parcels of agricultural land of farmsteads, land parcels of gardens and intended for meeting the basic needs of the inhabitants on a sustained basis) is also based on the method of comparative method of valuation (comparable sale prices) using mass valuation principles;
- the valuation of engineering structures is based on the recoverable value (cost) method (by calculating the percentage of physical deterioration) using data from the Real Property Cadastre and the Real Property Register, the price lists of costs (construction value) for the restoration of immovable property, and the normative standards of the average working life of construction works;

[68] At the moment the valid document is the Resolution No. 234 of 23 February 2011 of the Government of the Republic of Lithuania on Amendment of the Resolution No. 1049 of 29 September 2005 on the Approval of Rules for the Valuation of Immovable Property. Official Gazette. *Valstybės žinios* 2012. No. 40-1942.

- the valuation of other immovable property is also performed using the recoverable value (cost) method (by calculating the percentage of physical deterioration), applying the location adjustment coefficient taking account of the impact of the location on the immovable property using data of the Real Property Cadastre and the Real Property Register, the price lists of costs (construction value) for the restoration of immovable property, and the normative standards of the average working life of construction works. (LIPT, Art. 9).

For the establishment of the average market value of immovable property using the comparative method or value-in-use method, data from the Real Property Cadastre and the Real Property Register are used. If there is insufficient data on market transactions, additionally public information from immovable property agencies and immovable property purchase offers can be used in order to verify the valuation and perform the valuation of the immovable property. Data on the immovable property market are verified using statistical reliability criteria. If the data conform to these criteria, it is considered to be reliable and appropriate for the compilation of value zones of immovable property and valuation models. Statistically unreliable data are not used for the valuation of property.

When the recoverable value (cost) method is applied, the latest price lists of costs (interpreted as the construction value) of the reconstruction of similar immovable property and normative standards of the average working life of construction works, and location adjustment coefficients are used. Moreover, relevant data from the Real Property Cadastre and the Real Property Register may also be used to perform valuation[69].

Taxpayers who disagree with the property valuations made using mass valuation methods can submit a request to the Centre of Registers to consider that the taxable value of their property is the value determined by an individual valuation (carried out by the Centre of Registers or private property assessors) of the immovable property, performed in accordance with the Republic of Lithuania Law on Basics of Property and Business Valuation. The report by the Centre of Registers or assessors on the individual valuation of immovable property should conform to the following requirements:

- the individual valuation should be performed using the usual methods for the determination of the value of immovable property[70];
- the valuation made by the Centre of Registers using mass valuation methods differs from the valuation of immovable property determined by individual valuation by more than 20 %; and
- the report of the individual valuation of immovable property should conform to the requirements set forth by the Government of the Republic of Lithuania (e.g. the valuation date is not later than three months from the date of its submission to the

[69] Resolution No. 234 of 23 February 2011 of the Government of the Republic of Lithuania.
[70] As indicated in Article 9(2) of the Law on Immovable Property Tax (method of comparative value (comparable sale) or using mass valuation of immovable property or value-in-use by applying mass valuation of the immovable property, recoverable value (cost) method).

assessor; the conditions and limitations indicated in the report should not prevent it from being used for the purposes of verification of taxable value.)

The decision adopted by the property assessor can be appealed in accordance with the procedure established by the Republic of Lithuania Law on Proceedings of Administrative Cases.[71]

Taxpayers, who believe that the State Enterprise Centre of Register used inaccurate information related to the establishing the taxable value of immovable property or that errors occurred during valuation, have a right to file a claim concerning the established value of immovable property with the property assessor within three months following determination of the taxable value. The assessor is obliged to examine the claim and to adopt a decision within two months from the date of receipt of the claim. The decision of the property assessor can be appealed to the administrative court of the Republic of Lithuania[72]. The tax assessor is obliged to inform the territorial tax administrator about the receipt of a claim, or the request of a taxpayer, or about the decisions adopted in relation of the claim or request, no later than within one working day from the date of receipt of a corresponding claim or request or the date of adoption of a decision[73].

The land tax base is the taxable value of land. The taxable value of land is the average market value of the land[74], which is calculated according to the land value maps prepared during the process of the mass valuation of land. Data available at the Real Property Cadastre and the Real Property Register are used to perform the mass land valuation. The taxable land value is the land value established with the help of individual valuations of land parcels. However, the individual land valuation must conform to the following requirements:

- the average market value of land determined by a property assessor or the State Enterprise Centre of Register during mass valuation must differ by no less than 20 % from the value of the land determined by an individual valuation of land; and
- the difference between the average market value of land determined by the property assessor and the value of land determined with the help of an individual valuation occurred for reasons other than the use of land not being in accordance with its authorised purpose, manner, disposal, mortgage limitations or other obligations of the owner; and

[71] Law on Immovable Property Tax. Article 10. Official Gazette *Valstybės žinios.* 2005 (76-2741). Information about Immovable Property Tax provided by State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania. Available at: http://www.vmi.lt/ [accessed 24. 06. 2016]. Resolution No. 234 of 23 February 2011 of the Government of the Republic of Lithuania on Amendment of the Resolution No. 1049 of 29 September 2005 on Approval of Rules for Valuation of Immovable Property. Official Gazette *Valstybės žinios.* 2012 (40-1942).

[72] In accordance with the procedure established by the Republic of Lithuania Law on Proceedings of Administrative Cases (Art. 10 LIPT).

[73] Art. 10(3) LIPT.

[74] Art. 9 of Law on Land Tax.

- the report of the individual valuation of the land should conform to the requirements established by the Government[75] [76].

Taxpayers are entitled to request that the land value be determined by an individual land valuation as the taxable value of land once per tax period (by submitting a request).

The taxable value of land for agricultural purposes (with the exception of abandoned agricultural land) is its average market value or the value determined by the individual valuation of land multiplied by a coefficient 0.35 [77].

The land valuation is performed by the Centre of Registers using maps of land value zones prepared with the help of mass land valuation techniques and models to determine the average market value of the land parcel using the following mathematical formulas:

- additive models, such as: $S = b_0 + b_1X_1 + b_2X_2 + \ldots + b_pX_p$;
- multiplication models, such as: $S = b_0 \times X_1^{b1} \times X_2^{b2} \ldots \times X_p^{bp}$;
- hybrid models, such as: $S = X_1^{b1} \times X_2^{b2} x \ldots b_i^{Xi} x \ldots (X_j^{bj} + \ldots + X_p^{bp})$.

where S is the calculated value, X_1, X_2, ..., X_p are the independent variables, p is the number of independent variables, b_0 is a constant, and b_1, b_2, …, b_p are independent variable coefficients.[78]

Mass valuations for the calculation of taxable values of land are performed at least once every five years. Taxable values of land are determined on 1 January 2013 and are used to calculate tax for a period of five years (i.e. in 2013, 2014, 2015, 2016 and 2017. Thus new taxable land values are due for introduction in January 2018). If a taxpayer disagrees with the average market value of land determined by a valuation company, an objection can be submitted to the property valuation company within three months from the date of the establishment of taxable value of land. The property valuation company is obliged to adopt a decision within two months following the date of receipt of a claim. This decision can be appealed to the administrative court.

[75] Valuation date is not older than three months from the date of its submission to the property valuation company; conditions indicated in the individual valuation report do not violate the requirements established by Article 9(2) of the Republic of Lithuania Law on Land Tax of the Republic of Lithuania).
[76] These requirements are consolidated by the Resolution No. 1523 of 12 December 2012 of the Government of the Republic of Lithuania on Approval of the Rules of Mass Valuation of Land and Implementation of Provisions of the Republic of Lithuania Law on Land Tax Official Gazette *Valstybės žinios.* 2012 (146-7536).
[77] Art. 9, Part 4 of LLT.
[78] Resolution No. 1523 of 12 December 2012 of the Government of the Republic of Lithuania on Approval of the Rules of Mass Appraisal of Land and Implementation of the Provisions of the Republic of Lithuania Law on Land Tax. Official Gazette *Valstybės žinios.* 2012 (146-7536).

It should be stated that the property and business valuation system used in Lithuania is multifaceted. The »best« practice of foreign countries was used as the basis for the development of this system, and it conforms to the international principles for the organisation of operations of property and business assessors.[79]

1.7 Revenue performance

As seen from Tables 5.1 and 5.2 below, the real property tax is an insignificant source of revenue for the national budget but it is a substantial source of revenue for local government, especially for large and economically strong municipalities, such as the city of Vilnius. The real property tax is also the only tax source over which local governing bodies have any degree of control. For example, the local council can set the tax rates (within the limits stipulated in the tax law) or grant some concessions or exemptions at the expense of the local budget revenue.

[79] Galinienė B., Juškaitis D. Development of the System of Valuation of Lithuanian Property and Business: Legal, Methodological and Organisational Aspects. International School of Law and Business. Vilnius. 2012 (7(1)). P. 81.

Table 5.1: Relevance of Property Tax Revenue

Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Total revenue at national level, in mln. EUR	5,952	7,084	8,194	10,000	11,447	9,639	9,921	10,487	10,985	11,486	12,440	12,975
Tax revenue at national level in mln. EURs	3,618	4,234	5,024	6,013	6,809	4,715	4,614	4,989	5,333	5,621	5,965	6,436
Total revenue at local level, in mln. EUR	1,259	1,345	1,592	1,663	2,053	1,937	1,989	1,976	1,992	1,957	2,125	2,367
Tax revenue at local level in mln. EURs	505.2	579.7	683.3	861.9	1102.0	926.3	878.3	814.6	857.3	864.1	1,077	1,240
Property tax revenue at local level in mln. EURs	71.8	72.1	79.2	83.5	89.1	94.5	102.7	96.9	93.8	95.4	106.6	125.4
Property tax revenue as % of total state revenues	1.21 %	1.02 %	0.97 %	0.83 %	0.78 %	0.98 %	1.04 %	0.92 %	0.85 %	0.83 %	0.86 %	0.97 %
Property tax revenue as % of total state tax revenue	1.98 %	1.70 %	1.58 %	1.39 %	1.31 %	2.00 %	2.23 %	1.94 %	1.76 %	1.70 %	1.79 %	1.95 %
Property tax revenue as % of total local revenues	5.70 %	5.36 %	4.98 %	5.02 %	4.34 %	4.88 %	5.17 %	4.91 %	4.71 %	4.88 %	5.02 %	5.30 %
Property tax revenue as % of total tax revenues at local level	14.21 %	12.44 %	11.60 %	9.68 %	8.09 %	10.20 %	11.70 %	11.90 %	10.94 %	11.04 %	9.90 %	10.11 %

Table 5.2: The relevance of real property tax revenue for the budget of Vilnius Municipality

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015
Total revenue in thousand EURs	252,156	294,359	331,261	290,815	286,357	295,572	293,170	335,819	369,516
Total tax revenue in thousand EURs	151,950	174,419	171,995	163,077	131,678	135,727	139,956	191,317	214,241
Property tax revenue in	24,653	24,433	28,138	33,030	32,581	32,047	26,890	31,012	28,133

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015
thousand EURs									
Land tax revenue in thousand EURs	1,186	1,203	1,133	1,222	1,130	1,257	1,514	1,644	1,677
Property tax revenue as % of total revenue	9.78 %	8.30 %	8.49 %	11.36 %	11.38 %	10.84 %	9.17 %	9.23 %	7.61 %
Property tax revenue as % of tax revenue	16.22 %	14.01 %	16.36 %	20.25 %	24.74 %	23.61 %	19.21 %	16.21 %	13.13 %
Land tax revenue as % of tax revenue	0.78 %	0.69 %	0.66 %	0.75 %	0.86 %	0.93 %	1.08 %	0.86 %	0.78 %

Source: Vilnius City Municipality, 2016: http://www.vilnius.lt/.

1.8 Reform

The development of real property taxation occurred in parallel with the process of the restitution of rights to private ownership of property and the privatization processes implemented since 1990. The first major reforms were undertaken in 2005 with the aim of modernizing the existing system of real property taxation, to broaden the tax base, and to close loopholes in the then existing legislation. At that stage in addition to legal entities, individuals became subject to real property taxation, if their residential property was also used for commercial or production activities. However, real property used solely for residential purposes remained untaxed.

The second wave of reforms happened in 2011-12. As a result, since 2012 residential housing in excess of value of 1 mln. LTL[80] has become subject to taxation at the rate of 1 % of the average market value as determined by mass appraisal methods. The taxation of land has also been subjected to reforms. Since 2013, the amount of the tax payable is based on the market value of the land which is determined using land value maps developed during a mass land appraisal process.

Since then there has been much criticism expressed at the principle of taxing residential housing (flats and houses) in general, and specifically to the imposition of a tax threshold of 1 mln. LTL. Firstly, the proceeds from the tax are not used to supplement local-government budgets but flow instead to the treasury of central government. Such practice contradicts the “benefits received« principle of »fair« taxation - the very principles on which the perception of a real property tax as an “ideal« tax for local governments are based. The decision to make a certain part of real property tax a revenue source for central

[80] An equivalent of 290,000 EUR at the exchange rate of 1 EUR=3.45 LTL, the rate at which LTL has been converted to EUROs after the introduction of EUR as an official currency on January 1st, 2015.

government also works against the goal of fiscal decentralization. It deprives local authorities of much needed own resources as well as undermining any claim to (fiscal) autonomy from the central government.

Second, the collected revenue from this source has been meager. Instead of the estimated 17 mln. Litai (4.9mln EUR) in revenue, the government has collected only 3.8 mln. Litai (1.1 mln EUR) [81] . This result is at least in part due to the ability of individuals with high value property ownership to avoid or evade the tax by various means, including the transfer of the title to the property to other persons.[82] As a consequence, this tax as implemented failed to achieve the government's stated goal of increased "social justice« which was used to justify this tax.

However, the intention of the government to broaden the base of the real property tax by taxing residential housing remains, despite the unpopularity of a such tax among the wealthier residents and any misgivings about the various tiers of government's ability to introduce and administer this tax in a »fair« and equitable way. Since January 2017, the threshold for property values liable for taxation has been lowered to 750,000 litai (220,000 EUR), and tax rate lowered to 0.5 %. This means that a 0.5 % rate is applied to the property value exceeding the assessed value of 220,000 EUR.

As expected the reform continues in such an "incremental« way. Starting with the 2018 fiscal year, a progressive tax rate structure comes into effect. Following legislative amendments[83], the following tax brackets have been established:

- where the property value exceeds 220,000 EUR, the part of value above 220,000EUR is taxed at 0.5% rate;
- where the property value exceeds 220,000 EUR but less than 300,000 EUR, the part exceeding 300,000 EUR is taxed at 1% rate;
- for property valued between 300,000 EUR and 500,000 EUR, the excess value above 500,000 EUR is taxed at 2% rate. [84]

A higher nontaxable threshold applies to persons who have three or more children (or adopted children) under 18 years of age or have a child (inclunding an adopted child) with disabilities. The age limit of 18 does not apply if it is established that child (adopted child) requires continuous and special care. For those persons the following brackets apply:

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[81] Lithuanian Free Market Institute. Available at http://verslas.delfi.lt/nekilnojamas-turtas/kleontjeva-sprogo-gyventoju-nt-mokescio-burbulas.d?id=60680573#ixzz2LXJ57vFF [accessed 22. 6. 2016].

[82] Šulija V. Theories Substantiating Taxation of Immovable Property and Their Implementation at the Time of Amendment of the Immovable Property Tax Law and Land Tax Law. Problems of tax policy: 1'st international scientific conference: 17 May 2012. Vilnius: Mykolas Romeris University, 2012. ISBN 9789955194224. P. 73. Available at:http://www.mruni.eu/en/university/faculties/ekonomikos_fakultetas/katedros/finansu_mokesciu_katedra/conference_problems_of_tax_policy/ [accessed 30/03/2015].

[83] Amendments to articles 6, 7, 11, 12, and 14 of the Law on Immovable Property No. XIII-815.

[84] Law amending Articles 6,7,11, 12 and 14 of the Republic of Lithuania Law on Immovable Property Tax. TAR. 2017 (XIII-815).

- for property valued at less than 286,000 EUR is not taxable, but the value in excess of 286,000 is taxed at 0.5% tax rate;
- for property with a value exceeding 286,000 EUR but less than 390,000 EUR the part exceeding 390,000 is taxed at 1%;
- for property valued between 390,000 and 650,000 EUR, the value above 650,000 EUR is taxed at 2% rate. [85]

As of January 2018 part 6 of article 7 of the Law on Immovable Property has been abolished, thus, residential property is no longer taxed at a household level, because the provison has been found to be unconstitutional [86]. The tax on immovable property is determined at the individual level. i.e. the basic exemption of 220,000 EUR is applied to each person in possession of residential immovable property. The same rule applies to married couples, with each of the spouses being eligible to the basic exemption of 220,000 EUR.

Other potential reforms should be aimed at making real property taxation more transparant, easier to administer, and understandable to taxpayers. At present, the real property taxation is regulated by two separate laws. Since both land and buildings belong to the class of real (immovable) property the rules that govern the taxation of such property should be unified under a single legislative act.[87] The stability, clarity, and simplification achieved through merging the two separate laws into one would also benefit the development of the real estate business.[88] At the same time the high number of exemptions and loopholes could be eliminated. As indicated above, the tax is highly susceptible to tax avoidance and evasion, therefore greater efforts should be exerted to ensure tax compliance.

2 Evolution of real estate markets

2.1 Property restitution

The process of the re-establishment of the rights of ownership in Lithuania was rather lengthy. The first legal enactments relating to the restitution of property were adopted in 1991[89]. These laws consolidated the basics relating to the return of land expropriated in

[85] Ibid. Art. 6 (5).
[86] The decision No . KT24-N14/2015 of September 22, 2015 of the Constitutional Court of the Republic of Lithuania.on the conformity of Article 7 of the Republic of Lithuania Law on Immovable Property Tax (version valid on December 21, 2011) to the Constitution of the Republic of Lithuania. TAR. 2015 (14100).
[87] Resolution No 1016 of 11 August 1998 of the Republic of Lithuania „On the Programme of Improving Taxation Legislation". Official Gazette *Valstybės žinios*. 1998 (72-2102).
[88] Kristinaitis, K. 2014., available at http://lntpa.lt/k-kristinaitis-noredami-skaidrios-nt-apmokestinimo-sistemos-turime-sujungti-nt-ir-zemes-mokescius/ [accessed 22. 06. 2016].
[89] On 25 July 1991 the Supreme Council - the Reconstituent Seimas adopted the Republic of Lithuania Law on Land Reform (Official Gazette, 1991, No. 21-545) and the Law of the Republic of Lithuania on Procedure and Conditions for the Restoration of Ownership Rights of Citizens to Remaining Immovable Property of 31 July 1991 (Official Gazette 1991, No. 24-635, void).

1940 and the restoration of ownership rights to the nationalised or otherwise illegally communized immovable property. However, these first laws had many legal gaps and other errors. Therefore after multiple amendments and supplements, new editions of these articles were adopted.[90] Having adopted the amendments and supplements of this law and of Article 10 on 3 August 2001, the rights of ownership could be restored to those citizens, whose applications for restoration of the ownership rights to the immovable property in the Republic of Lithuania were submitted before 31 December 2001.

In accordance with the Law on Land Reform, the rights of ownership of the citizens is restored for the following kinds of property: land, forests, water bodies, structures used for economic and commercial purposes, residential houses together with their appurtenances. The law also consolidated the conditions according to which the state can buy out the remaining immovable property, for example, the land purchased by the state from citizens who are entitled to be compensated for it if it is occupied by the gardens of gardeners' societies; or if it lies within such territories as state reserves, national and regional parks, or reserves. As a result of the restitution processes in Lithuania in 1999, private property comprised: only 37 % of agricultural land; 13 % of urban land; and 9 % of forest land.[91] Currently about 63 % of land is privately owned and 37 % is state owned (see Table 5.3).

Table 5.3: Distribution of land resources by ownership and usage as of April, 2015

Privately owned land	
Agricultural land	50.3 %
Forest	11.1 %
Other uses	2.0 %
Total	63.4 %
State owned land	
Forest	20.0 %
Agricultural land	9.6 %
Land used for water supply	2.5 %
Land assigned for conservation	1.0 %
Other uses	4.5 %
Total	37.6 %

Source: National Land Service, 2015 http://www.nzt.lt.

[90] Law amending the Republic of Lithuania Law on Land Reform No. VII-370 of 2 July 1997(Official Gazette 1997, No. 69-1735) and the Law of the Republic of Lithuania on Procedure and Conditions for the Restoration of Ownership Rights of Citizens to Remaining Immovable Property No. VIII-359 of 1 July 1997(Official Gazette, 1997, No. 65-1558) with later amendments and supplements of this law.

[91] Šulija V. Taxation of Immovable Property in the Eastern and Central Europe. Jurisprudencija. 2006 (6 (84)). P.64.

As indicated in Table 5.3 above, most of land in private hands is used for agriculture, and most of the forests belong to the state. The process of restitution continues.

2.2 Privatization

In Lithuania, just like in many new Eastern and Central European countries of the European Union, the privatization process developed rather quickly. However it was not fully transparent, and there were gaps in the law which were misused and the law was not always applied on the most economically advantageous conditions for the country.[92] Rapid privatization boosted the development of private companies (89.1 % of which were established in 1994, and 92.9 % in 1995).[93]

The first legislative enactment – the Law of the Republic of Lithuania on Initial Privatization of State Property was adopted by the Supreme Council of the Republic of Lithuania – the Reconstituent Seimas on 28 October 1991[94] with later amendments and supplements of this law. This law established the initial privatization of manufacturing industries, the construction industry, transport, power engineering, trade, consumer services and public catering establishments as well as the institutions of commerce, culture, education, pharmacy, medicine and rehabilitation and of other state-owned property, except for land and other natural resources, agriculture, forestry, communication establishments and their property, dwellings belonging to the State and public housing funds. (The privatization procedure and conditions for this property was regulated by other laws of the Republic of Lithuania).

State property was privatized in two ways:

- by selling the objects of privatization at auctions; and
- by announcing public subscription for shares.

Privatized objects were sold and transferred for lump sums (vouchers) provided by the state, money circulating in the Republic of Lithuania or freely convertible currency, as well as for target compensations, paid additionally pursuant to other laws of the Republic of Lithuania.

When the 1991 privatization programme was launched (for vouchers), small- and medium-sized companies were privatized rather quickly (such as companies in the construction, commerce sectors[95]). For example, in 1991 and 1992, 65 % of the commercial companies, 52 % of construction companies, 55 % of consumer service

[92] Šulija V. Taxation of Immovable Property in the Eastern and Central Europe. Jurisprudencija. 2006 (6 (84)). P. 64.
[93] Solnyškinienė J. Peculiarities of Cooperative Management in Lithuania: Privatization Stigma. Kaunas University of Technology. p. 252. Available at: http://etalpykla.lituanistikadb.lt/fedora/objects/LT-LDB-0001:J.04~2004~1367185330710/datastreams/DS.002.0.01.ARTIC/content [accessed 22. 6. 2016].
[94] Republic of Lithuania on Initial Privatization of State Property. Official Gazette *Valstybės žinios.* 1991 (10-261). (Void).
[95] Rakauskienė O. G. State Economic Policy. Mykolas Romeris University. Vilnius. 2006. P. 134.

companies and 47 % of the transport companies were privatized.[96] However "in the larger industrial companies the state owned a comparatively large share of the property and all the main infrastructural companies (for example: energy, railway, telecommunications and oil refinery)«.[97]

Somewhat later, on 4 July 1995, the Law on Privatization of State-Owned and Municipal Property was passed.[98] Under this law, the objects of privatization were state-owned and municipal property (shares, holdings of shares and other property), the ownership of which was transferred to the subjects of privatization. The law provided for five methods of privatization:

- public subscription for shares;
- public auction;
- open procurement procedure;
- sale of state and municipal property by direct negotiations; and
- the grant of a lease with the option to purchase.

Those acquiring rights as a result of privatization could pay for the privatized objects only by cash payments (in LTL), and those privatization subjects registered abroad could pay in LTL or in a convertible foreign currency. On 4 November 1997 a new edition of the Law of the Republic of Lithuania on Privatization of the State-Owned and Municipal Property was adopted, which came into force on 1 December 1997.[99] The following six privatization methods were consolidated:

- public subscription for shares;
- public auction;
- open procurement procedure;
- direct negotiations
- transfer of state or municipal control within a state or municipality controlled company; and
- the grant of a lease with the option to purchase.

For the first time the law established the concept of the "strategic investor«, who is a potential buyer recognised by the resolution of the Government (being a legal person or a group of legal persons), who purchases the holding of shares owned by the state or municipality in accordance with the right of ownership, and who fulfils the obligations stipulated in the agreement. This was important for the privatization of larger industrial companies and the main infrastructure companies.

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[96] Solnyškinienė J. Peculiarities of Cooperative Management in Lithuania: Privatization Stigma. Kaunas University of Technology. p. 252. Available at: http://etalpykla.lituanistikadb.lt/fedora/objects/LT-LDB-0001:J.04~2004~1367185330710/datastreams/DS.002.0.01.ARTIC/content [accessed 22. 6. 2016].
[97] Rakauskienė O. G. State Economic Policy. Mykolas Romeris University. Vilnius. 2006. P. 134.
[98] Republic of Lithuania Law on Privatization of State-Owned and Municipal. Official Gazette *Valstybės žinios.* 1995 (61-1530). (Void).
[99] Republic of Lithuania on Privatization of the State-Owned and Municipal Property. Official Gazette *Valstybės žinios.* 1997 (107–2688).

When the second stage of privatization started in 1996, both local and foreign investors were granted equal rights to acquire privatized properties at market prices for cash payments. In 1999, the privatization of the insurance sector was completed; in 2000 that of telecommunications; and in 2002 that of the banking sector. In 2002, a strategic investor purchased 34 % of the shares of *Lietuvos Dujos* AB (Lithuanian Gas). In 1998 2,259 million LTL was received from the privatization policy, which comprised 5.2 % of the country's GDP, while 898 million LTL of privatization revenue was received in 2003, which comprised 3.7 % of the GDP.[100]

On 20 March 2014, the Law amending the Republic of Lithuania Law on Privatization of State-Owned and Municipal Property No. VIII-480 was adopted, which changed the title of the law as well (i.e. the Republic of Lithuania Law on Privatization of the State-Owned and Municipal Shares, in force as of 1 October 2014). The purpose of this law is to establish the privatisation of the state-owned and municipal shares for cash payments. The object of privatization were the shares owned by the state or the municipality (in accordance with the rights of ownership) included on the list of privatized objects approved by the Government of the Republic of Lithuania.

The privatization process progresses with a regularly supplemented list of privatization objects with additional objects owned by the state or municipalities. According to Solnyškinienė, following the financial crisis of 2008, the second wave of privatization has failed, which was related to politics rather than economics.[101] According to the 2011 data, in Lithuania the state manages more than 300 companies and the value of such property amounts to 18 billion LTL (5.22 billion EURs).[102]

2.3 Limitations on land/property ownership

After the restitution of indepence in 1990, Lithuania embraced numerous reforms to privatize and liberalize its markets, including the reinstatement of a real estate market. However the real estate market was not completely open until May 2015. In support of the popular sentiment that real estate, in particular land, should not be held by non-nationals, the state restricted the purchase of real estate by foreigners, and the last limitation to be removed was the ownership of agricultural land by non Lithuanians. On 24 April 2014 a new edition of the Temporary Law of the Republic of Lithuania on Acquisition of Agricultural Land was adopted[103] valid as of 1 May 2014, seeking to ensure personal rights to property. Thus, since 1 May 2015, agricultural land can be purchased in Lithuania both by foreigners and legal persons on equal conditions. However the law provides for a number of restrictions related to the acquisition and sale of land.

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[100] Rakauskienė O. G. State Economic Policy. Mykolas Romeris University. Vilnius. 2006. P. 134.
[101] Žylius R.: No Talk About Privatization. 2011. Available at: http://ekonomika.tv3.lt/m/naujiena/r-zylius-nera-jokios-kalbos-apie-privatizavima-12811.html [accessed 22. 6. 2016].
[102] Ibid.
[103] Temporary Law of the Republic of Lithuania on Acquisition of Agricultural Land. Official Gazette *Valstybės žinios.* 2003 (15-600); The Law on Amending the Temporary Law of the Republic of Lithuania Law on Acquisition of Agricultural Land No. XII-854. Official Gazette *Valstybės žinios*. TAR. 2014 (4860).

The amendments to the law have sparked public discussions. In the opinion of some commentators the amendments to the law not only fail to guarantee personal rights to property, but also has succeeded in limiting them. According to this law, the right to acquire agricultural land relies on the proposed purchaser's performance in agricultural activities and agricultural landed property, and the crop declaration for at least three years within the past ten years until the date of the conclusion of the agreement on acquisition of agricultural land (Art. 4(2)). Persons, who acquired such land, are granted the right to dispose of it to other natural or legal persons (e.g. to sell it), except in the cases of the transfer of the land to the state and established by the law, no earlier than in five years from the date of acquisition. Moreover, a natural person wishing to acquire agricultural land must have at least three years of professional experience and competence (i.e. education in the field of agriculture) within the past ten years before the date of conclusion of an agreement on the acquisition of agricultural land.

Also, in accordance with the aforementioned law, persons can acquire agricultural land only upon receipt of a permit issued by the subdivision of the National Land Service of the area of the location of the land. The permit is issued or a notice of refusal provided no later than 15 working days from the receipt of the application by the relevant subdivision of the National Land Service.

On 29 June 2014, a referendum on the prohibition of sale of land to foreigners and legal persons was organised (on amendment of Article 47 of the Constitution of Lithuania). However, because of the low participation of the citizens, the referendum did not take place. The organisers of this referendum sought to maintain the integrity of Lithuania's territories and protect the rights and financial safety of its farmers. However, it is believed that the prohibition of sale of land to foreigners would violate Lithuania's obligations to the EU and limit the rights of the land owners to sell their land.

2.4 Nature of the property market

The most rapid development of the (immovable) property market occurred during the periods of national economic growth in 1990-1992 and 2005-2007. This was a consequence of the country's economic development, increasing GDP, increased consumption, and the active credit policy of the banks. At the beginning of 2008, a decrease in the number of completed housing transactions was observed, and this situation continued for the entire year. In 2009-2010, the country experienced a period of economic recession, and the development of the immovable property market slowed down as the banks tightened their credit requirements.

However, by the third quarter of 2010, an increase in demand for immovable property was recorded, and in 2011 the number of immovable property transactions had been stabilised. At the beginning of 2014, the immovable property market was active, but later it quieted down. This was mostly reflected in the residential apartment sector. In the

second half of 2014 the number of sale and purchase transactions decreased by 4.8 % as compared to the first six months of the year. In 2014, Lithuania offered 6,230 new apartments to the market, which is 91 % more than in 2013. In 2014, 4,080 apartments were sold in Lithuania, which is 28 % more than in 2013. Apartment prices everywhere in Lithuania grew by 4-7 %.[104] In 2014, the number of sale and purchase transactions of land parcels decreased as compared to 2013. It is believed that this could have been a result of the adoption of the amendments to the Republic of Lithuania Law on the Acquisition of Agricultural Land,[105] related to the restrictions of the acquisition of agricultural land.[106]

According to the data in the State Enterprise Centre of Registers, in January of 2015 the number of immovable property transactions was 42 % lower than that in January of the previous year. The decrease in the number of transactions was greatly affected by the fall in the number of residential sales (apartment sales decreased by 39 %).[107] The subsequent growth of the immovable property market in 2015 could have been stimulated by the decreased level of unemployment, low interest rates and increased average wages. On the other hand, a more rapid development of the immovable property market was hindered by the supply of redundant immovable property in large cities, geopolitical risk and a do-nothing policy resulting from the adoption of the EURO on 1 January 2015. [108]

[104] New Apartments 2015: Let the Numbers Speak. Tendencies of the Immovable Property Market, January 2015, Inreal UAB, p. 1. Available at: http://www.inreal.lt/media/editor/inreal/rinkos-apzvalgos/NT_tendencija_2015_sausis%282%29.pdf [accessed 22. 6. 2016].
[105] Republic of Lithuania Law on Acquisition of Agricultural Land. Official Gazette *Valstybės žinios*. 2003 (15-600) (as amended 2014).
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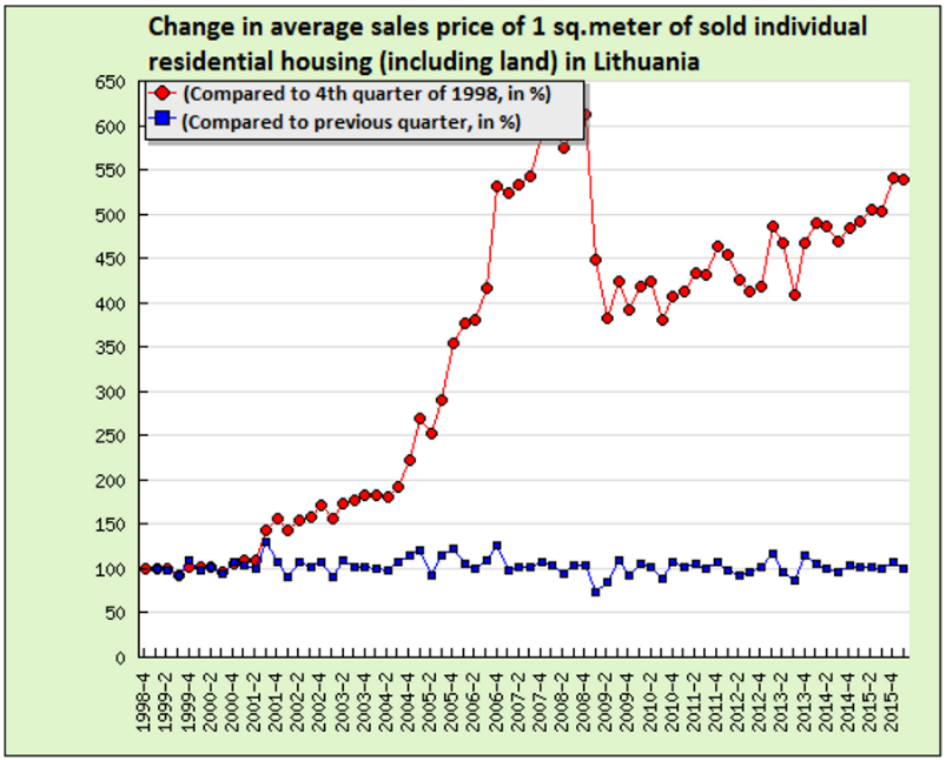
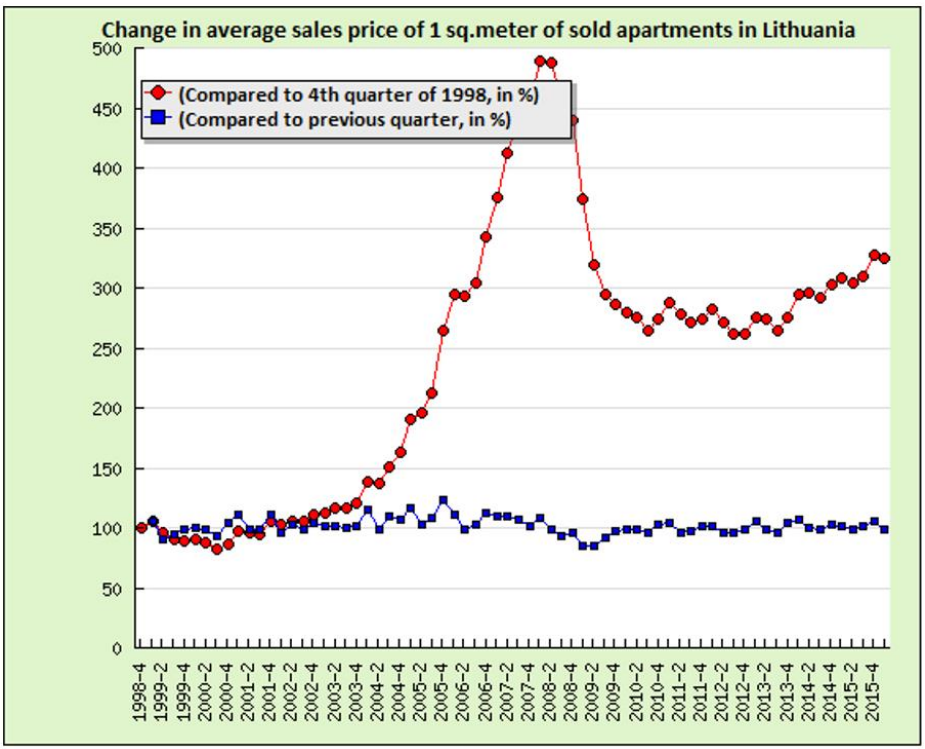
[107] Karaliūnaitė U. Clouds Gathering Over the Immovable Property Market, 27/02/2015. Available at: http://www.delfi.lt/verslas/nekilnojamas-turtas/virs-nekilnojamojo-turto-rinkos-kaupiasi-debesys.d?id=67292478 [accessed 22. 6. 2016].
[108] Ibid.

Figure 5.1: Fluctuation of prices of sold individual residential housing from 1998 to 2015



Source: State Enterprise Centre of Registers, 2016 www.registrucentras.lt.

Figure 5.2: Fluctuation of prices of sold apartments from 1998 to 2015



Source: State Enterprise Centre of Registers, 2016.www.registrucentras.lt.

3 Property data

3.1 GIS/cadastres

The cadastral Geographic Information System (GIS) is a constituent part of the information system of the real property cadastre and register in Lithuania. This system consists of the main geographic subjects, for example, cadastral borders of the terrains and blocks, borders of the land parcels, central points and outlines of buildings, value zones of immovable property, borders of administrational units and residential areas, address points.[109] The determination of cadastral data of immovable objects (registered in the real property register), and the registration in the real property cadastre and legal status of the cadastre is regulated by the Law amending the Republic of Lithuania Law

[109] State Enterprise Centre of Registers. Available at: http://www.registrucentras.lt/ntr/apie/apie_gis.php [accessed 24. 6. 2016].

on Real Property Cadastre No. IX-1582 of 27 May 2003[110] and later amendments and supplements.

The real property cadastre is managed by the State Enterprise, the keeper of the Cadastre, established by the Government of Lithuania (State Enterprise Centre of Registers). Ten customer service branches and their divisions of the Centre of Register State Enterprise operate over the entire country. The data registered in the Real Property Cadastre are collected and stored in the central data bank of the Real Property Register. The Centre of Registers of the State Enterprise issues cadastral map extracts in a hard and digital format to most of the users of the register, for example, to the land surveyors, municipalities, keepers of other registers and cadastres, private persons.[111] An on-line cadastral map is available to the state institutions, banks, insurance companies, notary offices, courts, and other similar users. The immovable property objects recorded are the following assets:

- individual land parcels; and
- structures (including those still under construction), except for temporary or simple structures, for the construction of which a permit is not required.

3.2 Title registration

The proprietary rights to immovable property (land, structures, other immovable assets), restrictions to these rights, the registration of legal facts required by the law in the real property register, and the status of the real property register are regulated by the Republic of Lithuania Law on Real Property Register No. I-1539 of 24 September 1996[112] and later amendments and supplements to this law. Thus, the following immovable assets are registered in the Real Property Register:

- land parcels;
- structures;
- apartments in multi-storey buildings; and
- premises defined as the part of the building used for certain purposes (apartment, bureau or similar) which is separated by a dividing wall from the premises of common usage, other apartments or non-residential premises. [113]

It is important to remember that, in accordance with the procedure established by the Republic of Lithuania Law on the Real Property Cadastre, these immovable assets must be individual objects of immovable property and have an unique number assigned to them. The immovable asset is registered, when their data have been recorded in the database of the Register and a unique number (identification code) assigned to it.

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[110] Republic of Lithuania Law on Real Property Cadastre. Official Gazette *Valstybės žinios.* 2003 (57-2530).
[111] State Enterprise Centre of Registers. Available at: http://www.registrucentras.lt/ntr/apie/apie_gis.php [accessed 24. 6. 2016].
[112] Republic of Lithuania Law on Real Property Register. Official Gazette *Valstybės žinios.* 1996 (100-2261).
[113] Republic of Lithuania Law on Real Property Cadastre, Part 10, Article 2. Official Gazette *Valstybės žinios.* 2003 (57-2530).

The system of the Real Property Register is held and managed by the State Enterprise Centre of Registers. In addition, the following proprietary rights are registered in the Real Property Register: right of ownership; trust right; management as an independent proprietary right; servitude; usufruct; right to erect on the land (*superficiers*); and a long-term rental agreement (*emphyteusis*).

The legal facts related to the immovable assets, proprietary rights to them and restrictions on these rights are also registered in the Real Property Register. These include, for example, the inheritance of a registered immovable asset; the seizure of a registered immovable asset; civil cases initiated in relation to the legal status of a registered immovable asset; transactions and resolutions, which change the legal status of the registered immovable assets and significantly alter the possibilities of its management, utilisation and disposal thereof.

Proprietary rights to immovable assets, restrictions of these rights and legal facts can be registered in the Real Property Register only if that immovable asset is registered in the Real Property Register. Upon receipt of an application (and the relevant data) to register or deregister an object from the Register or to modify the data of the Register on this object, the State Enterprise Centre of Registers may adopt one of the following decisions: to register, deregister or to modify the data on an object in the Register, and in certain cases, refuse registration or deregistration, or modification of data on an object.[114]

Conclusions

It can be argued that the potential of the real property tax as an important source of local government revenue has not been fully exploited in Lithuania. Real property tax revenue provides on average about 10 - 14 % of the total tax revenues at the local level. The laws that govern the taxation of real property and land are riddled with exemptions and other concessions. The tax on residential property, except on the very highest value property, is not imposed. Such provision turns the real property tax into a luxury tax, not a productive revenue generating tax. The opportunity to introduce a universal real property tax has been missed during the times of high economic growth and it has not politically viable to introduce such a „visible" tax during the period of recession and in its immediate aftermath. However, the potential to have a broad-based low-rate tax remains.

Much has been done to improve the quality of real property assessments. Both buildings and land taxes are *ad valorem* taxes and the standard for assessment is a true market value. Mass valuation methods are used and the tax base of all property has to be reassessed every five years. The information on the value of property is easily accessible. In the case of discrepancies between the value produced by mass valuation and an individual valuation, the taxpayer has a right to appeal.

[114] Resolution No. 379 of 23 April 2014 of the Government of the Republic of Lithuania on Approval of Provisions of the Real Property Register, Article 19. Register of Legal Acts. 2014 (2014-04930).

The real estate market has recovered from the recession. Although the prices of real estate after the financial crisis have fallen sharply, there is a noticable growth in prices starting from 2010-2011. The number of transactions has also picked up and fluctuates at about the same level. The data indicate that the real estate market has stabilized.

In order to have a more productive and »equitable« real estate tax, several improvements are possible. The unification of taxation rules for real estate property (buildings and other structures) and land under a single law would produce a more transparent, simpler tax system that would also be easier to understand and administer. At the same time, the tax base could be broadened by eliminating many of the abundant exemptions and other consessions. In addition, policy makers should set the threshold for the taxation of residential real property that would be both socially just and which woud generate revenue at socially acceptable and economically feasible rates.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
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Mass Valuation in Latvia

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Abstract The real property tax is an important income source for local municipalities in Latvia. The real property tax base is the cadastral value. Cadastral value is calculated by State Land Service, but taxes are calculated by local municipalities, and that is why cooperation between State Land Service and local municipalities is important. The main problem would appear to be related to slow speed of real property data actualization, which results in biased cadastral values and therefore real property tax levies as well. This has led the State Land Service to seek a solution with local municipalities, the Ministry of Justice and Ministry of Finance. The State Land Service also follows all activities in the real estate market and informs the public via half-yearly reports, of the actual trends in real estate market. The State Land Service is working on improvements in cadastral valuation methods to improve the perception of fairness in cadastral valuation and taxation.

Keywords: • Latvia • property tax • immovable property tax • valuation • tax reform

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Introduction

This chapter introduces the reader to the history of Latvian real property taxation, the real estate market improvement and fluctuations over the years, valuation as well as data collection and maintenence. Also included are details about municipal real property tax. The chapter describes the situation of real property tax in Latvia – the history, steps adopted for the introduction of that tax, and the cadastral valuation, which is a synonymous with mass valuation and mass appraisal, based on market value in Latvia. Mass valuation was based on the market value of the land for the first time in 2000, and this value was used to calculate the real property tax. In 2003 the cadastral valuation for buildings was introduced for the first time. The valuation methods were improved during the period of economic development and the global economical crisis[1] at the end of 2000s. From 2010, real property taxation has been applied to dwellings and individual houses.

One of the main problems in Latvia is that data is not updated regularly enough[2], which leads to inaccurate cadastral values and an inequitable tax amount to pay. Unfortunately there is no single conceptual solution for obtaining the actual data of properties. Cadastral values are calculated using mass appraisal techniques which are based on market values and then ratio analysis is carried out to examine if cadastral values are at the same level as market values. In recent years there has been pressure on cadastral valuations used for property taxes, because the market values are growing, but tax rates have not been revised for decades[3]. This has led to a problem, specifically that for many taxpayers tax payable is substantially larger in the capital of Latvia, Rīga and the metropolitan areas than in rural areas. Another problem is that taxation rates for real property are dependant on municipalities and the discretion awarded to local government (which permits then to provided discounts for poor families, discounts for elderly, etc.), and which leads to unequal tax rates for similar real property across the country.

To improve real property assessment methods, consultations with representatives of other countries has been carried out for some time. The State Land representatives participate in conferences and 'exchange of experience' events. Other reaserch is carried out by students undertaking their bachelor's and master's thesis, mainly for the purposes of the annual contest that is organized by State Land Service of the Republic of Latvia. The annual competition attracts student's interest in the evaluation topics and provides a useful source of information for the assessment department.

[1] https://en.wikipedia.org/wiki/2008_Latvian_financial_crisis.

[2] Actual market values are used to calculated the tax base. But inaccurate values result because of old and incorrect information about the taxable object. However, the revaluation was halted in 2016, for political reasons (leaving the country with a valuation level as at 1 July 2015). Current changes involve improving the methodology and achieving a revaluation in 2021 (with a value level at at 1 July 2018).

[3] As a result, the amount of tax recieved increased strongly, but for political reasons the rates of tax were not altered. The main reason there is value diferences in locations, thus, if in Riga a rate of 1.5% produces a high yield, then in some rural territories it raises a small amount of money.

Regarding the state of scientific literature in the area of property taxation – there is no important scientific literature about real estate taxation in Latvia or published by Latvian research groups in peer reviewed publications. The only literature that is available is mostly bachelor's and master's thesis. In addition to what scientific literature is available, some mathematical analysis are carried out in an attempt to improve the evaluation of the cadastral valuation, tax base and thus the system of real property taxation[4].

1 Real Property Tax

1.1 History

The origins of land records in the Latvian territory can be dated back to the Middle Ages. During the X to XIII centuries, the land that was in farmers' possession was divided into cadastral units named - plough (*arkls),* in order to define the corvees[5] and fees. During the Swedish rule over Latvia (from 1683 to 1693), the first Cadastre was established and it was based on a joint methodology of land surveying and evaluation. The specific methodology and data were used for more than 200 years. Changes within the land administration started with abolition of the serfdom, i.e. from 1860, when the farmers' land rights of ownership were introduced. Therefore, the main Cadastre tasks became the recording and management of information for the calculation of the land value, the organisation of the property rights' documentation and the preparation for the registration of the property. From 1861 to 1912 the Cadastre of Vidzeme (a region in the northeast Latvia) introduced the evaluation of the real estate into the Cadastre instead of producing a separate land valuation register. Later on, from 1931 to 1940, the Latvian State Cadastre established a comprehensive evaluation system of real estate within the Cadastre.

Until 1940, real estate had been evaluated by dividing it into the immovable property of towns and the immovable property of the countryside. Immovable agricultural property was evaluated taking into account the average yield of the land parcel and the buildings.

After 1945 the evaluation of real estate was changed according to the system used in the Soviet Union, where buildings were interpreted as substantive objects from the land and were considered as an item without any market value. For about a half of century the evaluation of the agricultural land was carried out in order to plan the production needs of the Soviet Union and collective farms. Buildings were evaluated according to individual requests during the process of technical inventory.[6]
In the period between the World War I and the XXI century, when the free capital market started to develop within the country, a need to evaluate all types of capital (including

[4] As well as valuation processes for other purposes.
[5] The unpaid labour a vassal owes to the feudal lord.
[6] Boruka, A. (ed.). Zemes izmantošana un kadastrs Latvijā. Rīga: LLU Skrīveru zinātnes centrs, Valsts zemes dienests, 2001.

real estate) arose in order to fulfil the requirements of the State taxation system, as well as being a prerequisite to establish a fully functioning free market.

After the restitution of the independence of Latvia, taxes were imposed according to the »Law on Taxes and Duties«[7] and the real property tax, which is determined by the law »Law on Immovable Property Tax«.[8] The law »Law on Immovable Property Tax« was adopted in 1997, and has been in force since 1998.

In Latvia, all taxes are State taxes – none is defined as a municipal tax; however in practice, the real property tax is a municipal tax. It is the only State tax administered by the local authorities, which are eligible to apply discounts to certain categories of real property and / or taxpayers. The yield from the real property tax is entirely transferred to the budget of the unit of local government, where the real property is located.

From 1990 to 1997, the inhabitants of Latvia were obliged to pay a real property tax on land using a unit value based on a market estimation of the land, and a real property tax on buildings that were used in economic activity, the tax being based on the inventory building values from the traders' accounts.

Since 1998, the tax has been imposed on real property (land, buildings and engineering structures) as a set of real property objects - tangible things which are located within the territory of the Republic of Latvia and which cannot be transferred from one place to another without being externally damaged. The law requires that the real property tax should to be based on market values. For the calculation of cadastral values as tax base, the actual cadastral data held by the Cadastre are used.

In 2000 for the first time, market values based on mass valuation results were applied to the calculation of the immovable property tax.[9]

1.2 Structural Components

The real property tax is paid by Latvian and foreign individuals, legal entities and groups of such persons established on the basis of a contract or another agreement or their representatives, who own or legally possess a taxable unit of real property. The owners of real property are individuals whose ownership rights have been confirmed in the Land Register. Note that persons who are users of State or municipal real property pay real property tax instead of owners.

Taxation based on market value has been introduced gradually, so that currently, the cadastral value is based on the market value of the real property as assessed by the State

[7] Parliament of the Republic of Latvia: Law on Taxes and Duties, 2 February,1995.
[8] Parliament of the Republic of Latvia: Law on Immovable Property Tax, 17 June 1997.
[9] Parliament of the Republic of Latvia: Law on Immovable Property Tax, 17 June 1997.

Land Service (SLS), and is the base for the real property tax. The transition to market value is shown in Table 6.1.

Table 6.1: The process of real property tax reform from 1998 to 2018

Years	Item	Rate	Base
1998 - 1999	Land	1.5 %	cadastral value
	Buildings, fixed assets	0.5 % - 4 %	book value or stock-taking value
2000 - 2006	Land	1.5 %	cadastral value
	Buildings		book value or stock-taking value
2007	Land	1.5 %	cadastral value
	Buildings used in commercial activity		
2008 - 2009	Land	1.0 %	
	Buildings used in commercial activity		
2010	Land	1.5 %	
	Buildings used in commercial activity		
	Residential buildings	0.1 % - 0.3 %	
From 2011	Land	1.5 %	
	Buildings used in commercial activity		
	Residential buildings	0.2 % - 0.6 %	

Source: Law on immovable property tax.

The current real property tax rate, since 2011, is 1.5 % of the cadastral value of the real property:

- for land;
- for buildings or parts thereof that are used in economical activity; and
- for engineering structures that are used in economical activity.

The tax rate for dwelling houses (not used in commercial activities) is applied in slices, thus:

- 0.2 % of the cadastral value which does not exceed 56,915 EUR;
- 0.4 % of the part of the cadastral value which exceeds 56,915 EUR, but does not exceed 106,715 EUR; and
- 0.6 % of the part of the cadastral value which exceeds 106,715 EUR.

A special 3 % tax rate is applied to collapsed constructions, constructions degrading the environment, or which threatening the safety of individuals. This rate is also is applicable to land, which is degrading the environment, if it is so determined by the municipality in its binding regulations. Such municipality binding regulations should be published by the 1 November. The tax base for these constructions is determined using the higher of two values – either the cadastral value of the construction or the cadastral value of the land, on which the building is located.

The minimum amount of tax payable is 7 EUR per year.

It is important to emphasize, that in 2010 major changes in taxation policy were made.

From 2010 amendments came into force which taxed dwelling and engineering structures for commercial purposes. The additional 1.5 % real property tax for "uncultivated land usable for agriculture« is applied to all land that is capable of being, but is not in fact used for producing or growing agricultural products. Land intended as "land usable for agriculture« is regarded as uncultivated (so that the common 3 % tax rate will be applied) if, until 1 September of each year, more than 70 % of the area of land usable for agriculture in a unit of land is not used for producing or growing agricultural products; or if the same area of land is not maintained in a a good agricultural and environmental state.

Amendments to the law state from 2008 to 2013, state that, if after updating the real property cadastral value, the use of real property does not change for each unit of land and each building, that were used separately in economic activity, the real property tax which is applied may not exceed the real property tax calculated for the previous year by more than 25 % following the revaluation of residential property groups and the updates of values of commercial property group. From 2013, a 25 % increase is applied to taxable land, only if the municipality adopted binding regulations. Now this restriction is not needed.

With effect from 2016, for land parcels that exceeds 3ha and located in in rural territories, the tax base for agricultural land defined according to its purpose, is its so called »special value«. This is an instrument to limit the tax increase by more then 10% because of the revaluation of agricultural land in 2016.

From 2012, ancillary buildings larger than 25 m^2 are taxable at a rate of 3 %, and this also applied to environment-degrading, and collapsed buildings.

Since 2013 one more important amendment has been implemented. The real property tax management rights were fully transferred to local authorities, as they are on-site and thus better placed to define the duty of each local objective and needs. If the unit of local government chooses to set its own tax rate within its territory, in accordance with the government »corridor« programme[10], it will have to issue binding regulations.

The law requires that all local authorities are bounded by common principles upon which the tax rate is determined. The four principles which underpin the setting the real property tax rate in Latvia are:

- The principle of the grouping under which a taxpayer or objects are categorised according to objective criteria, such as taxpayers (e.g. natural persons and legal persons), taxable objects (e.g. houses, industrial facilities, commercial etc);
- The principle of effectiveness[11], judged as a government tax weighed against the cost of administering the tax. This principle means that the local government has to assess how the tax administration should apply the necessary measures so that their costs are proportionate to the expected tax revenues;
- Responsible budgeting principle, according to which the local government matches its obligations to spend the funds raised on suitable community services. For the real property tax, this means that, prior to the applicable tax rate, the units of local government must consider their spending policies in the light of the expected revenue real property tax;
- Predictability and stability, according to which the tax rates will be set for at least two years if the cadastral value of the property in the next fiscal year increases or decreases by no more than 20 %. This principle ensures that tax rates do not change every year, and taxpayers have confidence as to what to expect in their future tax payment notice; thus, they avoid the budgetary concerns that next year there may be sudden changes in the tax rate and therefore tax payable.

The taxable period is one calendar year.

[10] There is donation programme from "rich" municipalities to the "poor". The amount is determined by the projected tax income according to the rates that are menitioned on Law on Immovable Property. If later a local municipality want to decrease the rates, they will have income decline (but it does not affect the amount that they need to give or receive).

[11] Thus, local municipality should not have complicated and expensive tax administration rules.

Every taxpayer is obligated to pay tax on the basis of the payment notice, issued by the municipality and delivered to the taxpayer by post using the State and Local Governments Website or in the municipality office. A payment notice regarding real property tax is an administrative act. The law specifies that an owner is responsible for paying taxes on time. If there is no payment note and no opportunity to visit the website, the taxpayer can contact local municipality directly by phone or by written correspondence.

The tax is payable quarterly i.e. not later than 31 March, 15 May, 15 August and 15 November, in the amount of one quarter of the yearly tax sum. The tax may also be paid once a year by advance payment (but this attracts no discount in tax payable).[12]

The owners of real estate have access to several cost-free services via the internet, such as »My Data in Cadastre«, that are available in the Latvian national portal (www.latvija.lv) and have the opportunity to amend information about their property. If information is incorrect, they can initialize the actualization of data, by contacting the State Land Service or the local municipality (depending on what data they want to update – ownership, land unit purpose or property's object characteristics).

1.2.1 Exemptions and Reliefs

Taxable objects to which the real property tax is applied are tangible things located in Latvia, which cannot be relocated from one place to another without damaging them (land, buildings, including buildings that are registered in Cadastre, but not put into operation, as well as engineering constructions).

Law on Immovable Property Tax[13] specifies real property tax reliefs and exemptions for special buildings, land groups and taxpayer groups.

Some otherwise taxable objects, which are not liable to the real property tax, include:

- Engineering constructions that are owned by individuals, not used in commercial activities;
- Real property which is owned by religious organizations, not used in commercial activities;
- Land, located in specially protected nature areas, where commercial activities are prohibited by law, as well as buildings and engineering constructions which are used for nature protection;
- Real property that is declared to be State protected cultural monuments, excluding houses used as dwellings and real property used in commercial activities;
- Land which is planted as renewed or cultivated forests, according to rules established by the Cabinet of Ministers;
- National sport centres and land for maintaining the sport centres;

[12] Parliament of the Republic of Latvia: Law on Immovable Property Tax, 17 June 1997.
[13] Parliament of the Republic of Latvia: Law on Immovable Property Tax, 17 June 1997.

- Buildings and engineering constructions used only for agriculture;
- Commercial activities within newly constructed or reconstructed buildings for one year after the buildings are put into operation;
- Buildings (or parts of buildings), that are used for education, health, social care needs;
- Buildings (or parts of buildings) and engineering constructions, that are used for environmental purposes;
- Certain buildings and engineering constructions, owned by municipalities, social organisations and foundations, according to rules and lists established by the Cabinet of Ministers.

Abatements for real property tax may be determined and the amount of tax may be reduced by 50% for politically-repressed persons, if the real property is not used for economic activity. Local governments may insert in their binding regulations reliefs, which provide abatements for separate categories of taxpayers in the amounts of 90 %, 70 %, 50 % or 25 % of the tax otherwise payable. A rebate of 90 % may be granted to taxable persons or families, on low income.

Some local municipalities try to increase their population by giving a discount on property tax in exchange for the individuals declaring their place of residence in their municipality.

1.3 Administration

The Ministry of Finance is responsible for real estate tax policy and the setting of the base rates. The Ministry also defines the tax rate »corridor« for all kinds of real properties.
Municipalities administer real property tax: they calculate the real property tax from the cadastral value, apply tax reliefs, send out tax notices, and collect the tax. The collected real property tax in the amount of 100 % is transferred into the budget of municipalities.

The State Land Service maintains the database of real property information, and maintains the base of the current cadastral values. In addition, it calculates the cadastral value of all objects registered in the Cadastre.

The owners of real property who makes changes in the nature of their taxable property whether in qualitative and / or quantitative terms, can propose data updates for their property in the Cadastre.

The calculation of the tax payable on the basis of the last determined cadastral value is the responsibility of local government.

Information systems, maintained by the State Land Service, provide data for the administration of real property tax by:

- Calculating the cadastral value for real property taxation purposes;

- Gathering relevant information on taxpayers;
- Preparing lists of objects on which real property tax is imposed as well as taxpayers;
- Calculation of the total amount of actual values and projected values for the next taxable year of real property objects.

In 2009 the Ministry of Finance, the Ministry of Justice, the State Land Service and Latvian municipalities reviewed all of the processes connected with the administration of the real property tax. As a result, the tax administration mechanism defined in the Law on Immovable Property Tax has been deemed to be ineffective because it demands considerable financial and human resources from both the State Land Service and local municipalities.

Data concerning real property tax objects and taxpayers was kept in both the Cadastre and the municipality information systems. Moreover, a continual interchange of information took place between the State Land Systems and the municipalities to designate the taxable real property object and determine its cadastral value.

Changes have been made in several laws and regulations to optimize the process of the administration of real property tax and to halt the repeated exchange of the same information between municipalities and State Land Service. The changes took effect from 1 July 2010, as a result of which the State Land Service no longer keeps data concerning real property tax objects and taxpayers in the Cadastre. These data are kept in the information systems of municipalities. Although since 2010, the State Land Service is responsible only for the calculation of the cadastral values, it still regularly transfers to municipalities about 80 % of the data stored in the Cadastre.

The State Land Service maintains the Cadastre, in which information concerning cadastre objects is registered and updated (land units, structures, groups of premises and parts of land units), including their cadastral values and cadastral subjects (information drawn from the Land Register about real property owners, lawful possessors and taxable users). In addition, it distributes cadastral data necessary for the administration of the real property tax to municipalities. Municipalities receive cadastral data from the Cadastre in a direct (live) exchange of relevant information on a daily basis.

Similarly, the State Land Service provides information (concerning objects that are registered in the Cadastre and their values) not only for the purpose of administering tax, but also for the development of tax policy to the Ministry of Finance.

1.4 Real Property Mass Valuation

As previously mentioned, the real property tax base in Latvia is the cadastral value i.e. value that is determined within the cadastral valuation process, based on real estate market information. In Latvia the term »cadastral valuation« is synonymous with »mass valuation« or »mass appraisal«.

The process of mass valuation in Latvia started in 1998, when the »Law on Immovable Property Tax« came into force, and the mass valuation procedure obtained obligatory status[14]. The mass valuation is one of responsibilities of the State Land Service which maintains the cadastre. The objects of mass valuation are all objects registered in the cadastre, being land parcels, buildings and engineering structures.

The valuation process began with the assessment of urban land in 1998; it was then extended to the assessment of buildings in 2001; and to engineering structures assessments in 2010. Assessed values have been used not only for the estimation of real property tax, but also for stamp duties, for the registration of real property in the Land Register, the rents of municipal and State land, as well as in the privatization process.

The mass valuation process takes place according to unified principles applied across the entire country. The process is regulated by the Law on National Cadastre of Real Estate (2006) and Regulations of Cabinet Ministers No.305 “Regulations regarding cadastral assessment« (2006).

The degree of accuracy of cadastral value as required by law is 85 % of market value. The valuation cycle (reappraisal period) is two years. The reference date for the valuation is 1 July – one and half year before the values come in force for taxation purposes. For taxation purposes, the cadastral values are automatically re-calculated each year by 1st January. In 2017 the changes in legislation were made and degree of the accuracy of cadastral value removed. The valuation cycle (reappraisal period) is now four years due to the improvement of cadastral valuation. It should be emphasized that different segments of the real estate market in different territories of Latvia develop differently and some are still valued at 85% of market value.

From 1 January 2016 agricultural land is an object of so called »special value«, which means that the tax base for agricultural land is limited to an increase of no more than 10% from the previous year. Thus, the tax base of cadastral values of agricultural land will not exceed 10 % from the previous year's cadastral values in a time period of 10 years (only for real property purpose). These changes were implemented because of the predicted rapid growth in the cadastral values for agricultural land.

[14] The Law states that taxable value of property should be based on real estate market information.

For mass valuation purpose, the State Land Service has, since 1998, maintained The Real Estate Market Data Information System (sales data base) that is integrated into the cadastre. The sales data base contains information on all sales in the country, and information about the transaction is received from the Land Register. For mass valuation purpose, the State Land Service reviews all sales and uses only arm's-length transactions[15]. From 2011, the sales data base has an expert accordance about the proximity of the sale to the international definition of an arm's-length transaction. If there is no accordance, there is a comment on the nature of the discrepancy.

The valuation models are structured with value zones (location), value tables (the value level for standard properties of all different types of land and building usage in that location), and the appropriate value models (mathematical equations or formulae for calculating the value). The unified value models are approved by the Government and contained in the Regulations of Cabinet Ministers No. 305.

The assessment of land values involves two types of models: a value model for building land and a valuation model for rural land; in contrast, the assessment of building values has three types of models - detached houses, multifunctional buildings and other buildings. Value models have been improved several times taking into account changes in the real estate market and the accumulated data held in the cadastre, especially on buildings. The coefficients used in mass-appraisal are inputted into the value model and are calibrated, if necessary.

The value model for building land requires the assessment of land use, its size and any special circumstances (encumbrances). The model for rural land requires that the land plots are valued according to the types of use (land cover). In the case of agricultural land and also for the valuation of forest land, soil quality is also assessed. The land under a residential house in rural areas is valued as building land.

The value model for buildings reflects the size of the building, its physical condition and any encumbrances. The valuation model for single family houses also includes an evaluation of the use of the various parts of the premises (outdoor area, basement, and garage) and any improvements.

In the case of multifunctional buildings, the use of the specific group of premises (apartment, office, retail areas, areas for common use, garage) is assessed. The valuation model of an apartment includes an evaluation of the location of the specific apartment within the building (the ground floor, basement floor) and available amenities.

Special classifications are used for the grouping of objects by their usage types – separately for land and for buildings.

[15] Transactions being gifts etc. are thereby excluded.

Value zones cover the whole country. Initially (1998), the value zones were developed separately for each administrative unit (municipality); now, however, they are established for the entire country simultaneously. Zones are revised and are dependent on changes in the land use plans of the municipalities, infrastructure on site, the nature of the market and other circumstances, and can be updated separately for the following specific groups of property:

- Rural properties (value zones for agricultural land and forest land are separate);
- Residential properties;
- Industrial properties;
- Commercial and public property.

Until 2006, each individual municipality had a responsibility to accept or decline the value zones. Now municipalities take part in value zone revision process, but only as local consultants.

For the determination of the level of values, the three so-called traditional methods of valuation are used: i.e. the direct sales comparison method, income capitalization and the cost approach. The use of a particular method of valuation depends on the information available in property market (the taxable values are based on transactions of comparable properties which have taken place over the last two years). The direct comparison of transactions is most widely used for land and buildings. The method of income capitalization is used to determine the value of forest land, as well as additional information to monitor the valuation of the income producing properties. The cost approach method is combined with the direct comparison method to determine the value level for buildings and engineering structures.

The value zones as well as the value levels are approved by the Government (every two years before 15 June). A valuation report is freely and publicly available on the internet[16].

All value models are integrated into the cadastre and the value calculation is an automatic process. For cadastral value calculations, only the data that is in the cadastre is used. In most cases, the relevant data on valuation objects are registered on the basis of documentation from property surveys[17]. The values are calculated for each unit of real estate (cadastre object) – land, buildings, apartments, and engineering structures. Forestry values provided by the State Forestry Service are automatically downloaded into the cadastre and taken into account.

The cadastral value is calculated separately for land and for buildings. The cadastral value of the taxable property is the sum of land and building values and is based on the principle that the total value of the component parts of the property must correspond to the market price of the whole.

[16] On the State Land Service home page www.kadastralavertiba.lv .
[17] All properties were inspected about ten years ago.

Once a year, the real property owner has an opportunity to get information from the internet or from the client service centres of the State Land Service (free of charge) about the cadastral value of each property and the data on each of its objects registered in the cadastre. If the owner discovers that the data used for mass appraisal does not correspond to the real situation, owners are obliged to correct the data in the cadastre. This should be completed by January 1st before any new value comes into force.

The cadastre (including the sales data base) is an Oracle Database. For the revision of value zone, market data, the ratio analysis (the ratio between assessed value and market prices) and geographical analysis, the State Land Service uses GIS (Esri products). For market data (including ratio) statistical analysis, the State Land Service uses Oracle Discoverer, SPSS (Statistical Package for the Social Sciences) and the R Project for Statistical Computing.

1.4.1 The examination of the results of mass valuation

The State Land Service examines the results of the valuations using the ratio studies.[18] A ratio study compares appraised values to market values, which are represented by sale prices. Ratio studies measure two primary aspects of mass appraisal – accuracy level and uniformity.

Appraisal level refers to the overall ratio of appraisal values to market values. Appraisal uniformity relates to the degree of fair and equitable treatment of individual properties in comparison to similar properties in similar circumstances. Uniformity requires that properties must be appraised equitably within groups or categories and each of these groups must be appraised at the same level. Appraisal uniformity requires equity within groups and between groups.

Uniformity within a group is determined by measuring the magnitude of the differences between the ratio of each property that was sold and the average ratio for the group.

Uniformity between groups of properties is determined by comparing the appraisal level of the groups. Large differences indicate inequitable appraisals and thus unequal taxation between groups.

For example, the ratio analysis results for sales of flats in Latvia for recent years are given in Table 6.2.

[18] IAAO Standard on Ratio Studies. http://docs.iaao.org/media/standards/Standard_on_Ratio_Studies.pdf. 5.5. 2015.

Table 6.2: Ratio analysis for flats' transactions in Latvia (transactions for the last four years)

Ratio Statistics for Flats, Projected cadastral value 2015 / Transaction sum, EUR									
Country/ Region	**Group**	**Number of transactions**	**Percent**	**Mean**	**Median**	**Weighted Mean**	**Std. Deviation**	**Price Related Differential**	**Coefficient of Dispersion**
Latvia	Overall	33,701	100,00%	0,824	0,821	0,653	0,272	1,261	0,269
Kurzeme	Overall	3,371	100,00%	0,871	0,88	0,792	0,256	1,1	0,233
Latgale	Overall	3,76	100,00%	0,905	0,984	0,823	0,238	1,1	0,187
Riga_1	Overall	18,494	100,00%	0,769	0,762	0,619	0,26	1,243	0,286
Riga_2	Overall	2,971	100,00%	0,838	0,832	0,76	0,259	1,103	0,244
Vidzeme	Overall	1,965	100,00%	0,904	0,916	0,815	0,28	1,109	0,252
Zemgale	Overall	3,14	100,00%	0,93	0,954	0,845	0,322	1,1	0,241

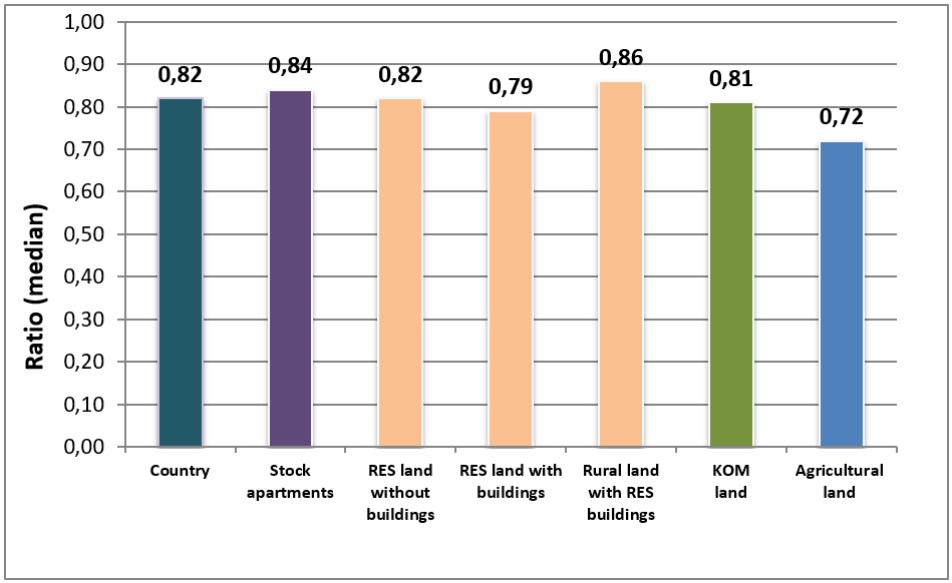
Source: State Land Service, Real Estate Department.

Similar analyses are made for transactions relating to land, land with building, and offices[19]. The results provide an indication of trends and possible improvements in the process if necessary.

In the future, ratio analysis' results are going to be a part of the tool for time adjustments. Analysis of ratio trends can be used to determine the percentage adjustment needed to reflect current market conditions.
The overall results are published in an annual overview of the cadastral value base development and given in Figure 6.1.

[19] Insufficient data are available for the analysis of retail premises' transactions.

Figure 6.1: Median of ratio of different kinds of properties



Source: State Land Service, Real Estate Department.

In the results it is clear that one group of properties is underestimated. That means that in the next revaluation it is necessary to improve the values for agricultural land.

1.5 Revenue Performance

The Law on Taxes and Duties, adopted on 2 February 1995, determines Latvia's general taxation principles. This law is generally applicable, unless specific tax laws, such as the Law on Value Added Tax (VAT), Law on Corporate Income Tax determines different rules. If there is a conflict between general principles and specific rules, the specific rules prevail. According to the Law on Taxes and Duties, duties are imposed either by the State or the municipality. The main duties are established by the State.

The main tax revenue distribution is shown in Table 6.3 below.

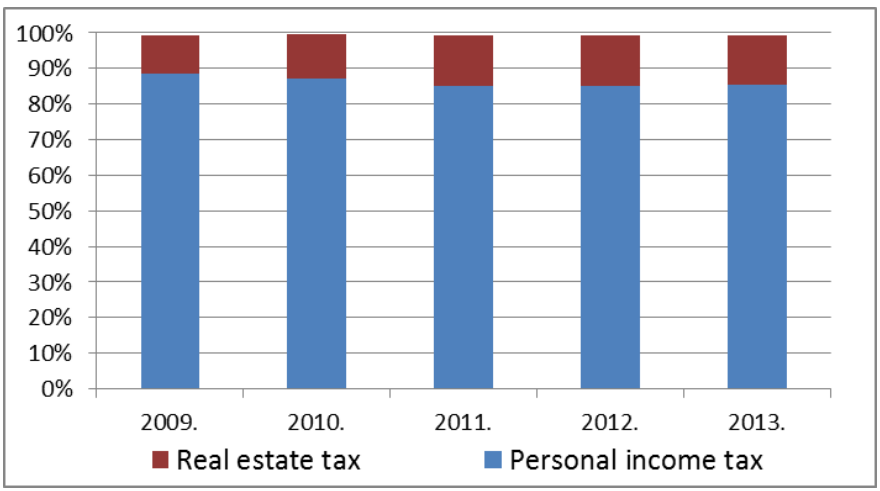
Table 6.3: Main tax revenue distribution in Latvia

Taxes	State budget	Municipality budget
Corporate income tax	100 %	
Personal income tax	20 %	80 %
Real property tax		100 %
Social security contributions	100 %*	
Value added tax	100 %	
Excise tax	100 %	
Customs duties	100 %	
Natural resource tax	40 %	60 %

100 %* - State special budget.
Source: http://raim.gov.lv/pub/en/.

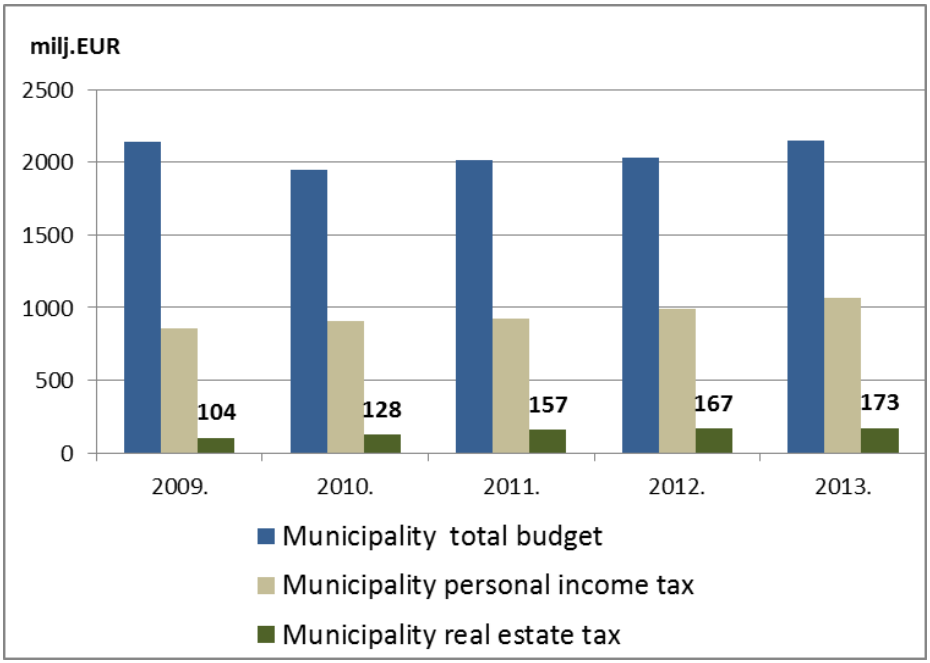
Personal income tax plays a key role in local government's tax revenue. Property tax revenue in the local municipalities is different – from 3 % to 19 %, on average ~14 % from all municipal tax revenues. The natural resource tax share is less than 1 %. The revenue from the real property tax and personal income tax is shown in Figure 6.2.

Figure 6.2: Real property tax and Personal income tax as a % in the Municipalities' tax revenue



The calculation is based on data of Treasury Republic of Latvia https://www.kase.gov.lv/parskati/pasvaldibu-menesa-un-gada-parskati.

Figure 6.3: Personal income tax and real property tax role in Municipalities' budget



Data of Treasury of Republic of Latvia https://www.kase.gov.lv/parskati/pasvaldibu-menesa-un-gada-parskati.

2 Evolution of real estate market

2.1 Property restitution

After the restoration of the independence of Latvia in 1991, a programme of land reform was undertaken. The purpose of the land reform was to change the property ownership of land owned by the State to land as private property. It was also necessary to restore the pre-21 July1940 ownership rights of land to former land owners or their inheritors of land which had been nationalised by the Soviet Union, as well as to ensure the potential for other inhabitants of Latvia to acquire personal rights to land.

Land Commissions at various governmental and territorial levels were fully established on 1 September 1990, and the necessary regulatory enactments for ensuring of agrarian reform were accepted by the Council of Ministers.

The main basic principles for agrarian reform in Latvia are as follows:

- One could receive landed property rights before acquiring it by usage;

- Former land owners could receive the land free of charge by renewing their original proprietary rights; alternatively they could request financial compensation;
- Others, who requested land rights, could receive land rights on payment of a capital sum (remunerations were performed with privatisation certificates).

The implementation of land reform in urban and rural areas took place in stages, but reflecting these principles. Land reform in rural areas was planned in two stages. In the first stage (1990-1996), the users of the land and those who wanted land rights for the first time were required to submit a request based on the land's use allocation. The documents that confirm hereditary rights and a plan of the property in question were added to the request. In the second stage (from 1993), a survey of land borders and the renewal of land ownership rights to former land owners or their heirs was undertaken, as well as the transfer of possession (on payment) to those land users, without pre-1940 rights.

Land reform in towns was planned in three stages. In the first stage (1991-1992) requests for land rights were received from former land owners and their inheritors, from current users and other persons, who request land. In the second stage, the Councils of towns confirmed their programme of economic and social development of towns on the basis of a summary of the requests received. The third stage involved the land's transfer to the individuals awarded possession, as well as confirmation of its use allocation.

Land Commissions made their decisions regarding the approval of regional land use projects on the basis of personal application. The aim of regional land use projects was to create preconditions for the rational and efficient use and protection of land and other natural resources, a priority being the preservation of agriculture and forestry land. The project had to respect and ensure legitimate interests of all claimants as much as possible.

Currently the land reform in Latvia is practically complete, with some 64.6 % of all Latvia's territory belonging to private and legal entities; 4.7 %, to municipalities; and 30.7 % - to the State (including public waters and state forest land)[20].

2.2 Privatization

After the restoration of independence, Latvia's economy was transformed from a command economy to a market economy. Rehabilitation of property rights (denationalisation) and State and municipal property privatization was a policy necessary to achieve this objective i.e. an economy based on private property and private initiative.

[20] Bērziņa M., Rudzīte S., Paršova V., Krampuža D., u.c. Cadastre. Riga: Valsts earth dienests, 2013. Mierkalne J., Freiberga I., Dambīte D., Bindere S., u.c. Land reform - atslēga uz īpašumu. Riga: Valsts earth dienests, 2012.

The process of privatizing State owned enterprises continued until 1996. Priority was given to the processes of restitution of property rights and, in the beginning, each of the responsible Ministries oversaw the privatisation process in their relevant sector. The process of privatization accelerated rapidly when, in 1996, the Privatization Agency was established and given the centralised responsibility to conduct the process.

The reference law for privatization is the Law on Privatization of State and Municipal Asset Units of 17 February 1994.[21] The law specifies the six methods of privatization that can be adopted:

- Simple sale of assets, called the sale method;
- Investment of interests in companies to be divested in private-sector companies, called the investment method;
- Recapitalization by private investors, called the method of private capital attraction;
- Conversion of the debts owed to private parties by the companies being converted into shares of capital stock, called the capitalization method;
- Merger of companies into private-sector companies, called the restructuring method; and
- Sale of shares to management of the company subject to certain conditions, called the management buy-out method.

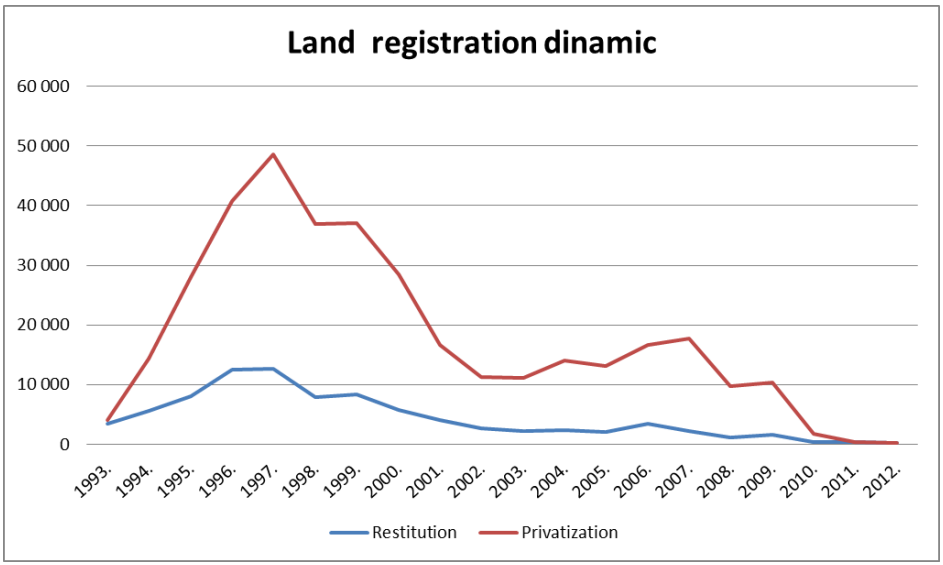
Another important reform in the field of real property was when apartment buildings were divided into individual apartments and each was privatised. The aim of apartment privatisation was to transfer public housing to private owners, to facilitate the real property market, and to promote good management of residential properties in the interests of their inhabitants. On 25 July 1995, the law on »The privatization of state and municipality dwelling houses« was passed.[22] This can be considered as the beginning of housing privatization.

In order to ensure the arrangement of proprietary rights, it was necessary to state the date for termination of the privatization process. In 2005, the Saeima (Parliament) of the Republic of Latvia adopted a law for the acquisition of land in the property for charge, as a result of which were specified:

- The last date by which the person can submit a redemption proposal on land granted for permanent use;
- Creation order of the Register on Redemption of land granted for use;
- Further action with land that is not included in the Register or is included, but not redempted out;
- The end date, when the usage rights on land granted for permanent use, terminates in accordance of the law.

[21] Parliament of the Republic of Latvia: Law on Privatization of State and Municipal Asset Units, 17 February 1994.
[22] Parliament of the Republic of Latvia: Law »The privatization of state and municipality dwelling houses", July 25, 1995.

Figure 6.4: Land registration dynamic



Source: State Land Service http://vzd.gov.lv/lv/parskati-un-statistika/statistika/statistika-no-kadastra/kadastra-registretie-kadastra-objekti/.

2.3 Limitations on land/property ownership

Latvian legislation provides no restrictions on the acquisition or transfer of ownership rights of real estate in urban territories for citizens of Latvia, citizens of European Union (EU) Member States and companies in which more than 50 % of the equity is owned by citizens of Latvia or EU Member States, or by natural or legal persons from countries with which Latvia has entered into international agreements on the promotion and protection of investments. Foreign nationals from other countries are subject to restrictions on the acquisition of land within State border zones and especially in protected areas.

The Law on Land Privatisation in Rural Areas states that until 1 May 2014, rural land can only be acquired by citizens of Latvia, public stock companies if the shares thereof are quoted in the stock exchange, or companies registered in the Register of Enterprises of Latvia if:

- More than half of the share capital belongs to citizens of Latvia, or;
- More than half of share capital belongs to natural or legal persons from countries with which the Republic of Latvia has entered into international agreements on the promotion and protection of investments.

If the above mentioned individuals wish to acquire ownership of land, they must submit an application to the parish council (municipality, city council) in whose territory the relevant land is located, indicating the proposed future land use.
To support farmers and rural development, from 1 November 2014, new restrictions on transactions involving agricultural land came into force.

According to the amendments in the Law on Land Privatization in Rural Areas, an individual or legal entity is not able to hold more than 2,000 hectares of agricultural land (in total). It should also be noted that a municipality can adjust that maximum amount of agricultural land to be acquired by an individual or entity within their area, which is less than the maximum amount stipulated by the law.

In order to acquire agricultural land, a person must be registered for economic activity, eligible to receive direct payments, and be able to demonstrate income from commercial agricultural production during the past three years comprising at least a third of their entire economic activity. The person must also have experience in agriculture or have a formal education or its equivalent therein.

Landholders must begin agricultural activity within a year of purchasing agricultural property and provide written proof of its use in production. Fines are set in cases where no work has begun within a three-year period. Purchasers must be registered taxpayers and hire professionally qualified agricultural workers of the appropriate specialization.

The transfer of agricultural land (and the acquisition by new owners) is registered in the Land Register only after written consent from the local municipality has been received. The restrictions on the acquisition of the agricultural land are not applicable if an individual inherits a land plot or acquires a land plot that does not exceed 10 hectares; or it is a legal entity which acquires less than five hectares of land.[23]

2.4 Real property market

The development of the existing real estate market started in 1991, together with the inception of land reform (denationalisation and the restitution of property rights in land and buildings).

The land (real estate) reform on land and buildings anticipated private ownership of all types of such kind of properties.

[23] Parsova V., Gurskiene V., Kaing K. Real Property Cadastre in Baltic Countries. Jelgava: Estonian University of Life Sciences, Latvia University of Agriculture, Aleksandras Stulginskis University, Lithuania, 2012. Parliament of the Republic of Latvia: Law on Land Reform in the Rural Areas of the Republic of Latvia, Rīga, 21 November 1990. Parliament of the Republic of Latvia: Law on Completion of Land Reform in Rural Areas Rīga, 13 November 1997. Parliament of the Republic of Latvia: Law on Completion of Land Reform in Cities, 5 November 1998. Parliament of the Republic of Latvia: Law on Land Privatisation in Rural Areas, 9 July 1992.

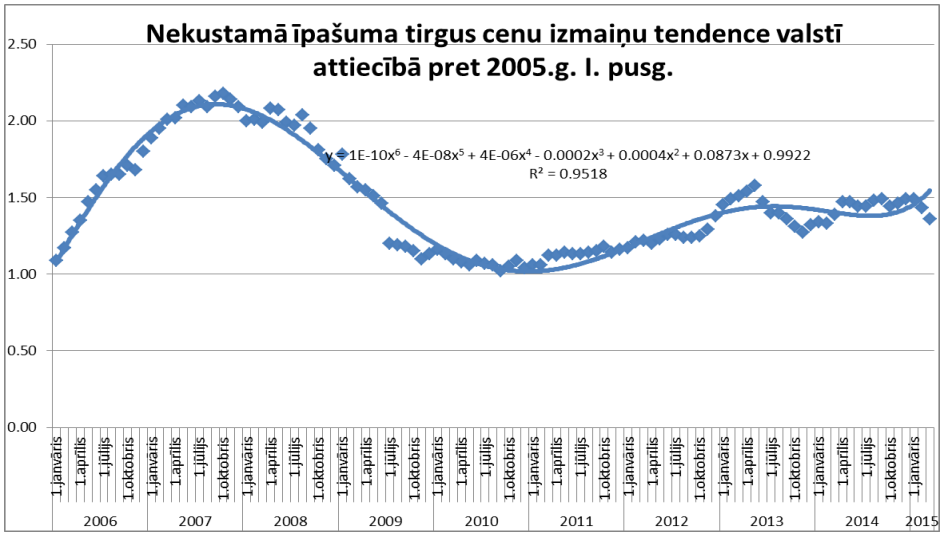
Until 1995, the development of the real estate market was mainly based on the activities of national and inward investors, who, it seems, tried to attract capital from private banks for the purposes of purchasing real property at relatively low cost and in anticipation of profits on a rapid re-sale. The banking crisis of 1995/96 substantially increased the "free« assets of private banks, and that gave the opportunity of receiving loans for real estate purchase and therefore short term real estate market activity increased.

The rapid development of the real estate market began after 2000.

In 2001, global financial markets sharply lowered interbank rates - LIBOR - from 6 % at the beginning to 2 % at the end of the year. These rates continued to fall in the following two years, as a result of the stagnation of the large European and US economies, which in turn, led to reduced demand for money. Latvia, as a small and open economy, was influenced by the rapid decline in credit interest rates, For loans in US dollars interest rates fell from 10% in the beginning of 2001 to 6 % at the end of 2002, amounting to some 4 % -5 % overall. As a result, there was a very significant change in the pattern of lending. Also during this period, Latvia's aim was to join the European Union. Latvia launched mostly Swedish financial institution mortgage bank programmes with low rates for the purchase of real estate. This caused a significant increase in housing loans, and credit periods became longer. As a result, during this period the prices of housing in Riga doubled, with a standard apartment increasing from 150 EUR / m^2 in 2001 to 270 EUR / m^2 by the end of 2002. In subsequent years, prices have continued to rise.

Similar situations were also experienced in other segments of real estate. The real estate market was the driving force of the economic growth, and Real Estate »bubble« developed, with the real estate market overheating. Likewise, as in other countries in the world, in 2008 the reduction of real estate market prices went in tandem with the economic recession. The price drop in different segments was diverse. Prices of flats in houses, that were build in 70s or 80s lowered more then three times. The real estate market reached its lowest point in 2009 – 2010.

Figure 6.5: The tendency for price index changes compared to level of 2005 first half-year



Source: State Land Service.

As a result of increasing prices, there was a situation where the selling prices exceeded the construction costs of new housing and therefore the construction industry became a profitable business. Furthermore, high demand prompted increased supply and a massive construction programme of new housing began.

Demand for new flats was growing rapidly until the economic recession in 2008. The global economic crisis affected both new projects and the standard apartment market. The number of transactions with apartments in new projects, in 2008, fell by about 60 % compared to 2006, and "standard« apartment transactions by about 45 %. Around the middle of 2009, a gradual economic growth began, which was also reflected in the real estate market. The number of transactions involving apartments in new projects increased. Compared to 2008, the increase in such transactions was approximately 40 % and continued to grow, reaching the previous high, the 2006 transaction level, in 2013. In the »standard« housing sector, the number of transactions continued to decline until 2010. The number of transactions in the standard apartments' sector in 2013 was still below the 2006's peak (by around 25 %). Consequently, in recent years, the structure of transactions has changed, i.e. the transactions involving »new« projects' share in the apartment sector has increased.

After the recession, the recovery of the economy in 2011 was matched with the growth of prices in almost all real estate segments, although the pace of growth coninued to vary. The fastest increases in apartment prices were in Riga and Jūrmala, especially involving

relatively expensive and luxury objects. This coincided with the implementation of the governmental programme which provided temporary residence permits for third country nationals in exchange for their investments in real estate.

Since 1st July 1st, 2010, foreign non-EU nationals who have purchased real estate in the Republic of Latvia, may obtain temporary residence permit for a term of 5 years in the Republic of Latvia and thus travel within the Schengen Area. This programme was made during the economic crisis in order to soften the fall of the real estate market and to support real estate developers.

As of September 1st, 2014, amendments to the Immigration Law of the Republic of Latvia[24] came into effect providing new criteria regarding the purchase of real estate as a result of which investors may apply for a temporary residence permit in the Republic of Latvia.

If foreigners own real estate which is registered in the Land Register after the 1 September, 2014, they may obtain a temporary residence permit if the real estate complies with the new legal requirements.

Table 6.4: Conditions to receive residence permit in Latvia when buying real estate

	Real estate is purchased and registered in the Land register before 01.09.2014.	Real estate is purchased and registered in the Land register after 01.09.2014.
Number of real estates	One or several	One functional related built up real estate
Minimal value of real estate obtained in Riga region and republican cities[1]	142,288 EUR	250,000 EUR
The total cadastral value of the real estate at the time of acquisition	42,687EUR	80,000 EUR
The market value of the real estate specified by a certified assessor of real estate if the cadastral value is lower	142,287 EUR	250,000 EUR

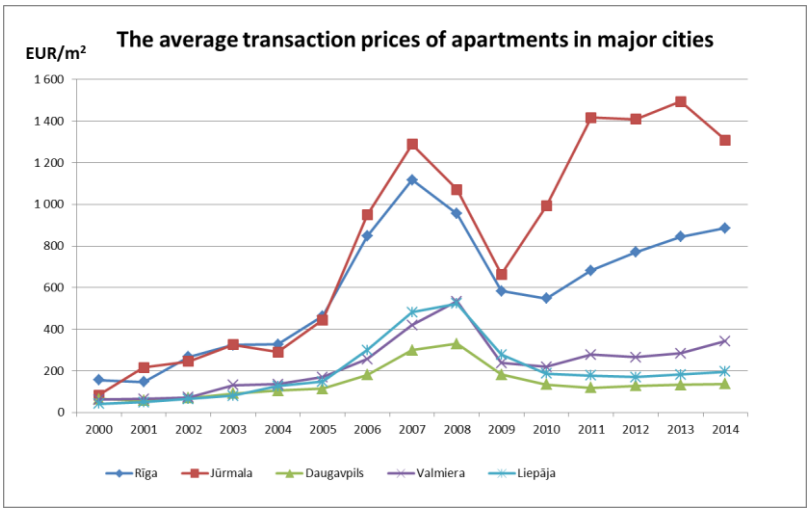
[24] Parliament of the Republic of Latvia: Immigration Law, 31 October 2002.

	Real estate is purchased and registered in the Land register before 01.09.2014.	Real estate is purchased and registered in the Land register after 01.09.2014.
Minimal values of the real estate in other Latvia territory	71,144 EUR	250,000 EUR
The total cadastral value of the real estate at the time of acquisition	14,229 EUR	80,000 EUR
The market value of the real estate specified by a certified assessor of real estate if the cadastral value is lower	71,144 EUR	250,000 EUR
		Extraordinary payment in state budget in amount of 5% from the real estate value

[1] Riga Planning Region as a territory is situated in the central part of Latvia, and megapolis thereof is Riga - the capital of Latvia. The territory of the region includes Riga, Jurmala, as well as former districts of Riga, Tukums, Ogre and Limbazi. Republican cities exept Riga and Jurmala are Daugavpils, Jekabpils, Jelgava, Liepaja, Rezekne, Valmiera, Ventspils.
Source: Parliament of the Republic of Latvia Immigration Law.

According to statistics provided by the Office of Citizenship and Migration Affairs, during 2012 alone 2,435 foreigners requested a residence permit based on the purchase of the real estate in Latvia increasing to 3,085 foreigners in 2013.

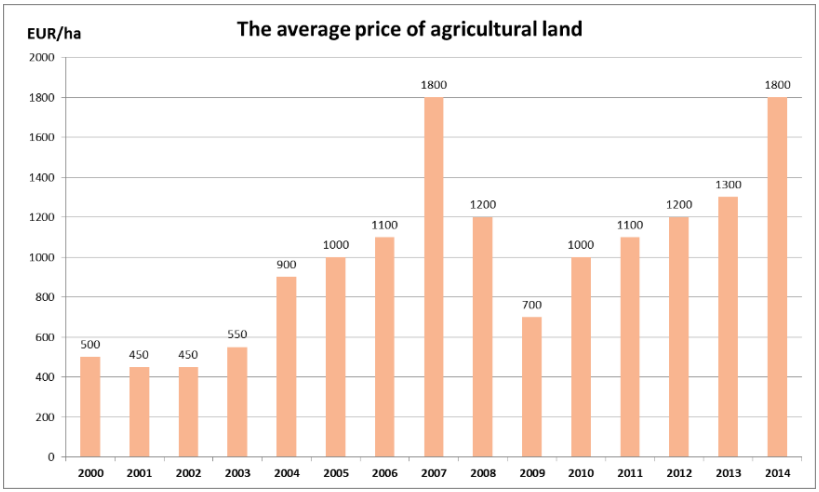
Figure 6.6: The average transaction prices of apartments in major cities



Source: State Land Service http://kadastralavertiba.lv/tirgus-dati/statistika/.

Also agricultural land prices developed more rapidly than other real estate segments (including apartments) as a result of payments from the EU to farmers and the transactions made by other EU citizens. Other market segments developed slowly but steadily.

Figure 6.7: The average price of agricultural land



Source: State Land Service.

3 Property data

3.1 Ownership, collection and maintenance

The purpose of the Cadastre Law is to provide society with updated cadastre information regarding all units of real properties in the territory of Latvia, all real property objects, their owners, lawful possessors, users, and tenants.[25]

In the Cadastre are registered and maintained the relevant text and spatial data as well as the historical data. Data regarding the cadastre subjects, objects of real property tax and taxpayers are entered into the cadastre. Until 2011, the State Land Service prepared the information regarding objects and real property taxpayers from the Cadastre and submitted it to local governments. However, since 2011, the data on real property tax and taxpayers are not maintained in the Cadastre, but are instead held by the municipalities.

A Regulation of Cabinet prescribes the registration of cadastre objects and the updating of cadastre data, as well as the content of cadastre data and the procedures for their correction and maintaining. Cadastral registration may be initiated by the owner, lawful possessor or user of real property. In specific cases, an initiator of registration may be local government. An object is registered in the Cadastre by assigning an identifier, and entering the information from the specification documents and other State information systems.

To maintain the Cadastre, the cadastral subjects, local governments, State authorities and cadastral surveyors provide necessary data to the State Land Service. Cadastral surveyors are obligated to submit surveying documents in both written and digital forms.

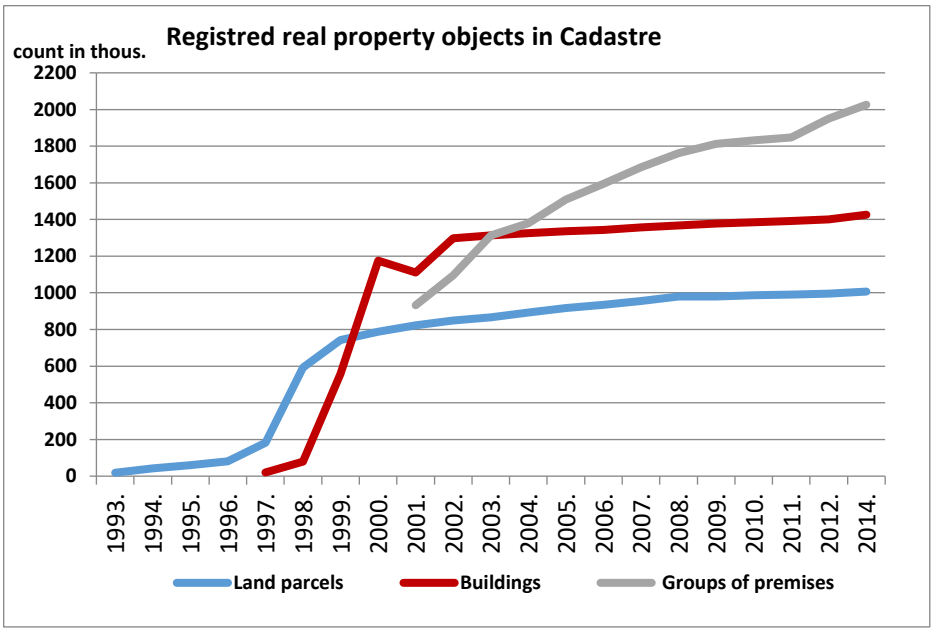
Real property owners involved in the transactions, local governments and State authorities, as well as the Land Register are obligated to submit information to the Cadastre regarding the transactions involving real property or real property objects and the amount paid in the transaction.

The Law »On Immovable Property Tax« led to an acute demand for information about real properties from the Cadastre Register. Therefore, as of 1997, the State Land Service made a great effort to register all the land parcels, and achieved this by 1998.

In 1999, the State Land Service began intensive activities to add buildings to the Cadastre Register.

[25] Parliament of the Republic of Latvia: National Real Estate Cadastre Law, 22 December 2005.

Figure 6.8: Dynamics of registration of Cadastre objects



Source: State Land Service http://vzd.gov.lv/lv/parskati-un-statistika/statistika/statistika-no-kadastra/kadastra-registretie-kadastra-objekti/.

At the early stage of the land reform process, land parcel boundaries in rural areas were mainly identified without instrumental measurement. The land parcel boundaries thus allocated were mapped on the existing manual rural area photomaps (at a 1:10,000 scale). But in cities, towns and in other densely populated areas, land parcel boundaries were surveyed using geodetic instruments. For land parcel boundary mapping, the so-called urban cadastral survey map was created. This map is maintained in digital form.[26]

[26] Parliament of the Republic of Latvia: Law on Land Reform in the Rural Areas of the Republic of Latvia, Rīga, 21 November 1990. Parliament of the Republic of Latvia: Law on Land Privatisation in Rural Areas, 9 July 1992.

Table 6.5: Statistical information on Cadastre objects

Real property objects	Textual part	Graphical part	Coverage
Land parcels (units)	1,006,869	1,006,869	100 %
Buildings	1,426,050	1,411,742	99 %
Apartments	2,026,038		

Source: State Land Service 01.01.2018. http://vzd.gov.lv/lv/parskati-un-statistika/statistika/statistika-no-kadastra/kadastra-registretie-kadastra-objekti/.

Depending on the required accuracy, graphic data for the maintenance of the cadastral map were captured from the following data sources:

- Cadastral surveying linked with the national geodetic network;
- Cadastral surveying not linked with national geodetic network;
- Land parcel boundaries using digital orthophoto[27] maps;
- Land parcel boundaries using manual photomaps of rural areas;
- Design of land parcel boundaries using various cartographic materials.

For the development of the cadastral map, basic data were captured by cadastral surveying and the plotting of land parcel boundaries, but at the same time various cartographic support materials (including orthophoto maps, manual rural area photomaps, land use and real property plans, building overview plans, graphic appendices to leasehold agreements) were also used.

3.2 Land/property ownership and title registration

To facilitate real property transactions, it was necessary to ensure the registration of real property rights. For such purposes in 1993, a historical law »On the Enforcement Procedure of the Land Register Law of 22 December 1937« was adopted and »The Land Register Law« re-enacted. For historical reasons, two independent registration systems have been introduced in Latvia:

- The Cadastral Register as the object registration system (Property Register);
- The Land Register as the legal registration system (Land Register).[28]

The cadastral system is basically intended for real property taxation purposes. It also serves as a tool for the registration of property use and tenure rights as well as for the storage of technical data; whereas the Land Register system offers corroboration of property rights and the registration of any restrictions related to the property.

[27] Aerial photography.
[28] Parliament of the Republic of Latvia: Republic of Latvia Land Register law.

Under Latvian law, there are two authorities responsible for maintaining the real property registration system, namely, the State Land Service and the Land Register Department. The State Land Service is subordinate to the Ministry of Justice, which issues methodological and procedural guidelines. The Land Register is an independent institution working within the system of regional courts and supervised by the Ministry of Justice. The Land Register offices are located in 28 regions, including the larger cities of Latvia. All databases of the 28 Land Register Offices are unified in the State Unified Computerised Land Register, which can be regarded as the centralised database from where the information about all real properties registered in Latvia can be obtained (for a fee).

The Civil Code states that only after registration in the Land Register, do the rights achieve mandatory status in relation to third persons. The Land Register also contains historical information about real properties.

Each real estate transaction involving changes in ownership rights must be registered in the Land Register which stores information regarding the legal status of real estate. Registration of the transfer of real estate ownership rights involves submitting registration applications signed by both seller and purchaser. Before registration in the Land Register, the owner must settle any outstanding real estate tax debt on the property, stamp and State duties.

Where real estate is transferred, there is a State duty to be paid in order to register the transfer with the Land Register. The amount of State duty depends on the legal relationship between the transferor and transferee, as well as on the type of transaction. For example, in the case of a commercial real estate transaction, the State duty is 2 % of the purchase price, but not exceeding 42,700 EUR. The parties can agree as to who will pay the State duty, however, in practice it is usually the buyer who pays the duty.

In general, transfers of real estate are not subject to value-added tax (VAT), with the exception of the first sale of unused real estate which is subject to VAT at the rate of 21 %[29]. Unused real estate is deemed to include: newly-erected buildings or constructions if they are not in use, leased or rented after being put into operation; newly-erected buildings or constructions if they are sold within one year after being put into operation, regardless of their use before the sale; buildings or constructions if they are sold within one year after renovation, reconstruction or restoration works have been commissioned; and unfinished construction objects. If a newly-erected building forms a joint property with the land, the value of the land is included in the value of unused real estate and is subject to 21 % VAT. Furthermore, transfers of newly-built apartments together with individual parts of the land sold as one real estate property are subject to VAT.

[29] Parliament of the Republic of Latvia: Value Added Tax Law, 29 November 2012.

Conclusion

The real property tax is an important income source for local municipalities in Latvia. The real property tax base is the cadastral value. Cadastral value is calculated by State Land Service, but taxes are calculated by local municipalities, and that is why cooperation between State Land Service and local municipalities is important. The main problem would appear to be related to slow speed of real property data actualization, which results in biased cadastral values and therefore real property tax levies as well. This has led the State Land Service to seek a solution with local municipalities, the Ministry of Justice and Ministry of Finance.

The State Land Service also follows all activities in the real estate market and informs the public via half-yearly reports, of the actual trends in real estate market. The State Land Service is working on improvements in cadastral valuation methods to improve the perception of fairness in cadastral valuation and taxation.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
M. Radvan, R. Franzsen, W. J. McCluskey & F. Plimmer

Revaluation Issues in Estonia

TAMBET TIITS

Abstract The Land Tax has been proven to provide stable, if somewhat low levels of revenues for municipalities. Collection rates are high. The Estonian Land Board uses recorded sales date to provide market information on all the real estate transactions. The Sales Register provides relevant and reliable information for mass valuation purposes. It is clear that property tax and land assessment is not a high priority for the Government. Land reform is at its final stage. There is still some 1.5% of the land (by area) that is still within the reform process. This land will in most cases stay in state or municipal ownership, land reform having already dealt with restitution and privatization. More than 60% of land is now in private ownership, with the State retaining ownership of large areas of such land property as forests, swamps, nature protection areas.

Keywords: • Estonia • property tax • immovable property tax • valuation • tax reform

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Introduction

This chapter describes the main features of the Land Tax in Estonia (there is no tax on buildings or similar structures in Estonia). It provides an overview of the main developments of its implementation from 1993 until 2016. The recurrent property tax in Estonia is the Tax on Land, based on the land value. The last revaluation carried out was in 2001. Since then, the market has been somewhat dynamic and tax assessments are now substantially lagging behind the market value. There is, therefore an increasing need for a revaluation of the tax base. However, this is a rather sensitive topic, politically. The revaluation has been postponed several times and the adverse effects associated with the postponements are increasing. Thus, the next revaluation will need to be undertaken with a sensitivity to these issues and regulations to deal with the transitional phase for its implementation will need to be carefully considered.

1 Land Tax

Estonia re-established its independence in 1991, as a parliamentary democracy, in which everybody's rights are protected by the constitution. In the early 1990s, the government introduced important social and economic reforms, including the implementation of the land tax as a part of the general tax reform. Land tax is inevitably interrelated with the country's land policy and land reform.[1]

1.1 Historical overview

The taxation of land and improvements on land (structures) was a major source of revenue for rural municipalities (communes) in Estonia between 1918-1940. At that time, rural municipalities were subject to two types of taxes:

(1) a tax on fixed assets consisting of land and buildings; and
(2) a supplementary tax on these fixed assets.

Land and buildings in urban areas were also subject to taxation, but at higher tax rates. In both rural and urban municipalities, the tax base was the assessed value of the land and buildings, with the "taxable" base defined for each land class. In 1937–38, the land tax (land and structures) collected from rural communes contributed 30 % to the local budget tax revenues. The average effective tax rate was about 0.2 %.[2]

[1] „Everyone is equal before the law. No one may be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other views, property or social status, or on other grounds." (Art. 12) „The property of every person is inviolable and equally protected." (Art. 32) „National taxes, encumbrances, fees, fines and compulsory insurance payments are established by law." (Art. 113) "A local authority has an independent budget which is drawn up in accordance with the principles and procedure provided by law. Local authorities have the right, on the basis of the law, to establish and levy taxes, and to impose encumbrances." (Art. 157) /2/

[2] Attiat, F. Ott, Land Taxation and Tax Reform in the Republic of Estonia. Assessment Journal 1999 (1). P. 40-49.

Estonia was occupied from 1940 (1941-1944 by Germany), and for about five decades by Russia During this time, all real estate, as well as industrial and agricultural assets were nationalized. Civil transactions concerning land ownership were not conducted and any type of private ownership of land was illegal. As a result, land-related rights such as easements, usufruct, and mortgages, had no meaning.

Estonia regained its independence in 1991, at which time, the majority of the population considered that unlawfully expropriated rights should be re-established. The Land Registry had not operated during the Soviet period and records of pre-1940 land rights were still available from the Land Registry. Parliament passed the Ownership Reform Act and the Land Reform Act in 1991 to provide the procedure and the bases for restitution. There were around 230,000 claims made for the restitution of property rights, including 13,000 from foreigners.[3]

Privatisation has been another major process of the land and ownership reform. More than 90% of the state-owned enterprises were privatised during 1990s, including apartments owned by the state and the municipalities. Residents and occupying tenants[4] had the right of pre-emption for the ownership of their residences.

The whole process of restitution and privatisation created a large private property ownership sector, as well as an active real estate market and supported by the availability of mortgage lending. This contributed to the dominance of private business in the economy.

1.2 Recurrent Land Tax v Real Estate Transfer Taxes

The main legislative provision for all taxes is the Taxation Act[5] , which specifies the rights, obligations and liability of the tax authorities and taxable persons, the procedure for tax administration, and the procedure for the resolution of tax disputes.

Based on the Act there are both state and local taxes in Estonia. The Law provides for the following state taxes: Income Tax, Social Tax, Land Tax, Gambling Tax, Value Added Tax, Customs duty, Excise duties, Heavy Goods and Vehicle Tax. Municipalities can impose taxes in compliance with the Local Taxes Act.

[3] Uku, H. Restitution in Estonia. http://estonia.eu/about-estonia/history/restitution-in-estonia.html. 30 3. 2015. Claims were accepted from everybody whose rights were recorded in the Land Registry (including those who had foreign citizenship) before the Soviet occupation and the expropriation of real estates; or their descendents. There was one exemption. Based on the agreement between Soviet Russia and Germany, many Germans had left their estates in occupied Estonia. They were compensated by the German administration and thus had no rights for restitution.
[4] i.e. those with the right of use under the Soviet Civil Code.
[5] Taxation Act, www.riigiteataja.ee, RT I 2002, 26, 150.

Transfers of real estate are not liable to taxation, instead, such a transfer is subject to the state fee. The State Fees Act[6] regulates the bases and the procedure for the establishment, verification of payment, collection and refund of state fees. It also provides for exemptions from state fees, the rates applicable and the procedure for determining transaction values. The fees should cover the costs of the proceedings and are not primarily for revenue generation, unlike the taxes. Thus, the transfer of real estate rights, the registration of mortgagees, etc. are subject to a state transfer fee. The transfer fee for the sale and registration of the new owner in the Land Register depends of the value transferred. It is in most cases around 0.11 % of the value transferred, based on recorded sale price. The maximum rate for the fee is 0.16 % when the transferrable value exceeds 639,120 EUR, thereafter, the maximum fee is up to 2,560 EUR. There are different fee rates for the other Land Registry deeds.

1.3 Structural Components

In 1993, Estonia introduced the Land Tax based on the market value of land. Parliament passed Land Tax Act in May 1993 and it came into force on 1 July 1993. The reform of the land tax was a part of the general tax reform carried out during 1991 - 1993.

At that time, the Land Tax was a state tax, with the revenues shared between the local and central governments. In 1993-1994, the tax rate was 0.5% for the revenue raised for both local and central governments. The sharing of revenues (instead of the direct allocation of all revenues to local budget) lasted for 2.5 years.

In 1995, local governments was made responsible for determining the annual local tax rates within the range of 0.3 - 0.7%. The rate of tax for central government revenues remained at 0.5%.

From 1996, it was decided to allocate 100% of land tax revenues to local governments, and at this point the Land Tax became one of the most important revenue sources for municipalities. Although the Land Tax is revenue for local budgets, it remains a state tax and the Estonian Tax and Customs Board (ETCB) is responsible for its administration and collection.

Since 1997, local governments have had a right to decide annual tax rates within certain limits, which at the time, were between 0.5 - 2.0%. There was also a special tax rate for agricultural land, within the limits of 0.3 – 1.0%, also determined locally.

From 2002, local councils have had a right to decide tax rates, as a general rule, within the limits of 0.1- 2.5%; for agricultural land the limits are between 0.1 - 2.0%. Local councils have also an option to determining different tax rates for different land value zones.

[6] State Fees Act, www.riigiteataja.ee, RT I, 30.12.2014, 1. “A state fee is a sum payable in the cases provided by law in an amount established by this Act for the performance of an act for which a state fee is charged.” /6/

In each tax year, municipalities make tax rate decisions by 31 January and inform the local administration of the state's Tax Board by 1 February. At the same time they submit all necessary information for updating the Land Tax Register held by the Tax Board.

In 2012, tax exemptions were introduced for residential land under the following conditions:

- exemption of only one plot of land in the ownership of the taxpayer;
- exemption only on the plot of land on which the taxpayer's permanent residence is constructed; and
- within the limit of 1,500 square metres in urban areas; and 2 hectares in rural areas.

Tax rates are adjusted to reflect these amendments, but do not entirely compensate for the loss of revenue. Municipalities allow for these exemptions by raising tax rates. As the loss of revenue is higher in the capital city and in other economically dynamic regions, many taxpayers act accordingly by shifting their permanent address.

1.4 Tax base

The basis for the recurrent property tax in Estonia is the taxable value of land, excluding the value of any buildings etc. constructed on the land. The Land Tax Act[7] provides the regulations related to the tax base, tax rates, taxpayers, exemptions, collection and similar matters.

The Land Assessment Act[8] sets out the grounds of and procedure for the valuation of land. The results of such a valuation are applied for taxation, privatization, expropriation and land readjustment purposes, and for the assessment of compensation for restitution purposes.

As stated above, the value of improvements is not considered in the taxable value of land. There are rights related to land which are regulated within the Planning and Zoning Regulation.

Taxpayers are the owners registered in the Land Register, together with owners of the rights of usufruct (36 – 99 years). Estonia has a rather high ratio of owner-occupied apartments and family houses. Around 90 % of all residential premises are owner-occupied. Tenants of land which is still in public ownership are also taxpayers. Public lands institutions (state-owned lands) are not exempted from land tax in Estonia, regardless of who occupies them.

[7] Land Tax Act, www.riigiteataja, RT I 1993, 24, 428.
[8] Land Assessment Act, www.riigiteataja, RT I 1994, 13, 231.

Categories of land exempted from Land Tax are:

- Land where economic activities are prohibited by law or pursuant to the procedure provided by law to prohibit economic activities;
- Land adjacent to the buildings of embassies and used by embassies of foreign states;
- Land of international institutions based on a relevant agreement with the Estonian Government;
- Land under places of worship of churches and associated building (but not land owned by churches and used for investment and other commercial purposes);
- Municipal land under the jurisdiction of a neighbouring local authority;
- Land under public water bodies (i.e. territorial seas and major lakes), water bodies in private ownership for public use, and public roads;
- In cases provided for in an international agreement, land in the use of international military headquarters;
- Land in state ownership intended for the construction of public works;
- Land with intended to be used as public land;

For land where economic activities are restricted by regulation, the tax burden makes deductions of either 25%, 50%, or 75% of the tax rate, depending on the regulation established for the specific uses of the land (such as nature protection areas, national parks).

1.5 Administration (valuation, assessment, billing and collection)

The Estonian Land Board (ELB) is responsible for the assessment of taxable land. Parliament passed Land Assessment Act in 1994, which provides the basic principles for the assessment of the taxable value. The Act also regulates the valuation of land for expropriation and land readjustment cases, as well as for compensation in land reform-related cases. The object of a valuation for tax purposes is a plot of land, ignoring any buildings, forest, other vegetation or accessories situated thereon. This is a somewhat simplification of the basic assessment.

The Act stipulates that valuations should be based on "good practice" and internationally-recognized principles of valuation for immovable real estate. The sales comparison method, capitalized earnings method, cost method and combinations thereof are all acceptable for use in such valuations.

The assessment is defined as a periodic valuation for the purposes of taxation by which the value of land by zones and intended use or by land use type is determined. The results of the assessments are presented as maps of value zones, and a list of the values of land by value zones and intended purposes.

The assessment process is based on the data in the database of transactions of the Sales Register. The Sales Register is part of Land Cadastre which is the responsibility of the Estonian Land Board. It does not include information relating to owners and should not

be confused with the Land Registry which is a separate State institution. The information and data of transactions recorded in Sales Register before 30 June in any given year are used for valuation purposes.

Land is divided into zones in the valuation process. A value zone is an area with a similar value level and market characteristics for lands used for the same purpose. Within each zone the value is determined for types of land use.

The re-assessment cycle is not been fixed in law. Re-assessment is a decision of the Government made on the proposal of the Minister of the Environment by the end of May. No Act defines the period during which an assessment might apply. As a result, re-assessments have been conducted in 1993, 1996 and 2001. Since then, the 2001 assessments have continued in use. These are now outdated and the correlation with the market values is questionable.

Assessments of land and their outcomes are public. An assessor, together with the relevant municipality, organizes a public presentation of the results of the valuation of land zones for at least twenty calendar days. The rural municipality or city government publishes a notice of the time and place of the public display of the results of the assessments in their official publication at least ten days prior to the public presentation.

Within ten days of the end of a public presentation, interested persons have the right to appeal the assessment, by submitting to the assessor proposals for its correction, complaints and challenges to the results of the valuation of land zones, at no cost.

An assessor submits the results of valuation to the Estonian Land Board, which verifies that the results of the valuation comply with the established method of and procedure for valuation. The Minister of the Environment approves the valuation results by the end of November of the year of re-valuation. The results of an assessment become valid on 1 January of the year following re-valuation. Local governments undertake the assessment of the value of each land parcel, based on the outcome of the valuation of land use zones made by the assessors at the Estonian Land Board.

Information on market transactions recorded in the Sales Register is also used by the private valuers. The information is reliable, accurate, relevant and updated on a weekly basis. The information is fully accessible only for certified valuers who have to pay a fee. Single property valuation reports for lending purposes, financial statements, etc. also include information from the Sales Register.

Following the public viewing of the outcome of the assessments of the Estonian Land Board (during which time, interested parties may appeal the results without charge), a petitioner is required to pay security upon contesting the results of an assessment of land by way of administrative procedure. The amount of security does not exceed 2% of the

assessed value of the plot of land concerned. The Government Act regulates the procedure for the settlement of disputes regarding the Land Tax assessments.

There are three Government Decrees regulating the procedure and methodology of assessment: The Procedure for Land Assessment, Methodology of Land Assessment and The Procedure for Calculating Taxable Value of a Particular Land Plot.

The Procedure for Land Assessment identifies the responsibilities of different institutions and experts from the municipal administration involved in the valuation process.

The Methodology of Land Assessment provides a detailed description of the methodologies used in the tax assessment, i.e. of all main valuation methods: sales comparison approach, income approach and cost approach, including also residual methods. Sales comparison is a most commonly used method.

The Procedure for Calculating Taxable Value of a Particular Land Plot gives details how the value for each parcel should be calculated. The local government administration calculates this after the approval of the Estonian Land Board assessments. The formula used is:

Mh=Hts x K x P,

where:
Mh - taxable value of land parcel
Hts - taxable value in land value zone corresponding to the land use type
K - correction factor (coefficient);
P - area of land parcel (in square metres).

The Estonian Tax and Customs Board (ETCB) is responsible for the billing and collection of taxes, including the land tax. The ETCB, on receipt of data from municipalities, calculates the tax payable and issues the invoices. The majority of taxpayers use the website of the ETCB for handling their taxes (including the land tax, and personal income tax). The website of the ETCB has a special service that is accessible by the taxpayer using a personal identification card (ID card). The taxpayer receives a notice from the ETCB, usually by e-mail, informing of the due date by which taxes should be paid, or if there is some relevant information on the website. The taxpayer, by using an ID card (or bank credit card), can access personal information on the ETCB's webpage. Tax bills are presented on the ETCB webpage and taxpayers have the access to their personal section only. There is electronic ID in use for this. ETCB webpage provides the details of the assessed value, tax payment, etc. for each land parcel, and also details of the allocation of the tax revenue related to the relevant municipality

More than 95 % of taxpayers handle their tax affairs (including land tax) using the ETCB website services. For those who do not use such electronic means of communication, payment of taxes etc. is effected at the relevant tax offices.

The tax rate is determined annually, and municipalities are able to decide different tax rates for each land value zone. The formula for determining the land tax payable is:

Mm=Mh x Tr x Sr,

where:
Mm - land tax
Mh - taxable value of parcel
Tr - land tax rate determined by the local government
Sr - land tax reliefs

The ETCB issues the tax bills and collects land tax. The ETCB also transfers the land tax revenues to the budget of the local government.
In cases where the tax burden is below 65 EUR, the entire amount is due by the end of March. In other cases, payment is normally made bi-annually, in two instalments, by 31 March, and 01 October, provided the first payment made comprises at least 50 % of the annual tax liability. The ETCB does not issue bills under 5.0 EUR.

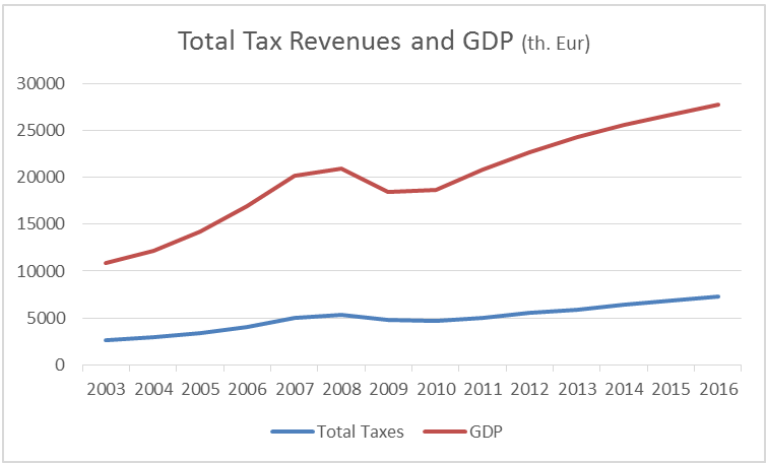
1.6 Revenue importance and revenue performance - Role and function of the Land Tax

As stated above, the tax rate is decided by local councils within the limits of 0.1 - 2.5%. Tax rates for agricultural land are within the limits of 0.1- 2.0%, and municipal Councils determine the tax rates by the end of January of the current fiscal year.

Municipalities have an option to fix different rates for each land value zone. However, the majority of municipalities implement a uniform tax rate for all land and the same rate is applied to agricultural lands.

Thus, the land tax is a national tax, with its revenue assigned to the local budgets.

Figure 7.1: Tax Revenues and GDP

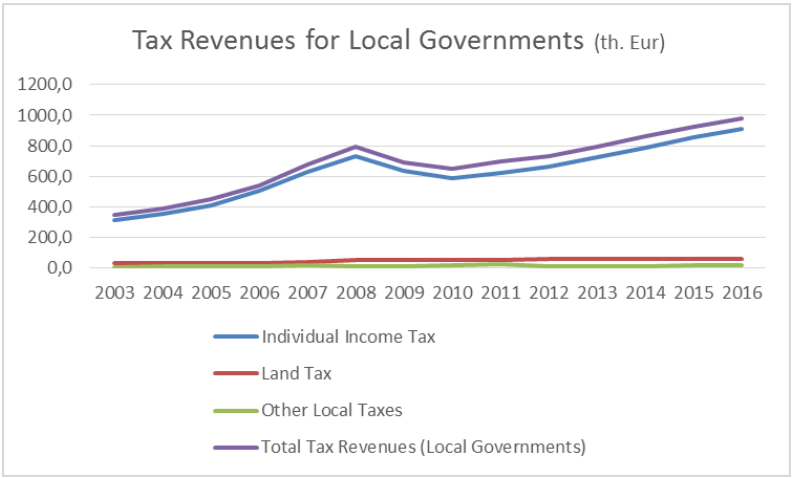


Source: Ministry of Finance.

Tax revenues in Estonia have been between 31.2% (2005) and 35. % (2016) of the GDP from 2003 to 2016.

During 2008 – 2010, the economy was shrinking, and this is reflected in tax revenues, as can be seen from Figure 7.1 above.

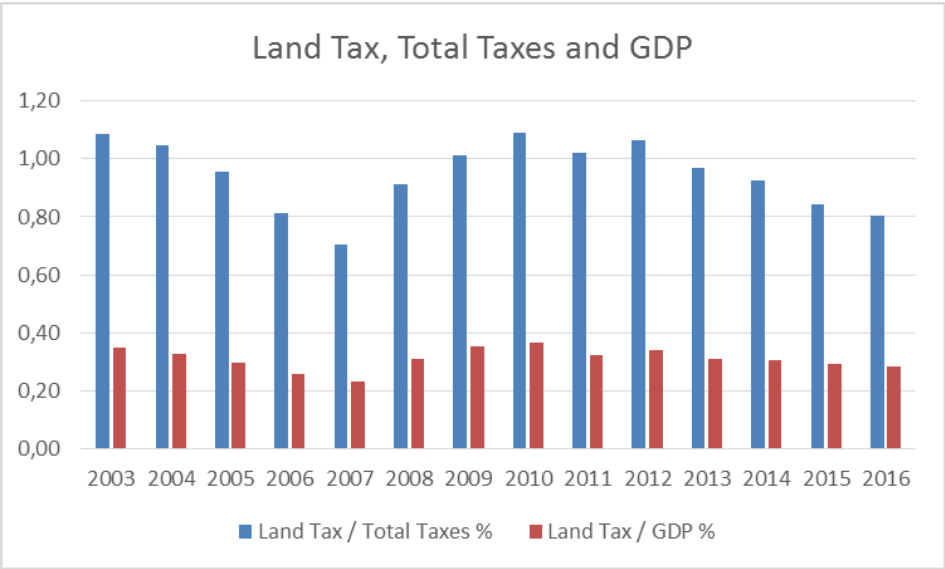
Figure 7.2: Tax Revenues for Local Governments



Source: Ministry of Finance.

Land tax is currently providing an average of around 7% of the tax revenues of local governments. The revenue importance is lower in the regions than in major cities, where the local economy is providing most of the Estonian GDP. In the period of economic slow-down (2008 – 2010), the Land Tax proved to be a much more stable revenue source compared to other taxes.

Figure 7.3: Land Tax, total taxes and GDP



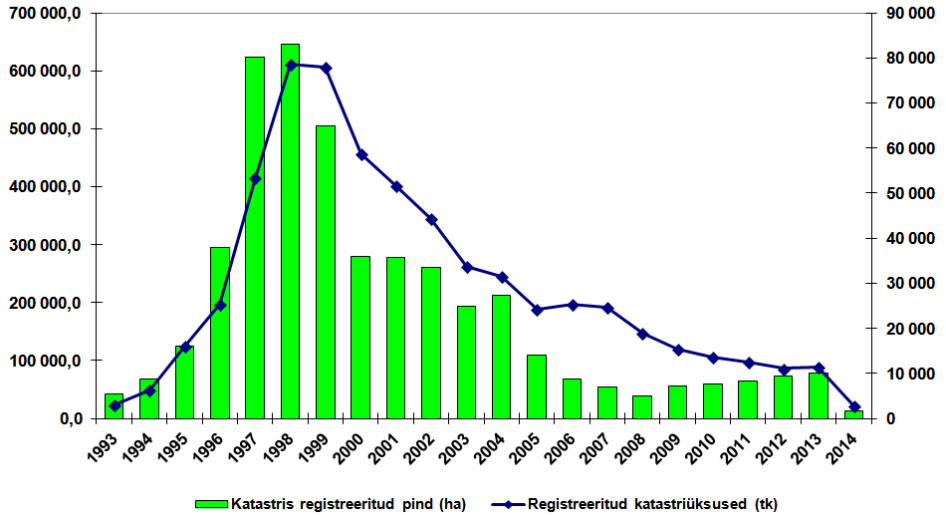
Source: Ministry of Finance.

Land tax revenues have been mainly between 0.3% and 0.35% over the last decade. When the economy was booming (2006 and 2007), land tax revenues were even lower: at 0.26% and 0.23% respectively. It was highest during 1997-2000, at between 0.42 % -and 0.44 %. Land tax revenues have quite a modest importance in Estonia. The collection rate is quite close to the maximum, allowing no opportunity to increase revenue by greater enforcement of collection.

2 Land Reform

Land reform is at its final stage. There is still some 1.5% of the land (by area) that is still within the reform process. This land will in most cases stay in state or municipal ownership, land reform having already dealt with restitution and privatization. More than 60% of land is now in private ownership, with the State retaining ownership of large areas of such land property as forests, swamps, nature protection areas.

Figure 7.4: Land Reform process, area (left scale) and parcels (right scale)



Source: Estonian Land Board.

3 Property data (ownership, collection and maintenance)

3.1 Land Registry

Property related information is quite extensively accessible over Internet. Parliament passed The Land Register Act in 1993. The Land Registry is part of the county court. Rights contained in the Land Registry are legal, as a result of the process of registration. The Land Registry is composed of:
(1) register itself;
(2) the registry journal; and
(3) registry files.

The register is made available to the public online, although the user has to pay a fee to access the information. It has four sections: the composition of real estate (cadastre code); details of the owner; the nature of encumbrances and servitudes; and any mortgages held against the property. The registry files and registry journal are accessible only when there is a need granted by law. The deeds, agreements, are all digitally accessible. In this case the current owner has had full access to all documents on-line since land register was established. However, an owner has access to only his assets, and uses the personal ID system for this purpose. Such agreements are mentioned in registry as well, but the full text or details are not available for general public.

3.2 Land Cadastre

Based on the provisions of the Land Cadastre Act, land parcels have been surveyed, and the information regarding the boundaries, areas[9], planning and zoning matters, and land use restrictions are recorded in the Land Cadastre. The cadastre covers the whole territory of Estonia, and the information is accessible on-line and is freely available. The Land Cadastre is the responsibility of the Estonian Land Board whose website has a "Geoportal" that provides more than 50 different information services: including the cadastral map, basic map (web map services), and historical maps.

The Sales Register is a part of Cadastre and records the sales evidences of all transactions related to real estate property in Estonia. The Sales Register is regarded as a reliable source of information and contains information dating back to the late 1990s. Information on single sales is available for certified valuers, and it also provides market reviews for the public.

3.3 Register of Buildings

Buildings and structures are recorded in special register that is separate from the Land Cadastre and Land Register. All three use the same identification codes, so the exchange of information is easily achieved. This Register too is freely accessible on-line.

3.4 Digital Documents and Signature

Estonia used digital signature in public and private activities. The citizens' ID card is widely in use for the identification of the individual and for the signing of documents. The vast majority of documents, agreements etc. today are only available in a digital format, as are documents recording court debates.

Conclusion

The Land Tax has been proven to provide stable, if somewhat low levels of revenues for municipalities. Collection rates are high. The Estonian Land Board uses recorded sales date to provide market information on all the real estate transactions. The Sales Register provides relevant and reliable information for mass valuation purposes. It is clear that property tax and land assessment is not a high priority for the Government.

[9] Size, location, boundary monuments, surveying details, coordinates.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
M. Radvan, R. Franzsen, W. J. McCluskey & F. Plimmer

Real Estate Taxation in Romania

COSMIN FLAVIUS COSTAŞ

Abstract Since the administration of taxes on real estate has been generally granted to local authorities, there is little quarrel about the taxes themselves. Taxes on land and buildings produce a rather small yield and the new Fiscal Code (2016) resulted in an increase in tax for buildings used for business purposes. However, the legislators just missed a chance of reform these taxes, as their legislative provisions passed from one fiscal code to another with no amendments. On the other hand, VAT raises significant issues in connection with real estate. The construction boom of 2004 – 2008 seemed to have resulted in a number of questions about the taxation of small businesses, as shown by the recent cases before the Court of Justice of the European Union. Although the rhythm of real-estate development has decreased, tax issues seem to be even more delicate in this field.

Keywords: • Romania • property tax • immovable property tax • valuation • tax reform

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Introduction

This chapter summarises the main issues relating to real estate taxation in Romania. The work has proved to be rather difficult because of the recent changes in Romanian legislation (particularly the coming into force of a new Romanian Tax Code, as at 1 January 2016). Therefore, both the old and the new regulations in the field of real estate taxation are presented here, as the older rules are still reflected in tax inspections and court cases. Extensive references have been made to national and European case law, particularly in the complex VAT cases that have kept the courts busy recently. Discussions are still on-going in this respect, because the Romanian legislators did not set up explicit and comprehensive rules for the taxation of natural persons in this area. In fact, Romania is an unusual case since most of the real estate development in the last decade has been conducted by natural persons acting as „taxable persons" from a VAT point of view. Comments as to the evolution of real estate markets are included, although the lack of up-to-date information sometimes influences the quality of the research in this field. There are limited contributions at the national level as far as real estate taxation is concerned and thus, this contribution, conducted at an international level, should increase both the legislators' interest for the regulation of real estate taxation and the awareness of the legal issues to be dealt with.

Real estate taxation has never seemed to be coordinated in Romania. Since the country has experimented with different land register regimes and has not yet finished an electronic inventory of all properties in the country, it is difficult to talk about a comprehensible real estate taxation system. The constitutional restrictions regarding the acquisition and sale of land, the significant number of real estate court cases pertaining to the restitution of property, and the new VAT cases affecting real estate developers has led to the conclusion that real estate taxation in Romania raises a number of complicated issues. A few of these issues are dealt with in this text. The chapter also explains the evolution of the national rules in the field of property tax, the land tax, the building tax, the tax on special constructions and VAT, refering to both the old and the new Romanian tax codes.

1 Property tax

1.1 History

Real estate has been taxed throughout history. As the Romanian democracy is quite young – the actual Romanian State gained independence from the Turkish Empire in 1877 and the situation was consolidated after World War I and the 1919 Versailles Treaty – there is not much to say about the taxation of real estate as it existed a few hundred years ago. Since, historically, various parts of the country have been under Polish, Russian, Turkish or Austro-Hungarian rule, real estate was taxed according to the provisions applied within these territories.

However, it should be pointed out that in Transylvania, Banat and Bucovina, the Austrian rule introduced a cadastre and a Land Register in the 19th century. The Austrian Ministry of Justice issued the Ordinance of 28 December 1849 for the introduction of Land Register books and their Regulation in order to determine the exact location of the land owned by each person. The Land Register system was later improved by Regulation no. 2579 of 8 April 1869. As long as land could be measured and its owners identified, it was easy for the Empire to levy a tax on them. The Land Register which still exists is useful today in order to determine the thread of land ownership.

Thus, some 130 years ago officials were not concerned about recording buildings nor their taxation. The Romanian Commercial Code of 1887[1] did not consider the supply of buildings to have a commercial value, therefore their supply/disposal was treated as a civil transaction under the Romanian Civil Code of 1864.[2] This remained so until 1 October 2011, when a New Civil Code[3] repealed the old Civil Code and the Commercial Code. However, the former treatment of the supply/disposal of buildings as a civil transaction is an argument which is still used today, by individuals selling immovable property who claim they cannot be subject to VAT because they are not carrying out an "economic activity", merely selling goods from their civil patrimony (in the same way as they might sell other assets, such as jewelry, paintings or cars).

Value Added Tax (VAT) was introduced on 1 July 1993 and legislation was gradually harmonized with European Union legislation. As far as income from real estate is concerned, the taxation of income derived from the sale of immovable has only been the subject of taxation since 4 June 2005. However, it was only on 1 January 2010 that the lawmakers provided detailed VAT rules as far as the supply of building land and buildings by individuals was concerned. A year earlier the Government had introduced a reduced VAT rate of 5 % for the supply of buildings and land that met some „social criteria" (e.g. the supply of buildings that had less than 120 m^2 surface area, a price lower than 100,000 EUR and were supplied to families or individuals buying their first house)

As for the taxation of ownership, there has always been a tax on land and buildings. This was collected by the State before 1989 and used to finance the local communities after the end of the Communist rule. The taxation system developed as agricultural land confiscated in the 1950s was returned to the natural persons who were its former owners, or their heirs. Also, as far as buildings are concerned, it is important to keep in mind that, before 1989, construction projects were only developed by the State. It took some 10 – 15 years before private real estate development projects started. Therefore, the taxation of land and buildings only started making sense in Romania after 2000.

[1] Published in Official Journal no. 31 of 10 May 1887.
[2] Due to its length, the Civil Code of 1864 was published in several Official Journals: Official Journal no. 271/1864 (articles 1 – 347) and Official Journals no. 7, 8, 9, 11 and 13/1865 (articles 348 – 1914).
[3] Law no. 287/2009, republished in Official Journal no. 505 of 15 July 2011.

1.2 Position of property tax

As far as real estate taxes are concerned, such taxes can be imposed at different levels. Therefore, in the next paragraphs, the following taxes are discussed:

- property taxes (which are mainly local taxes, such as the building tax (*impozitul pe clădiri*) and the land tax (*impozitul pe teren*)); and
- the taxes on the transfers of real estate, being the tax on profit derived from the sale of real estate (*impozitul pe transferul proprietăţilor imobiliare din patrimoniul personal*) and value added tax (*taxa pe valoarea adăugată*)[4].

1.2.1 Structural components

Property taxes or taxes claimed by national authorities from the owners of buildings and land became common in the 1990s, following the collapse of the Communist rule. Although some property taxes had been levied before 1990, they were more symbolic rather than of any fiscal importance, because the State owned most of the properties and land (except for private residences and small pieces of land).

The old Romanian Fiscal Code,[5] provided for a variety of local taxes, including: a building tax, a land tax, a tax on means of transport, taxes for administrative certificates, permits and approvals, an accommodation tax, other local or special taxes, including taxes on the activities that negatively affect the environment.[6] No change has been made to these by the new Romanian Fiscal Code,[7] which regulates the same local taxes in its Title IX, Art. 453 – 495.

As a general rule, local taxes are levied by the local authorities, according to the provisions of the Fiscal Code. City councils have limited powers of regulation as far as local taxes are concerned.[8] For example, they can rule on whether the municipality or the village can establish a special tax associated with the proper functioning of a local public service (e.g. the collection and transport of residential and industrial waste) or a tax on activities that adversely affect the environment. Certain taxation rates can be set by city councils, within the range allowed by the Fiscal Code (e.g. between 0.08 % - 0.2 % for the building tax for residential buildings). According to Art. 489 of the new Fiscal Code, local authorities can increase the level of taxation provided for at the national level by no more than 50%, based on economic, social and geographical criteria or local budgetary

[4] Income derived from rents from real estate are taxed as personal income.
[5] Title IX of Law no. 571/2003, published in Official Journal no. 923 of 23 December 2003, in force between 1 January 2004 and 31 December 2015.
[6] For a detailed presentation, see Bufan, R., Minea, M. S. (eds.). Codul fiscal comentat, București: Wolters Kluwer, 2008. P. 1183 – 1332.
[7] Law no. 227/2015, published in Official Journal no. 688 of 10 September 2015, in force as of 1 January 2016.
[8] A certain degree of financial autonomy is recognised, but local authorities have a limited power of taxation and no procedural rules of their own. Although local budgets are autonomous, city councils have to keep taxation at the minimum levels provided in the Fiscal Code, in order to ensure that a minimum amount of income is collected (see also Costaş, C. F., Minea, M. S. Drept financiar. București: Universul Juridic, 2015. p. 223).

needs. As of 1 January 2016, local councils have been empowered to increase the rate of the building tax and the land tax for buildings and land in the city by up to 500%, in the case of buildings and land that are neglected.

1.2.2 Building Tax

The building tax is described in Arts. 455 - 462 of the new Romanian Fiscal Code. As a general rule, the tax is paid by the owner of the building. For the buildings owned by the State or the local communities which are rented to or administered by private entities, it is these private entities which are obliged to pay the building tax. Certain natural persons (e.g. war veterans, widows, and individuals deported under the Communist rule) or legal persons (e.g. the Ministry of Education in respect of buildings used for education purposes) are exempt from the tax. The exemption applies, for legal persons, only if the premises are not used for economic (profit-making) activities. Under Art. 456 (2 - 5) of the new Romanian Fiscal Code, city councils are entitled to provide for further exemptions or reductions in the tax rate for individuals with limited income or under a State aid scheme for enterprises.[9]

The taxable base comprises any structure used to shelter people, animals, products and so on[10]. It is determined using different rules for legal and for natural persons. However, buildings used for administrative or education purposes are exempt from tax, as long as they are not used for profit-making activities. Similar treatment is afforded for the buildings in industrial, scientific and technological parks, for railroad-associated buildings, for buildings used by a recognised religious group, or for special buildings (such as bridges, sea-drilling platforms, and dams).

In the case of residential buildings owned by individuals, the tax base is determined taking into account the taxable value of the property. This value is established in the Fiscal Code[11], with values ranging from 75 RON[12] per square metre (for simple wooden shelters with no service installations) to 1,000 RON per square metre (for concrete or brick constructions with running water, sewage, electricity and heating). Certain corrections are applied, according to the age and / or location of the building, with the increase or the decrease of the value of the property resulting.[13]

[9] For example, following the approval of a State aid scheme by the Competition Council, the City of Cluj-Napoca granted a lower tax rate of 1% for so-called "green buildings", as certified by an evaluator. The scheme was applied for schemes with a total value of 600,000 RON (some 135,000 EUR).
[10] Art. 453 (b) new Romanian Fiscal Code.
[11] Art. 457 (2) new Romanian Fiscal Code.
[12] The currency used in Romania is Romanian "leu" (plural, "lei"), abreviated for international use as RON. The conversion value on 1 October 2017 is 4.5991 RON per EUR.
[13] There is a multiplication coefficient of 0.90 – 2.60 determined with regard to the type of community and the location in the city or village area (basically, the value of the property increases in larger cities and the closer the building to the city centre). Reductions of 10, 30 and 50 % from the value of the property are applied to buildings older than 30 years, 50 years or 100 years, respectively (Art. 457(8) new Romanian Fiscal Code).

Table 8.1: Taxable value, buildings owned by individuals (2018)

Type of building	Taxable value - RON/m² -	
	Installations (water, sewage, electricity and heating)	No installations of water, sewage, electricity or heating
A. Building with frames of reinforced concrete or exterior brick walls or walls made of materials obtained through a thermic and/or chemical treatment	1,000	600
B. Building with exterior walls made of wood, natural stone, unfired bricks, rolls[14] or any other materials that were not obtained through a thermic and/or chemical treatment	300	200
C. Ancillary building with frames of reinforced concrete or exterior brick walls or walls made of materials obtained through a thermic and/or chemical treatment	200	175
D. Ancillary building with exterior walls made of wood, natural stone, unfired bricks, rolls or any other materials that were not obtained through a thermic and/or chemical treatment	125	75
E. In the case of the taxpayer owning, at the same address, rooms located in a basement, semi-basement and/or in the attic, used as a dwelling, in any type of building mentioned in A-D above	75 % of the amount applied to the building	75 % of the amount applied to the building
F. In the case of the taxpayer owning, at the same address, rooms located in the basement, semi-basement and/or in the attic, not used as dwelling, in any type of building mentioned in A-D	50 % of the amount applied to the building	50 % of the amount applied to the building

Conversion rate as at 1 October 2017 was 4.5991 Romanian lei (RON) per euro.
Source: Art. 457 (2) Romanian Fiscal Code.

Under the old Romanian Fiscal Code, natural persons paid a higher rate of building tax in some cases. For example, if the area of the building was larger than 150 m², a 5 % tax increase for every 50 m² or fraction of 50 m² was applied. There was also a tax increase for supplementary buildings other than the sole residence of the taxpayer: 65 % for the

[14] "Rolls" (in Romanian, *vălătuci*) are cylinders made of clay and straw, used for the construction of peasants' houses.

first supplementary building, 150 % for the second and 300 % for the third and for each of the following ones.[15] The new Romanian Fiscal Code did not retain these provisions.

In the case of non-residential buildings owned by individuals, as of 1 January 2016 new rules were introduced. In fact, under the old Romanian Fiscal Code, the building's use did not matter for tax purposes. Now it does, and, as for non-residential buildings it is compulsory that the owners provide the local tax authority with a report on the value of the property that is no older than five years[16]. Therefore, the value of non-residential buildings is a more accurate reflection of the market value of the property; while the value of residential buildings is still determined empirically.[17]

The tax base for buildings owned by legal persons, whether residential or non-residential, is determined in a slightly different manner. Specifically, the value of the property is the value for accounting purposes, as recorded in the company's books. Legal persons are compelled to revalue their buildings every three years with the help of an authorised real estate valuer[18].

As for tax rates, they are set as follows:

- 0.08 % – 0.2 % of the taxable base for residential buildings owned by natural persons;
- 0.2 % – 1.3 % of the taxable base for non-residential buildings owned by natural persons;
- 2 % of the taxable base, applied to the value determined for a similar residential building, if the valuation report is not submitted, or the value of the non-residential building cannot be determined;
- 0.08 % – 0.2 % of the taxable base for residential buildings owned by legal persons;
- 0.2 % – 1.3 % of the taxable base for non-residential buildings owned by legal persons;
- 5 % of the taxable base for buildings owned by legal persons, if the building has not been revalued during the past three years; and
- 0.4 % of the taxable base for non-residential buildings owned by either natural or legal persons, if the building is used for agricultural purposes[19].

[15] This tax increase did not apply when buildings were inherited (according to the rules of legal succession).
[16] Art. 458 (1) new Romanian Fiscal Code.
[17] Until the end of 2015, according to the old Romanian Fiscal Code, the value of all buildings (no matter if they were used for residential or non-residential purposes) was the same and was determined empirically (e.g. the value of the building for tax purposes might have been 100,000 lei (RON), while the market value might have been 400,000 lei (RON), for example). As of 1 January 2016 this changed for buildings used for non-residential purposes, where the taxable base is now the market value of the property, as determined by a certified evaluator.
[18] Art. 460 (6) new Romanian Fiscal Code.
[19] It is for the city council to fix the exact tax rates every year.

The building tax is payable annually, in two equal instalments, due on 31 March and 30 September. The city councils may decide to apply a 10 % tax reduction if the whole annual amount is paid before 31 March.[20]

1.2.3 Land Tax

The land tax is regulated under Arts. 463 - 467 of the new Romanian Fiscal Code. The owners of land pay the tax, as well as the natural or legal persons using the land under a lease or a concession contract[21] in the case of land owned by the State or local municipalities. No tax is due when such occupiers are war veterans, physically challenged persons, schools and universities, humanitarian associations or foundations, individuals with little income, or natural persons whose land has been affected by natural phenomena such as flooding or fire (and, for the last two categories, only following a decision of the city council to provide for such an exemption).

The law provides for the taxation of all land. However, some land is exempt from tax. Thus, the following are exempt the land tax:

- land underneath a building[22];
- land owned by religious groups;
- land which is the property of educational institutions;
- polluted land; and
- land in industrial, scientific and technology parks, and so on[23].

Further reductions or exemptions can be granted by decisions of local councils[24].

As for the taxable base, there are three principles which are applied:

- For land with buildings in the city, the new Romanian Fiscal Code establishes a fixed amount per hectare, ranging from 142 RON to 20,706 RON. This amount is determined with regard to the ranking of the municipality[25] and the location within the city. There are four taxation zones, from A to D, with the applied rates of tax decreasing from the city centre to the outskirts of the town, and these can be further increased by the city council by no more than 50 %.

[20] For further discussions, see also Costaș, C. F., Drept fiscal. București: Universul Juridic, 2016. pp. 408-440.
[21] A concession contract arises when public authorities grant concessions or lease goods in public property to business for example, which pay a concessional royalty or rent.
[22] It is irrelevant whether or not the building is subject to the building tax.
[23] See Art. 464 (1) of the new Romanian Fiscal Code.
[24] In the cases shown by Art. 464(2) new Romanian Fiscal Code.
[25] Rankings range from cities to villages.

Table 8.2: Taxable value of land with buildings in the city or other surfaces of land no bigger than 400 m^2 (2017)

Taxation Zones inside the city	Rate of tax for land with buildings in the city or other surfaces of land no bigger than 400 m^2, per type of municipality in terms of RON per hectare					
	0	I	II	III	IV	V
A	8,282 – 20,706	6,878 – 17,194	6,042 – 15,106	5,236 – 13,090	711 – 1,788	569 – 1,422
B	6,878 – 17.194	5,199 – 12,998	4,215 – 10,538	3,558 – 8,894	569 – 1,422	427 – 1,068
C	5,199 – 12,998	3,558 – 8,894	2,668 – 6,670	1,690 – 4,226	427 – 1,068	284 - 710
D	3,558 – 8,894	1,690 – 4.226	1,410 – 3,526	984 – 2,439	278 - 696	142 - 356

- For land without buildings in the city (such as orchards, forest land, and gardens), a fixed amount of 8 – 53 RON per hectare is further multiplied with coefficients[26] ranging from 1.00 (for villages in remote areas) to 8.00 (capital city and large towns) under the new Romanian Fiscal Code.

Table 8.3: Taxable value of land without buildings in the city (2017)

Level of tax for land without buildings in the city - RON/ha					
No.	**Type of land/City area**	**A**	**B**	**C**	**D**
1.	Arable land	28	21	19	15
2.	Pasture	21	19	15	13
3.	Meadow	21	19	15	13
4.	Vineyard	46	35	28	19
5.	Orchard	53	46	35	28
6.	Forest and any other land with forest vegetation	28	21	19	15
7.	Land with water	15	13	8	x
8.	Roads and railroads	x	x	x	x
9.	Unproductive land	x	x	x	x

[26] The purpose of the coefficients is to provide for a balanced taxation of properties.

- Finally, for land outside the city only the fixed amount in the Romanian Fiscal Code, ranging from 1 to 56 RON per hectare, should be applied.

Table 8.4: Taxable value for land outside the city (2017)

Level of tax in terms of RON per hectare		
No.	**Type of land/Area**	**Tax**
1.	Land with buildings	22 - 31
2.	Arable land	42 - 50
3.	Pasture	20 - 28
4.	Meadow	20 - 28
5.	Vineyard in fruit, other than that mentioned at point 5.1.	48 - 55
5.1.	Young vineyard	0
6.	Orchard on fruit, other than that mentioned at point 6.1	48 - 56
6.1.	Young orchard	0
7.	Forest or any other land with forest vegetation, except for that mentioned at point 7.1	8 - 16
7.1.	Young forest up to 20 years of establishment and a forest with a protection role	0
8.	Land with water, other than that of fish farms	1 - 6
8.1.	Land of fish farms	26 - 34
9.	Roads and railroads	0
10.	Unproductive land	0

Similar to the rules applied for the building tax, payment is due twice a year, on 31 March and 30 September. Prompt payment might be rewarded by the city council with a 10 % tax reduction. All these rules apply for both legal and natural persons.

1.2.4 Tax on Special Constructions[27]

As of 1 January 2014, the tax on special constructions was introduced in Title IX[3], Art. 296[33] – 296[36] of the old Romanian Fiscal Code[28]. Such a tax was levied only on legal persons: that is all Romanian legal persons (with the exception of public bodies, national Research and Development institutes, associations and foundations); Romanian *societas europeas*[29]; and foreign legal persons with a permanent establishment in Romania.

[27] Such as posts used to sustain electricity cables or pipes used to transport water or natural gas.
[28] Articles that have been later introduced in a law or a Code are attributed numbers. For example, amendments to legislation which introduce new articles in a section, are shown using the original article number and superscripts for the amendments.
[29] i.e. a public company registered in accordance with the corporate law of the European Union.

The general rule was that an owner of any construction that does not meet the above criteria[30] should pay the tax. The tax rate was set at 1 % of the value of the property (determined under the rules described above, in the section concerning building tax for legal persons i.e. the book value of the construction). In contrast to the building tax and the land tax, which are collected for local budgets, the tax on special constructions is a source of income for the State budget. Tax returns must be filed no later than 25 May for the previous year; and 50 % of the tax is to be paid on 25 May and 25 September. Newly-formed legal persons pay the tax from the year following the year in which they were established.

The new Romanian Fiscal Code is regulated in exactly the same manner[31]. However, the tax on special constructions has only applied up until 31 December 2016 after which date it is no longer applied.

1.3 Taxes on the Transfers of Real Estate

Real estate transfers involve the payment of direct and indirect taxes, as well as some fees. This text refers to the tax on the consideration received from the sale of real estate, the associated Value Added Tax and to notary fees and land register taxes.

1.3.1 Tax on the Consideration Received from the Sale of Real Estate

As of 4 June 2005, Romania introduced a tax on proceeds derived from the sale of real estate by natural persons. The economic justification of the tax was to prevent speculative sales. There was evidence that, in particular, houses and apartments were bought at low prices and sold a few months later for a significant profit. Therefore, this tax was based on the so-called „three years rule", with tax rates decreasing when property was retained for at least three years.[32]

Tax is payable on all life-time real estate transfers (whether buildings or land). It also applies to judicial decisions concerning real estate transfers and for *mortis causa* transfers, (i.e. transfers made in anticipation of death, before which the transfer can be revoked) where the succession was not cleared within two years of the death of the transferor. However, some transfers are not subject to taxation: including the transfer of real estate under restitution laws[33]; sales and gifts between spouses, or between blood and civil relatives up to third degree[34].

The taxable base is determined with reference to the value of the property as declared by the parties in their contract. However, the Chamber of Public Notaries publishes each year

[30] Established in Art. 249 (5) of the Romanian Fiscal Code.
[31] Under Art. 496 – 500.
[32] Currently, this tax is regulated by Art. 111 – 113 of the new Romanian fiscal code.
[33] Law no. 18/1991, Law no. 1/2000, Law no. 10/2001, Law no. 247/2005.
[34] i.e. including first cousins, great grandparents and great grandchildren.

real estate valuation reports on a minimum value for buildings and land in given locations[35]. Therefore, if the parties agree on a lower price for property than that declared in the reports, they are required to pay tax on the proceeds derived from the sale of real estate at the minimum value declared in the report.[36] As of 1 January 2008 there are only two exceptions to this rule: transfers between spouses, and transfers between blood and civil relatives up to second degree[37].

For 11 years, until 1 February 2017, tax rates were set as follows:

- Sales after three years of ownership: 2 % up to 200,000 RON and 1 % for the part of the price exceeding 200,000 RON;
- Sales during the first three years of ownership: 3 % up to 300,000 RON and 2 % for the part of the price exceeding 200,000 RON; and
- Late successions: 1 % of the value of real estate.

The Government Emergency Ordinance no. 3/2017[38] changed this rule and set up a general tax rate of 3 %, for the amount exceeding a non-taxable base of 450,000 RON (roughly 100,000 EUR). The late successions rate is still at 1 %, with no exemptions.

With effect from 4 June 2005, the tax is calculated and collected by the notary publics.[39] All the funds collected are paid to the State and municipal budgets not later than 25 May of the following year.

Notaries are under the obligation to send a detailed report of all their transactions to the tax authorities twice a year. From these payments, 50% fund the State budget and the other 50 % is paid in favour of municipalities (according to the location of the relevant building or land). In case of any other procedure of transfer (e.g. the judicial procedure), parties are required to report the transaction to the tax authorities themselves and to pay the tax due as a result of the tax decision.

For almost a decade, the Land Register refused to process any application regarding real estate transfers if the tax on the sale proceeds was not paid[40]. In 2014, the Constitutional Court ruled that such an interpretation was unconstitutional and repealed the text.[41]

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[35] The Chamber of Public Notaries publishes each year an account of the minimum prices for buildings and land. The report is written by specialised evaluators.
[36] This also applies in court, for the levying of stamp duty where reference is made to the same minimum value established by the Chamber of Public Notaries.
[37] Includes grandparents, grandchildren, aunts, uncles, nieces, nephews and half-sibilings.
[38] Published in Official Journal no. 16 of 6 January 2017.
[39] The Romanian Constitutional Court ruled that such an obligation does not constitute „forced work" for notaries (Decision no. 568 of 2 November 2005, published in Official Journal no. 1060 of 26 November 2005).
[40] This was based on an interpretation of the former Art. 77^6 of the old Romanian Fiscal Code. By decision no. 662 of 11 November 2014, published in Official Journal no. 47 of 20 January 2015.
[41] For a more detailed account of this tax, please refer to Costaș, C. F., Minea, M. S. Drept fiscal. București: Universul Juridic, 2015. P. 240 – 249.

It should be mention that companies also pay tax on the profits they make when making similar transfers[42]. Thus, both Romanian and foreign legal persons pay corporate tax on profits made from the sales of real estate located in Romania. There were no changes to this situation proposed as of 1 January 2016.

1.3.2 Value Added Tax

Romania introduced Value Added Tax on 1 July 1993, at a rate of 19 %. When the Republic joined the European Union (EU) in 2007, its VAT legislation was harmonised in order to meet the requirements of the EU[43] As a concession, the granting of a lease of any immovable good is VAT exempt (except for the provision of camping sites and parking places). The new Romanian Fiscal Code establishes the same rules for the transfers of ownership rights to buildings, parts of buildings, land sold together with buildings and any other kind of land.

However, the VAT exemption does not apply when the transfer involves:

- The sale of „new constructions", that is buildings that are sold before 31 December of the year following the first occupation of the building; and
- The sale of „land for constructions", that is any land that can be used for development purposes, according to the legal and planning regulations.

Any taxable person is entitled to choose the VAT taxation of such supplies[44].

As of 1 July 2012, the threshold for VAT registration of „small enterprises" is 65,000 EUR or 220,000 RON.[45] No such organisation is allowed to register unless its transactions reach the VAT threshold. Any business whose turnover exceeds 65,000 EUR has to notify the tax authority no later than the 10th day of the following month and effectively becomes obliged to collect and pay tax from the 1st day of the next month. Once registered as a taxable person, an entity is liable for VAT on the sale of "new constructions" and „land for constructions" (or for other supplies, such as a taxable lease of building, or a taxable sale of an "old construction").

Currently, the standard VAT rate is set at 19 %. It was previously set at 20 % (1 January – 31 December 2016), 24 % (1 July 2010 – 31 December 2015) and 19 % (1 July 1993 – 30 June 2010). However, as of 1 January 2009, there is a reduced 5 % VAT rate available for certain real estate transfers. The reduced VAT rate is applied to the following supplies[46], as part of the national social policy:

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[42] Arts 13 – 14 of the old Romanian Fiscal Code
[43] Specifically, the Sixth VAT Directive and, from 1 January 2008, the rules established by Directive 2006/112/EC.
[44] Art. 292(3) of the new Romanian Fiscal Code.
[45] The previous mark was set at 35,000 EUR or 117,000 RON (the exchange rate is reported as it was on 1 January 2007).
[46] Art. 291(3c) of the new Romanian Fiscal Code.

- The supply of buildings and land to be used as homes for the elderly and retired persons;
- The supply of buildings and land to be used as foster homes or for the recovery of and rehabilitation centres for physically challenged minors;
- The supply of buildings and land for homes built by municipalities for poor people;
- The supply of buildings of no more than 120 m^2 and the respective 250 m^2 of land, at a price of no more than 450,000 RON, for the accommodation of a family or a single person, if such individuals did not benefit from the reduced rate before.

In order for the 5 % rate to be applied, buyers must provide sellers with an affidavit (a statement) given before a notary public, declaring that they meet the relevant conditions prescribed by law, so that the seller can apply the 5 % rate reduction.

During the last months of 2009, Romania faced a significant number of court challenges concerning the application of VAT rules to natural persons. Between 2004 and 2009, natural persons carried out a significant number of real estate transactions (sales of ,,land for constructions" or sales of ,,new constructions" within real estate projects). However, the national legislation provided no rules for the VAT treatment of such supplies. The tax pattern indicated only the payment of 1 – 3 % tax on the proceeds derived from the sale of buildings and land,[47] since all individuals claimed they sold private property and not the property of a business. Individuals were not registered for VAT purposes at that time, although some individuals sold hundreds of new flats and earned significant revenue as a result. Therefore, there was no VAT collected and no VAT paid to the State budget in the process.

In September 2009, during the economic crisis, Romania applied to the European Commission and the International Monetary Fund for preventive financial help. As a result, it was agreed that more transactions should fall within the taxable limits and thus VAT collection should increase. New legislation was enacted from 1 January 2010[48] and tax inspections were carried out in advance, from September 2009. Oddly enough, the tax inspectors applied the new rules with retrospective effect, over the previous five years, and decided that all individuals should have charged, collected and paid VAT for the supplies of ,,new constructions" and ,,land for constructions", once they had exceeded the old threshold of 35,000 EUR.

Naturally, this case was ultimately submitted to the Court of Justice of the European Union. In case C-183/14, *Salomie* and *Oltean*, the Court of Appeal in Cluj-Napoca posed four preliminary questions. Basically, it asked whether an administrative practice of charging VAT retrospectively, while tax authorities offered no guidance of such a tax treatment between 2004 and 2009, was compatible with the European principles of legal

[47] Articles 77^1 – 77^3 of the old Romanian Fiscal Code, similar to articles 111 – 113 of the new Romanian Fiscal Code.
[48] See Art. $127(2)^1$ of the old Romanian Fiscal Code - by means of Government Emergency Ordinance no. 109/2009.

certainty and legitimate expectations. The Court of Appeal also wondered if the tax authority is entitled to refuse the exercise of the right of deduction for those individuals who can prove the extent of their VAT input. During the judicial debates, in this case and many others, individuals that had carried out real estate transfers put forward the following arguments to support their non-payment of VAT:

- They did not develop a „business", since they all sold personal goods and paid the tax on the proceeds derived from the sale of personal real estate property;
- Between 2004 and 2009, there was no clear legislation, no administrative practice and no court case law to support the government's interpretation that individuals carried out an „economic activity" and therefore qualified as a „taxable person" for VAT purposes;
- The Sixth Directive[49] was not translated into Romanian before 1 January 2008 and the relevant case law of the European Court of Justice had not been translated in Romanian, by 2017;
- Generally speaking, legislation in force as of 1 January 2010 could not be applied for transactions carried out between 2004 and 2009, because this would infringe the principles of legal certainty and legitimate expectations.

The Court of Justice of the European Union ruled on this case on 9 July 2015, as follows[50]:

"*The principles of legal certainty and of the protection of legitimate expectations do not preclude, in circumstances such as those of the dispute in the main proceedings, a national tax authority from deciding, following a tax audit, to subject transactions to value added tax and to impose the payment of surcharges, provided that that decision is based on clear and precise rules and that that authority's practice has not been such as to give rise, in the mind of a prudent and well-informed trader, to a reasonable expectation that that tax would not be levied on such transactions, this being a matter for the referring court to determine. The surcharges applied in such circumstances must comply with the principle of proportionality."*

"Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax precludes, in circumstances such as those of the dispute in the main proceedings, national rules under which the right to deduct input value added tax, due or paid on goods and services used in the context of taxed transactions, is refused to the taxable person, who must nevertheless pay the tax that he ought to have recovered, for the sole reason that he was not identified for value-added-tax purposes when he carried out those transactions, so long as he has not been duly identified for value added tax purposes and the tax return for the tax due has not been filed."

[49] 77/388/EEC of 17 May 1977.
[50] Case C-183/14: Judgment of the Court (Seventh Chamber) of 9 July 2015 (request for a preliminary ruling from the Curtea de Apel Cluj — Romania) — *Radu Florin Salomie, Nicolae Vasile Oltean v Direcția Generală a Finanțelor Publice Cluj.*

A significant number of real-estate VAT cases are still under scrutiny in the courts, particularly with the aim of reducing the penalties and to account for VAT deductions, following the Court's judgment in *Salomie and Oltean*.

Regarding the new rules enacted in 2010, only supplies of personal goods (e.g. personal residences; vacation homes; land and buildings obtained as reparatory measures or by legal succession) were not included in scope of VAT. The acquisition of land for construction purposes and new buildings that are to be re-sold are considered to be a continuous ,,economic activity" whether the natural person effects more than one supply in any year. In the case of any construction works carried out, it is deemed that the economic activity is not "occasional". However, "occasional" supplies and the supplies of „old buildings" are taken into account when the threshold is determined (e.g. two "occasional" real estate transfers of 40,000 EUR and 26,000 EUR make it compulsory for the "trader" to register for VAT purposes), and when the continuous character of the ,,economic activity" is considered (e.g. the sale of a land that is not suitable for constructions and of an ,,old building" during the same year means that more than one transaction had been effected and makes the owner a ,,taxable person").

There are at least two serious legal questions arising with regard to these rules. On one hand, Romania has never activated the clause in the relevant directive[51] that would allow it to tax any "occasional" real estate transaction.[52] Therefore, taking into account both "occasional" and exempt transactions for the determination of the VAT threshold seems to be contrary to European law. One Romanian court ruled recently in favour of the individuals on this matter.[53]

On the other hand, the national rules seem inconsistent with the European Court's decision in *Slaby* and *Kuc*.[54] In this cases, the Court ruled that the sale of 64 pieces of land did not constitute an "economic activity", since the Polish claimants only sold "personal goods". The Court pointed out that the number of supplies and their financial value are not relevant, since such transactions concern the administration of private inherited real estate. Some Romanian courts do, however, apply the European case law in order to determine that supplies of building land do not qualify for VAT treatment.[55]

Romanian VAT legislation concerning real estate was analysed by the Court of Justice of the European Union in two cases. In the process of the retrospective application of the

[51] Art. 12(1) of Directive 2006/12/EC.
[52] Within the European Union, only Hungary, Ireland and Spain treat all occasional supplies of new buildings and building land as "taxable transactions". Belgium and Greece allow for an option in this respect (see also Corput, W. van der, Annacondia, F. (eds.). EU VAT Compass 2014 – 2015. Amsterdam: IBFD Publishers, 2014. p. 557). See also Costaş, C. F., Minea, M. S. Drept fiscal. București: Universul Juridic, 2015. pp. 300 – 301 for this discussion.
[53] Court of Appeal Bucharest, decision no. 8398 of 11 November 2014.
[54] Court of Justice of the European Union, judgement of 15 September 2011, joined cases C-180/11 and C-181/11.
[55] Court of Appeal Timişoara, judgement no. 97 of 13 February 2013.

2010 VAT rules, the Central Tax Commission issued Decision no. 2/2011.[56] The Commission, which is a Romanian national body entitled to interpret national tax law, ruled that VAT should be added to the price of the supply mentioned in the sale contract. The Court of Justice reversed this interpretation in the *Tulică* and *Plavoşin* case[57] and ruled that the Council Directive[58] on the common system of value added tax, in particular Articles 73 and 78 thereof, must be interpreted as meaning that, when the price of a good has been established by the parties without any reference to value added tax and the supplier of that good is a taxable person for value added tax owing on the taxed transaction, in a case where the supplier is not able to recover from the purchaser the value added tax claimed by the tax authorities, the price agreed must be regarded as already including the value added tax.

Decision no. 2/2011 (which was overturned by the above-mentioned case), was later on quashed by the Bucharest Court of Appeal.[59] However, since the national court's decision was not final, (pending an appeal with the High Court of Cassation and Justice), the Central Tax Commission issued a Decision,[60] formally applying the Court of Justice's judgment in *Tulică* and *Plavoşin*. Later, in 2015, the High Court of Cassation and Justice rejected the appeal.

In another VAT case, *Gran Via Moineşti*, the Court of Justice of the European Union decided that articles 167 and 168 of Council Directive 2006/112/EC of 28 November 2006, on the common system of value added tax, must be interpreted as meaning that, in circumstances such as those in the main proceedings, a company which has acquired land and buildings constructed on that land, for the purpose of demolishing the buildings and developing a residential complex on the land, has the right to deduct the value added tax relating to the acquisition of those buildings. Also, that Art. 185 of Directive 2006/112 must be interpreted as meaning that, in circumstances such as those in the main proceedings, the activity of the demolition of the buildings which is carried out with a view to developing a residential complex in place of those buildings does not result in an obligation to adjust the initial deduction of the value added tax relating to the acquisition of those buildings.[61]

1.3.3 Notary Fees and Land Register Taxes

Romanian legislation requires that the sales and any other transfers of property rights can only be achieved through a contract concluded before a notary. Therefore, the drafting of such a contract and all the associated formalities adds costs of 0.5% of the value of the contract, VAT exclusive. If the contract is drafted by a lawyer, normally a 15% discount

[56] Published in Official Journal no. 278 of 20 April 2011.
[57] Judgment of 7 November 2013 in joined cases C-249/12 (*Corina-Hrisi Tulică*) and C-250/12 (*Călin Ion Plavoşin*).
[58] Directive 2006/112/EC of 28 November 2006.
[59] Judgement of 14 March 2014.
[60] Decision no. 6/2014, published in Official Journal no. 20 of 12 January 2015.
[61] Judgement of 29 November 2012, case C-257/11.

of the fee is granted by the notary. These fees must be paid at the time of the conclusion of the sale contract.

Since all transfers of property have to be recorded in the Land Register, additional costs are involved. All the fees of this type are to be found in Order no. 39/2009 of the Ministry of Administration and Internal Affairs.[62] For example, a legal person pays 0.5% of the value of the property purchased in order to have it registered, whereas natural persons pay 0.15% for the same administrative service. There is also a fee of 100 RON + 0.1% of the value of the debt for any mortgage recorded in the Land Register. In most cases, notaries collect these fees as well and pay them to the appropriate bodies.

2 Property data

2.1 Cadastre and Land Register Publicity

The New Romanian Civil Code, in force as of 1 October 2011, provides for a unitary regime for the purchase and sale of immovable property. Therefore, as a general rule, all buildings and land are in the civil domain and can be traded as such.

Any acquisition of property rights is effected by means of an official document, in most cases, a contract signed before a notary public; in fewer cases, a court decision, an inheritance certificate or an administrative decision issued by a public authority. Based on such a document, any right must be included in the Land Register. The New Romanian Civil Code[63] provides that property is acquired only after such rights are registered in the Land Register.

However, this provision must be read in conjunction with the transitional rules described in the New Romanian Civil Code.[64] Therefore, the acquisition of property rights based on their registration only takes effect after the cadastre for a municipality has been completed. Until then, the Land Register can only act as a means of publicity for the transfer of private property rights.[65]

According to data provided by the Romanian competent authority – *Agenţia Naţională pentru Cadastru şi Publicitate Imobiliară* – as at 2 July 2015, some 19.90 % of all immovable property in Romania had been systematically and electronically registered. Works continue in this respect, although the cadastre has been under development since 1996.[66].

[62] Published in Official Journal no. 253 of 16 April 2009.
[63] Art. 885 of the New Romanian Civil Code.
[64] Described by Art. 56 of Law no. 71/2011 for the application of the New Romanian Civil Code, published in Offcial Journal no. 409 of 10 June 2011.
[65] See also Bîrsan, C. Drept civil. Drepturile reale principale – în reglementarea Noului Cod Civil. Bucureşti: Hamangiu, 2013. pp. 125 – 126.
[66] Introduced by Law no. 7/1996 Republished in Official Journal no. 83 of 7 February 2013.

As mentioned previously, the National Association of Public Notaries in Romania requires annual expert reports on the evolution of real estate markets. Therefore, an account of the minimum prices for the sale of land and buildings is available each year, free of charge. Parties are encouraged to refer to these expert reports, because in most cases they pay transfer tax based on the minimum sale prices contained in these reports.

2.2 The Right to Acquire Land in Romania

The first Romanian Constitution after its declaration of independence (1991) had very strict rules concerning the right to buy land. According to this[67], foreign citizens and stateless individuals did not have the right to acquire land in Romania. The ban applied to both lifetime and on death transfers, including legal inheritance, prescriptive rights (*usucapion*) or accession[68].[69]

An amendment to the Romanian Constitution was made in 2003,[70] according to which:

"Foreign citizens and stateless persons shall only acquire the right of private property of land under the terms resulting from Romania's accession to the European Union and other international treaties to which Romania is a party, on a mutual basis, under the terms stipulated by an organic law, as well as a result of lawful inheritance".[71]

A significant change occurred, since the negative principle disappeared. There were still "cases" and „conditions" to be determined in the process of Romania's accession to the European Union or by means of international treaties, but foreign citizens and stateless persons were able to acquire land by lawful inheritance.[72] As the doctrine pointed out, since the Constitution only referred to the right of property, foreign citizens were entitled to acquire other real estate rights, such as the right of usufruct, superficies or mortgage rights.[73]

The constitutional provision therefore required a „special law" to regulate on this matter. Thus, Law no. 312/2005 deals with the acquisition of the right to private property of land by foreign citizens, stateless persons and foreign companies.[74] The Accession Treaty of

[67] The old Art. 41(2) second indent.
[68] For further details, see Pop, L., Harosa, L. M. Drept civil. Drepturile reale principale. Bucureşti: Universul Juridic, 2006. pp. 158 – 159. Popescu, C. L. Posibilitatea persoanelor fizice sau juridice care nu au cetăţenia, respectiv naţionalitatea română, de a fi titulare ale dreptului de proprietate asupra terenurilor în România. Dreptul 1998 (8). pp. 50-51 and 55.
[69] It was also contained in Law no. 54/1998 concerning the legal status of land circulation. Published in Official Journal no. 102 of 4 March 1998.
[70] Law no. 429/2003. Published in Official Journal no. 758 of 29 October 2003.
[71] New Art. 44(2) second indent . See also Chelaru, E. Impactul revizuirii Constituţiei asupra regimului juridic al proprietăţii. Dreptul 2004 (2). P. 9.
[72] Bîrsan, C. Drept civil. Drepturile reale principale – în reglementarea Noului Cod Civil. Bucureşti: Hamangiu, 2013. pp. 126 – 127.
[73] Pop, L., Harosa, L. M. Drept civil. Drepturile reale principale. Bucureşti: Universul Juridic, 2006. p. 160.
[74] Published in Official Journal no. 1008 of 14 November 2005.

Romania to the European Union provided the option for Romania to retain the existing restrictions laid down in its legislation on the acquisition of ownership over land for secondary residences by nationals of EU Member States or of the states that are parties to the European Economical Area (EEA) Agreement (Iceland, Lichtenstein and Norway), non-residents of Romania and by companies formed in accordance with the laws of another Member State or of an EEA State and being neither established nor having a representative agency on the territory of Romania, for five years as of the Accession Date (1 January 2007).

Thus, any citizen of an EU Member State, any stateless person domiciled in a Member State or in Romania, as well as any legal entity established according to the legislation of an EU Member State, may acquire ownership of land under the same terms as Romanian citizens and Romanian legal entities. This rule has been applied, as follows:

- With effect from Romania's accession to the European Union (1 January 2007), to EU citizens or stateless people residing in Romania at that date or to the legal entities with registered secondary headquarters in Romania, but only with regard to the acquisition of land for secondary residences or headquarters;
- After five years following Romanian accession to the European Union (as of 1 January 2012), to EU citizens non-resident in Romania, as well as for stateless persons non-resident in Romania, but with their domicile in the European Union, as well as for non-resident legal entities established according to the legislation of an EU Member State, but only with regard to the acquisition of land for secondary residences or headquarters;
- With effect from the date of Romania's accession to the European Union (1 January 2007), to the farmers who carried out "independent activities" and were, at the above mentioned date, either: (i) citizens of an EU Member State or stateless persons domiciled in an EU Member State, but residing in Romania; or (ii) stateless persons domiciled in Romania, for the acquisition of ownership rights over agricultural land, forests and forestry land;
- After seven years following Romania's accession to the European Union (as of 1 January 2014), for the citizens of EU Member States non-resident in Romania, and for stateless persons non-resident in Romania, but domiciled in an EU Member State, and for the non-resident foreign legal entities established according to the legislation of an EU Member State, in relation to the acquisition of ownership rights over agricultural land, forests and forestry land is concerned.[75]

In addition, foreign citizens and stateless persons can acquire ownership of land in Romania only under the terms provided by other international treaties and only if a condition of reciprocity is met. In the light of the above-mentioned constitutional provision, any foreign citizen of a third state, any stateless person and any legal entity established in a third state cannot acquire land under more favourable conditions than

[75] See Bîrsan, C. Drept civil. Drepturile reale principale – în reglementarea Noului Cod Civil. Bucureşti: Hamangiu, 2013. pp. 127 – 128.

those applicable to a citizen of an EU Member State or to a legal entity established according to the legislation of an EU Member State.

There are no restrictions whatsoever concerning buildings in Romania, so they can be freely bought by any natural or legal person.

In relation to the Government Emergency Ordinance regarding incentives for foreign direct investment,[76] the amended text provides that a resident or non-resident entity may acquire any right *in rem* over immovable goods, if necessary for performing its activity, in accordance with the company's object of activity. Legal provisions regarding the acquisition of land by foreign citizens and stateless persons, as well as by foreign legal entities, must be however observed.

Finally, there are some restrictions for land located outside the cities.[77] Some of the key features are the following:

- If the seller of the land is a company, when submitting the notice stating its intention to sell land to the local authority, the seller must also submit the decision of the general shareholders' meeting approving the sale;
- If no person claims a pre-emption right within a 30 days period, the sale can be performed freely, but the municipality has to issue a certificate to this effect.
- For the sale of land located, partially or totally, within 30 kilometres of the Romanian borders or within 2,400 metres from a specific object, the prior agreement of the Ministry of Defense or of the Ministry of Culture is necessary: the notary is required to make sure that the seller has obtained such an approval. The explanatory rules provide for a list of cities located at a distance of less than 30 kilometres from the Romanian border. As mentioned before, the approval of the Ministry of Defense is compulsory for such lands. Such approval is valid for 12 months from the date of its communication to the seller. Should the Ministry of Defense or the Ministry of Culture refuse to grant their approval (which should also be registered in the land registry), depending on the grounds for such rejection, a second application for approval, accompanied by the requested documents may be submitted.

3 Evolution of real estate markets

From a general point of view, the evolution of the real estate market in Romania has been a fluctuating one over the last twenty five years, since 1989 when the communist regime was abolished. During the first years after the collapse of the communist regime, the real estate market had no clear rules and there were no detailed laws or standards that applied to the real estate transactions. Nevertheless, during the last decade, the liberalisation of the real estate market and the intensification of the globalisation process has led to an improvement in financial services, including those involved in the real estate market.

[76] Law no. 312/2005 amended Art. 6 of Government Emergency Ordinance no. 92/1997. Published in Official Journal no. 386 of 30 December 1997.
[77] Law no. 17/2014. Published in Official Journal no. 178 of 12 March 2014.

Thus, it is clear that Romania has during the last 25 years experienced a full financial circle, that included a period of economic boom (until 2007), a crisis (that started in 2008), a period of economic stagnation and a slow recovery.

3.1 Communist regime and its consequences

Beginning on 11 June 1948, about one thousand industrial enterprises, banking and insurance units had been nationalised by the State and had been considered as *the people's consumer goods*[78]. The Nationalisation Law stated that private goods had to be owned by the State in the name of a greater good, for the well-being of citizens and in the name of the people of the State. This process expanded into the agricultural sector[79], and began immediately with the expropriation of lands larger than 50 hectares. Until 1962, almost all the agricultural lands in the country had been confiscated and transformed into agricultural undertakings belonging to and administrated by the State.

The pattern described above has been applied to the immovable and private housings[80], and, as a consequence, almost all immovable assets of the most successful manufacturers, bankers, traders and all the hotels, and constructions were transferred into the State's property. Needless to say, such legislation was a total contradiction of the Constitution of the State, adopted during 1948, that stated[81] that:

The right to private property and the right to inheritance are recognised and protected by the State. The private property, earned through hard work and saving strategies, shall benefit of a special protection.

The facts have shown a completely different scenario.

Other countries that have experienced the communist regime have dealt with the issues associated with the restitutions of immovable property in a decisive and efficient manner. Unlike Albania, Bulgaria or the Czech Republic, which seem to have resolved the problem during the 1990s, Romania, has, during the last 25 years, adopted several laws, each following a different strategy for dealing with confiscated immovables. Regarding the land fund, the State recognised[82] the property rights of its citizens, but only is respect of a limited area of land - 10 hectares. The decisions of the commissions involved in the implementing restitution have generated conflicts which have ended up in the Romanian and European Justice Courts.

During 1997, another law has been adopted that only allowed the former owners to request the return of their property rights over a maximum of 50 hectares of agricultural

[78] Based on The Nationalisation Law no. 119.
[79] Based on the 84th Decree adopted on the 2nd of March, 1949.
[80] 92nd Decree adopted in the year 1950.
[81] At Article 8.
[82] By adopting the Law no. 18/1991.

land per family and over a maximum of 30 hectares of forests per family, initially. During the second phase, three years later, in 2000, those who submitted requests have received their properties back, limited to the quantities shown above[83]. The issue that generated the perceived abuses of the specially designed commissions was that all the decision-making power to identify the exact lands that each applicant receives belonged to the local commissions.

There have been several other laws[84], that allowed the smooth transfer of property rights from the State to those owners dating back to 1945, who supposedly were going to receive from the State different plots of lands. During 2005, Parliament adopted legislation[85] that confirmed the principle of restitution of the actual lands that once belonged to the former owners, and in subsidiary the material compensation of the citizens by offering them bonds and shares to the Property Fund listed on the stock market.

The cost of compensation to which the former owners have been entitled was estimated by the Minister of Finance at about 2.5 billion EUR.

3.2 Evolution of the Romanian residential market after the economic crisis

The residential market is an important component of the real estate market. During 1990 – 2011, the Romanian property fund has increased to more than 8.5 million units, among which 800,000 were put newly completed, and with 390,000 units in rural areas[86]. It should be mention that Romania had a significant number of units built before 1989, particularly in the urban areas, since the State favoured industrialisation and a continuous flow of people moving from rural to urban areas. It is also important that since 1990, the State ceased to build new residential buildings. Local municipalities invest small funds in residential projects but these are particularly for social purposes, with most such properties being rented to families that cannot afford to buy a residential property.

In 2011, for example, the property – population ratio was about 2.3 new homes/1,000 inhabitants. The "boom" year for the Romanian residential market was 2008, which registered the greatest volume of sales of real property units. Nevertheless, during recent years, the purchasing power of the population has significantly decreased as a result of the general economic crisis that affected virtually the entire world, and which resulted in falling purchase prices, as well as of a reduction in the value of mortgage loans.

The residential market in Romania is not limited to old buildings for sale; newly-built homes represent a growing share of the real estate market. In fact, there are several studies that point out the significant value attributed to the fluctuation of the home construction

[83] Based on Law no. 1/2000.
[84] Such as Law no. 400/2000.
[85] Law no. 247.
[86] Steliac N., Evolution of the Romanian residential market after outbreak of the current economic and financial crisis. Annals of the Constantin Brancusi University of Targu Jiu, Economy Series 2013 (2).

trend: a favourable trend in the level of home construction may underline a revival of a country's economy, whereas a negative trend may signal an economic decline. Romania is no exception to this simple rule and during the crisis, both the State and individuals allocated less funds to property acquisitions. The data shown in Table 8.5 below, illustrates a continuous decrease in the number of housing units completed, during 2008 – 2012, taking into considering criteria such as the repartition between rural and urban areas and funding sources (public or private).

Table 8.5: Completed homes by residential areas and financing sources (1.01.2008 – 30.09.2012)

Year	Completed homes (Total)	Urban area		Rural area		From public funds		From private funds	
		Units	%	Units	%	Units	%	Units	%
2008	64,414	30,665	47.6	33,749	52.4	4,459	6.9	59,955	93.1
2009	61,101	30,308	49.6	30,793	50.4	5,691	9.3	55,410	90.7
2010	48,812	23,292	47.7	25,520	52.3	2,726	5.6	46,086	94.4
2011	44,456	19,390	43.6	25,066	56.4	2,266	5.1	42,190	94.9
2012	26,654	11,539	45.3	15,115	54.7	1,155	4.3	25,499	95.7

Source: Author's own, based on the data provided by the Romanian National Institute of Statistics (INSSE), available at http://www.insse.ro. Data for 2012 refers to the period 1.01 – 30.09.2012.

Data shown below, Table 8.6 leads to the conclusion that there was a constant increase in the number of completed homes from 2014 to 2017. However, numbers are significantly smaller than those for 2008 or 2009. Public investment for building residential homes continues to be very small, with peaks of 9.3% in 2009 and 7.4% in 2014. Although there is a balanced distribution of completed residential properties in rural and urban areas, the trend of the last reported years seems to be an increase of the total number of units in urban areas (with a peak of 54.9% of the total in 2017).

Table 8.6: Completed homes by residential areas and financing sources (1.01.2014 – 31.12.2017)

Year	Completed homes (Total)	Urban area		Rural area		From public funds		From private funds	
		Units	%	Units	%	Units	%	Units	%
2014	44,984	23,154	51.4	21,830	48.6	3,324	7.4	41,660	92.6
2015	46,984	24,804	52.8	22,180	47.2	1,297	2.8	45,687	97.2
2016	52,206	27,878	53.4	24,328	46.6	1,228	2.4	50,978	97.6
2017	53,347	29,312	54.9	24,035	45.1	1,769	3.3	51,578	96.7

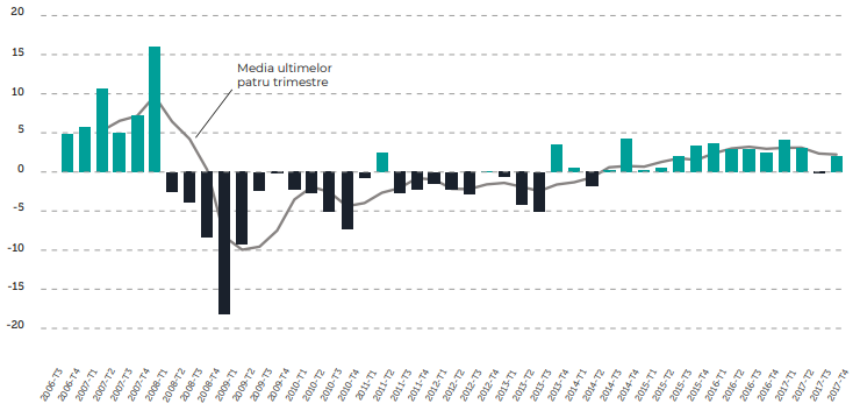
Source: Author's own based on the data provided by the Romanian National Institute of Statistics (INSSE), available at http://www.insse.ro.

Between 2008 and 2012, the prices of houses has fallen dramatically, as shown by the specific real estate index developed by the Romanian National Institute for Statistics (INSSE). In this respect, the statistical data indicates an intense downward trend during 2009 – 2010, while the following two years are marked by a less dramatic fall. For example, at the end of 2011, according to the analysis of the profile companies, the nationwide fall of apartment prices was by approximately 52% as compared to March 2008, which was considered a period of real estate boom.

Only from 2014 can it be said that the effects of the crisis were over and prices stabilised. It can be noted that the large unjustified increases of prices from the economic boom are no longer present, therefore, it seems that lessons were learned. The development of real estate is to be treated with caution in order to avoid a new crisis, which is already rumoured to make a presence.

The data in Table 8.7 confirm this. It is quite clear that from the second quarter of 2008 and until the last quarter of 2013 that the real estate market completely slumped. The large numbers of residential homes built in 2008 – 2009 and not sold, as well as the tax implications of VAT retrospectively required from real estate individual developers as of 1 January 2010, have contributed to the shut-down of the market. Since 2014, prices have slightly increased, but are still far away from the peak of 2007's last quarter.

Table 8.7: The evolution of residential homes prices (2006 – 2017)



Source: The table and data was prepared by a real estate specialised website in Romania, all data is available for the general public at https://www.analizeimobiliare.ro.

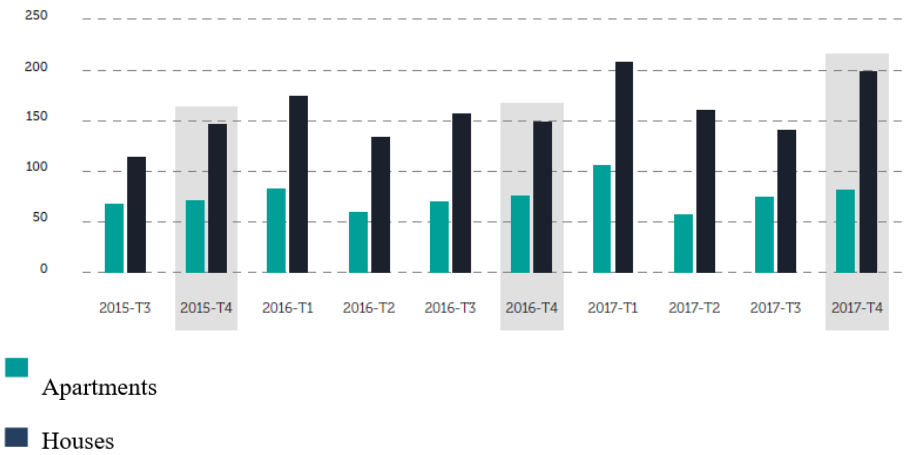
During the economic boom, the main driver of the growth of acquisitions in the residential market was the development of mortgage/real estate loans. The evolution of the economic activity after the 2008 boom also had a negative effect on the amounts borrowed by citizens from the financial institutions in order to purchase a home. Thus, during the first year of the implementation of the programme called "The First Home", the average value of the mortgage security was of 41,574 EUR, in the following two years it fell to 40,133 EUR and 39,115 EUR respectively, according to data available on the Internet.

In general, 2012 can be seen as the beginning of the post-economic crisis market, characterised by an ascending trend, a result of both "The First Home" programme and the improvement in available income. However, by the end of 2017 the growth in property price and the number of real estate transactions hit some resistance following the devaluation of the national currency in comparison to the Euro, the increase of the ROBOR[87] and the decrease in the number of available properties on the market.

It can be noted from Table 8.8 that since the forth trimester of 2017, the period of time in which a property is on the market until being sold has risen. Therefore, the purchasing power is no longer strong enough in order to meet the offer.

[87] Romanian Interbank Offer Rate = the average rate of interest for loans on the interbank market.

Table 8.8: The selling period of residential properties in Bucharest (in days) (2015 – 2017)



Source: The table and data was prepared by a real estate specialised website in Romania, all data is available for the general public at https://www.analizeimobiliare.ro.

3.3 The First Home programme – A changed view of the real-estate market

The First House programme was introduced in 2009 and it was designed to help the people that wanted to purchase a home for the first time and who had not yet contracted a mortgage loan. The programme is based on the securities provided by the State, through the National Loan Guarantee Fund for Small- and Medium–sized Enterprises (NLGFSME) and provides up to 95% of the purchase price stated in the promissory sale and purchase agreement, in the case of some specific types of homes. Those categories are: completed buildings destined for sale, incomplete buildings, in various stages of progress, to be put for sale after completion, and new buildings to be put for sale after completion.

The guarantees provided by NLGFSME are valid during the entire financing period. They are granted in the currency of the loan (Euro or Lei) but paid in the national currency, based on the National Bank of Romania exchange rate applicable on the date of payment. In addition to its goal of supporting first-time home buyers, the aim of the programme was to boost the residential construction sector, seriously affected by the current economic and financial crisis. According to the NLGFSME data, during the years 2009 – 2012, approximately 81,000 guarantees were granted, amounting to about 3.17 billion EUR. The status of guarantees made available via The First Home programme is shown below:

Table 8.9: Guarantees provided through "The First Home" National Programme (2009 – 2018)

Year	Number of guarantees	Average amount of guarantees (EUR)	Total amount of guarantees (million EUR)
2009	12,000	42,000	495
2010	23,000	41,000	935
2011	19,000	39,000	740
2012	27,000	37,000	1,001
2013	24,500	36,000	885
2014	25,000	36,000	900
2015	30,000	36,000	1,035
2016	32,747	*data not available*	1,647
2017	34,213	*data not available*	1,953
2018 (first quarter)	16,600	*data not available*	1,660

Source: The table and data were prepared by a real estate specialised website in Romania. All data is available at http://www.fngcimm.ro.

From 2016 an increase can be noted in the number of the guarantees awarded. The fund was continuously supplemented by the Government in order to meet the demands of the public; which meant that the increase of available funds and purchaser demands lead to an increase of prices - an unfavourable consequence,

The initial purpose of the programme was to unlock the real estate market that was suffocated by the economic crisis and the programme benefited from a strong marketing campaign. In fact, it was so successful that the ordinary citizen now associates the purchase of a house with this programme. Consequently, despite the fact that the banks have launched competitive packages, the public, which tends to lack financial education, still opts for the State funded programme.

However, the State no longer wishes for The First Home programme to dominate the market, because of the burden it imposes on the State's budget. The allocated sums have increased beyond expectation and this trend is not feasible. From 2019 the programme is expected to have a strictly social character, with its focus shifting to young people with low to medium incomes.

3.4 The Giving in Payment Law

In 2016 the Giving in Payment Law[88] was adopted. This Law is applicable in the case of the credit contracts under 250,000 EUR, related to housing or guaranteed by such a property, except for those credit contracts concluded under the First Home programme.

[88] Law no. 77/2016.

and it is aimed at consumer protection. It allows an individual to transfer a right in real estate to a creditor bank in exchange for the discharge of debts and associated costs.

However, in order to comply with the provisions of the Constitution, the Law can only be used under the condition of unpredictability, as defined by the Civil Code.
Even though the Law helps those in financial hardship in terms of repayment of a debt, it also has an impact on the banking sector. Faced with the possibility of not being able to recover liquidities/cash, but instead acquire fixed assets, the banks have reconsidered their position in the light of this fundamental change.

Initially, in response to the new legislation, the banks have increased the required deposit for these types of loans from an average of 15% to 35%, but given the fact that the law was invoked only in 8,500 cases, it was later reduced to the initial level. This change occurred also because the high level of deposit required resulted in fewer successful loan applications and, as a consequence, there was a risk of a new crisis in the real estate market; however for the action of the banks averted this. However, the banking sector is still cautious with regards to real estate loans.

Conclusions

Since the administration of taxes on real estate has been generally granted to local authorities, there is little quarrel about the taxes themselves. Taxes on land and buildings produce a rather small yield and the new Fiscal Code (2016) resulted in an increase in tax for buildings used for business purposes. However, the legislators just missed a chance of reform these taxes, as their legislative provisions passed from one fiscal code to another with no amendments.

On the other hand, VAT raises significant issues in connection with real estate. The construction boom of 2004 – 2008 seemed to have resulted in a number of questions about the taxation of small businesses, as shown by the recent cases before the Court of Justice of the European Union. Although the rhythm of real-estate development has decreased, tax issues seem to be even more delicate in this field.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
M. Radvan, R. Franzsen, W. J. McCluskey & F. Plimmer

Property Tax Values in Bulgaria

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Abstract The role of the property tax in Bulgaria is important but not decisive for the budgets of the municipalities. Since every municipality is empowered by law to determine annually the tax rate within a range from 0.1% to 4.5% of the tax value of the respective land plot, every municipality has the necessary legislative tools to increase or decrease the amount of the tax payable within its territory. However, the real property tax represents an important factor for the development of the real estate market. The reason for that is that many municipalities prefer to have a dynamic property market which results in an increase in the yield from of the acquisition tax, than to increase the rate of the real property tax. The collection of the real estate tax is facilitated by the broad powers which local municipal tax officers have in order to administer its collection. The main problem seems to be the absence of a link between the market price of real estate and the tax value which is assessed not assessed on an ad valorem bases, but currently on formulae reliant on numerous criteria, including the location and the infrastructure available to the property. Despite this fact, there are no clear indications of the direction of potential reforms, which could result in a much more important role to the Real Property Tax in the future.

Keywords: • Bilgaria • property tax • immovable property tax • valuation • tax reform

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Introduction

The immovable property tax in Bulgaria is a local tax, levied and collected by municipalities. As such it forms a part of their local budgets however its role is not significant in terms of revenue raised[1]. The legal regime of property taxation is likely to be the subject of future legislative changes because of the need to increase revenues generated by the real estate taxes, especially in the four biggest cities of the country.

Moreover, several other revenues (such as the one generated from the collection and disposal of waste and tourist taxes) seem to be providing reduced yields, which is likely to lead to new debates as to how to introduce the *ad valorem* principle within the tax assessments of the properties, as well as to increase the efficiency of property tax collection. This approach is likely to yield better results than any attempt to increase the nominal tax rate, which is currently within the limit of 0.1% to 4.5%[2] of the taxable values in line with the rates applied in other European jurisdictions.

This chapter seeks to provide basic information about the methods used to assess the taxable value. It aims as well to provide an overview of the recent development of the real estate market in Bulgaria's largest cities.

In Bulgaria, there is a lack of scientific literature on the theory of municipal taxes and more specifically on property taxation. Despite the development of the real estate market and the increasing role of property taxation as a basic revenue source for the municipalities and its administration, new research articles and studies on the methods of determining the tax base and of achieving more effective collection of the taxes due have not yet appeared.

1 Real Property Tax

1.1 Historical introduction

The modern development of the Bulgarian tax system began after the collapse of the Ottoman domination over the Balkans and the establishment of the third Bulgarian state in 1878, which was effected by the signing of the San Stefano Peace Treaty between Russia and the Ottoman Empire.

The old Ottoman taxation rules were replaced irrevocably by Art. 16 of the first Constitution of the Bulgarian Principality from 1894. This imposed taxation duties on all citizens, except the Monarch, who was released from the obligation to pay taxes including those relating to his use and / or ownership of real estate.

[1] The bulk of municipal income comes from the collection of fees for other services, as well as transfers from the central budget of the country.
[2] Art. 22, Local Taxes and Fees Act 1997 (LTFA).

The Real Property Tax Act (20 December 1894) introduced a new system of progressive real estate taxation of building payable by their owners, with effect from 1895. Several other statutes (such as the Wines and Spirits Act from 1883[3]) included other real estate tax provisions. Thus, every owner of a vineyard was obliged to pay a real estate tax in the amount of the Bulgarian lev (BGN) 2[4] per 1,000 square metres of vineyard, and BGN 3 if the plants were productive and older than three years.

However, the regulation of the real estate taxes were first codified during the communist period in 1951, through the adaptation of the Local Taxes and Fees Act which came into force on 1 January 1952.

Under this Act, two local taxes were introduced: being the real estate tax; and the tax on inherited estate.

After the fall of the communist regime, the Local Taxes and Fees Act 1951 was replaced in 1997 by a revised Local Taxes and Fees Act (LTFA)[5] which stills applies.

The local taxes system has been modified by the LTFA and five different additional local tax categories have been introduced. Thus the 1997 legislation covers the following:

- the real estate tax;
- the tax on inherited estate,
- the tax on charitable donations,
- the tax on the acquisition of property against valuable consideration[6],
- a motor vehicle tax,
- a patent tax, and
- the tourist tax.

Following one of the last amendments made to the current Constitution of the Republic of Bulgaria in 2007, local municipal councils were granted the sole right to determine the annual amount of local taxes levied within their jurisdiction and within the framework specified by the statutes[7], that is, the LFTA. With respect to the real estate tax, the local municipal councils may vary the rate of tax within the range from 0.1% to 4.5% of the real estate tax value assessment.

[3] Cited according to the excerpt provided in Geshev, S., Stoyanov, I. Danuchna sistema na Bulgaria. Sofia, 2010, p. 36 and Stoyanov, P., Danuchno parvo, Sofia, 1994.
[4] As at 1st November 2017: 1 EUR is exchanged against 1.95583 BGN following a fixed exchange rate of the Bulgarian National Bank as result of the financial stability measures introduced by the so called "Currency Board" in Bulgaria, introduced in 1997.
[5] Local Taxes and Fees Act /*Закон за местните данъци и такси*/, enacted with State Journal 117/10.12.1997 (LTFA) last amended through SJ 92/17.11.2017.
[6] That is, a sales tax, levied on transactions of real estate, rights *in rem* and motor vehicles.
[7] Pursuant to the margins provided by national legislation in Art. 22, Local Taxes and Fees Act 1997 (LTFA).

1.2 Position of the real estate tax

1.2.1 Recurrent Real Property Tax versus real estate transfer taxes

As stated in the introduction, all local taxes and fees are codified in the LTFA, including the regulation of the recurrent Real Property Tax which is calculated and paid on annual basis, and the tax imposed on transactions in the ownership or other restricted property rights over immovable property, i.e. land or buildings[8]. A restricted property right may be either the right of construction (i.e. the right to construct a building on a land plot owned by another); or the right to use real estate property.[9]

The person liable for paying the real estate tax is either the property owner, or, if the property is held or used under a right *in rem* [10]or on basis of a contract[11], the person holding or using the land. For the purpose of imposing the annual real estate tax, the LTFA provides for the general tax base which requires a real estate tax value assessment. Such assessments are made following the rules described in detail below in Section 1.6.

However, the value of traded real estate for tax purposes replaces the transaction value for the real estate transfer tax, in cases where the transaction represents a charitable donation (in which case, the charitable donation tax is payable), or if the price agreed between the parties is below the level of the real estate valuation established for tax purposes. Otherwise it is the stated value of the transaction which serves as the tax base for the real estate transfer tax[12].

1.2.2 Role and position of the real estate tax

The real property tax in Bulgaria constitutes one of the sources of income for local budgets as the tax is paid to and spent by the municipality in which the property is situated. The significance of the tax as a source of income varies from one municipality to another, so the Bulgarian Constitution[13] puts an emphasis on local self governance enacted through the autonomy of municipalities to perform certain tasks, such as determining and collecting taxes and fees. This is carried out through the municipal councils[14], who in their capacity as the governing bodies of their municipalities, are free to set the rate of the

[8] The following analysis deals with the real estate tax, levied annually on the real estate owner. The sales tax discussed above is a tax levied once at the time of the acquisition and is calculated on the basis of the transaction price.
[9] Under Bulgarian law the right to use a property is a limited *right in rem*, that can be established by the owner of the property in favour of another. The right cannot be transferred and is terminated either with a statement by the owner or with the death/deregistration of the user.
[10] Such as the right to construct and own a building without owning the land under it.
[11] Such as a concession, contract or a charitable donation.
[12] Pursuant to Art. 46 (1,2) LTFA.
[13] Art. 141(3).
[14] The Municipal council is one of the main participants in decentralized local government, alongside the Mayor of the Municipality, following the constitutional provisions and those of the Local Self-Government and Local Administration Act.

tax within the range provided by the central legislator. By 31 December of each year, each municipal council is obliged to issue a special Ordinance stating the amount of the tax rates applicable to the real estate tax levied in their jurisdiction for the following year. Should the municipal council fail to issue such an Ordinance, the real estate tax rate and rates applied to the other local taxes are determined according to the last applicable Ordinance, i.e. they remain the same as the previous tax period[15].

In making the decision as to what tax rate should be applicable for the upcoming year, local government considers different factors, including economic circumstances and concerns such as any differentiation in the tax rate reflecting the number of properties owned by the taxpayers, the local real estate market, and the level of the local waste fee imposed on the users of buildings and land plots.[16]

For example, in 2015 the tax rate applicable to real estate within the Municipality of Sofia (the Bulgarian capital), amounted to 1.875% while the rates in Plovdiv and Varna (the second and third largest cities in Bulgaria) were 1.8% and 2.0% respectively.

The difference is easily explained by the fact that Varna represents a cultural and coastal tourist centre, where real property is essential for the local economy, the economy of which relies on rented accommodation, hotel services and other entrepreneurships based on tourism.
It is not unusual for municipal councils to use a lower real estate tax rate to reflect the average income of local residents, as well as the fact that the tax rate could be used as an instrument for attracting local and foreign investments. A good example of this is another big municipality on the coast (Bourgas), where the current real estate rate is 1.75% for all properties without differentiation.

In contrast to many other European countries, the real estate tax is administrated by local finance officers employed by the municipalities, and not by state tax officers and thus all measures for imposing, securing and collection of the tax are performed by the municipal tax officers. The disadvantage of this situation is the need of municipalities to build a collection system, parallel to the central one, which leads to dispersion of resources and inefficiency of the services.

[15] Art. 1 (3) from LTFA.
[16] In general, the waste fee raises a much larger annual income than other local taxes and fees for the municipal budgets. For example, in Sofia the expected income from the waste fee for 2017 amounts to 189 million BGN, in comparison with the income of 102.5 million BGN as result of the collection of real estate taxes.

1.3 Liability and Exemptions

The real property tax is payable by all owners of buildings and land plots situated in urban areas[17] within the territory of Bulgaria including the designated construction limits of settlements which are regulated by a detailed zoning plan, i.e. villages and towns. Thus, all properties located outside the construction limits of villages and towns, such as agricultural lands and forests, are not subject of taxation unless they have been developed through a construction process.

Real estate properties situated outside the construction limits of settlements are also liable to taxation if they are used for the purposes listed in Art. 8 (1) of the Spatial Planning Act[18] (such as for residential purposes, production and storage or touristic activities).

Excluded from the application of the real estate tax[19] are also all real estate properties (irrespectively of their location) whose assessment for tax purposes is below 1,680 BGN[20].

Other exemptions concern properties which are in state or municipal ownership, such as streets, roads, railway networks and communication facilities, as well as publicly owned land covered by water, such as rivers and lakes.

Moreover, the legislation identifies categories of owners who are not obliged to pay real estate tax. Those are the state and all municipalities for the properties owned by them and serving public purposes, such as parks, land used for sport and leisure activities, as well as real estate situated in Bulgaria and owned by foreign states.

Further exempted are universities and academies with respect to all buildings in their ownership and used for educational purposes. The same regime applies to churches and monasteries and the land on which those are constructed and which are owned by registered churches in the Republic of Bulgaria.

No tax is due with respect to museums, galleries and libraries as well as all cultural buildings which are not used for business purposes.
Following the amendments made in 2013, an exemption from real estate tax (for a period of up to 10 years) is given to owners of buildings which have acquired a certain license for energy efficiency and are using renewable energy sources.

Properties owned or used by the Bulgarian Red Cross or other Red Cross Organizations registered in the EU are also exempt from any taxation.

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[17] These are areas included within a settlement's building boundaries, pursuant to the Spatial Planning Act.
[18] Spatial Planning Act *(Закон за устройството на територията),* enacted by SJ 1/ 02. 01. 2001, last amended by SJ 92/17. 11. 2017.
[19] According to Art. 10 (4) LTFA.
[20] 868 EUR as of Nov.1. 2017.

1.3.1 Liable persons and collection

As provided above, the taxpayer of the real estate tax is the owner of the property. However, there are a few exceptions applicable where the user of an immovable property holds a restricted property right,[21] as well as the concessionaire for the property which is the subject of the concession or one constructed as a result of the realization of the concession, in which cases it is the occupiers (users) who are the tax payers.

Another exception is applied to the owner of a building constructed on land which is in state or municipal ownership. In that case, it is the owner of the building who is considered to be the taxpayer both for the building and also for the part of the land on which the building has been constructed.

The tax liability of the owner of the property begins from the month following the month in which the ownership over the property has been acquired, provided that the tax due has not already been paid by the previous owner.

It does not matter whether the property subject to taxation is used by its owner; thus, the owner is also the holder of the right of use. Such persons cannot be exempted from their tax liability unless they can prove that the property has been destroyed or already represents a property not liable to tax[22].

However, some owners, such as disabled persons having a diminished working capacity, can be granted a 75% reduction in the rate of tax. A smaller reduction of 50% is granted to persons using an apartment or a house as their principal residential place. No further concessions or tax relief is provided under the LFTA.

The recurrent real estate tax is payable in two equal instalments. The first one is due by 30th June and the second instalment should be paid by 31 October of the year for which the tax is payable. If the taxpayer fails to pay in full either of the two instalments, statutory interest[23] is applied for the delay on the amount outstanding.

Every taxpayer who pays the entire amount of the real estate tax by 30 April benefits from a discount of 5% over the entire tax amount due.

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[21] Under Bulgarian law (Ownership Act), the right to use a property is a restricted *right in rem* that can be established by the owner of an immovable property in favour of another. Such a right to use the property could not be transferred and hence, should be regarded as terminated by the death of its holder.

[22] This follows the obligation of the owner to pay the tax, unless they are no longer legally the owner or under other instances provided in LTFA.

[23] The statutory interest amounts (on annual basis of 360 days) to 10 % plus the basic interest rate of the Bulgarian National Bank for the period of delay.

1.3.2 Tax value assessment of land plots

As already mentioned above, the tax rate could vary from municipality to municipality within the range of 0.1% to 4.5%. However, most municipalities fix their rates at the lower end of the range, and even very small municipalities do not apply a tax rate higher than 2.5%. Thus, the most significant influence on the taxable amount payable is how the tax assessment has been fixed.

There are several rules regarding how the taxable value assessment is made[24] with respect to land plots, buildings and other real estate objects, as well as the restricted property rights, such as the right of use and the right of construction.

Bulgarian tax law considers several parameters, such as location, available infrastructure, condition and improvements made to the property, and disregards whether the property has been encumbered by a mortgage or any other restriction to the property right.

The assessment of land plots situated within the designated construction limits of settlements, as well as of taxable land situated outside those borders but on which a structure has been built, is calculated on the basis of the following formula:

$$TVA = BTV \times C_i \times C_z \times C_c \times C_l \times constructed\ area + VI$$

where:

a. TVA is the total amount of the tax value assessment in BGN;
b. BTV is the basic tax value per square metre in BGN;
c. C_i represents the infrastructure coefficient;
d. C_z represents the zoning coefficient;
e. C_c represents the construction coefficient;
f. C_l represents the location coefficient; and
g. VI is the value of the improvements made on the land.

The basic tax value (BTV) amounts in general to 0.80 BGN per square metre, while the basic tax value per square metre of land plots within the designated construction limits of the settlement which are regulated by a detailed zoning plan is equal to 1.00 BGN per m^2.

Moreover, there are several specific provisions which increase the amount of the basic tax value per square metre in residential or holiday locations of national significance which are situated within a 10 km border from the Black seashore, such as the seaside resort Dyuni and Sunny Beach, and the ski resort Borovets. In those cases, the basic tax value per square metre is increased by 50%. The same principle applies to local resorts where the basic tax value is increased by 20%.

[24] Following the detailed provisions of Appendix No. 2 to LTFA.

The infrastructure coefficient K_i is determined by adding to 1 four different parameters related to the existence or lack of certain infrastructural elements. Thus, no increase is due where the actual supply of infrastructure falls short of standard of provision of public services. This leads to a more moderate valuation in cases of real estate in less developed locations. It is calculated as follows:

$$C_i = 1 + A + B + C + D$$

where the following Table applies:

Table 9.1: Calculation of the infrastructure coefficient used for TVA of land plots

Infrastructural element	Existing within the land plot	Not existing within the land plot	Not existing within the land plot but available in the neighbourhood
Water supply (A)	0.00	-0.05	-0.03
Sewerage (B)	0.00	-0.05	-0.03
Electrification (C)	0.00	-0.07	-0.05
Street net (D)	0.00	-0.08	-0.08

Source: Art. 15, Table 10, Appendix 2, LTFA.

The zoning coefficient C_z amounts to 1.00 except for land plots within a central zone (1.10), within industrial and specific production zones (0.90) or within agricultural locations[25] (0.80).

The construction coefficient C_c is equal to 1.00 if the constructed area of the plot covers 40% or less of its area. Should the construction area cover more than 40 % of the land plot area the construction coefficient is calculated using the following formula: $2 - 1.01^{(\text{Construction percent} - 35)}$.

The location coefficient C_l is calculated on the basis of a table showing eight categories of locations (zones I to VIII) and a further five categories of land use within the cities of Plovdiv, Stara Zagora, Bourgas, Varna and Sofia. Each category, including the five cities, is divided into four different zones. In this way, the location coefficient may vary from 93.6 for zone 1 in Sofia, to 0.00 for zone 4 in Category VIII.

The value of the improvements (VI) represents a parameter reflecting the improvements which do not comprise the buildings[26]. Thus, the improvements on land to be taken into account are given the following values:

- permanent pavements – BGN 35 per square metre,
- fences made out of bricks or concrete –8 BGN per square metre,
- sport yards, i.e. sport fields and stadia –15 BGN per square metre,

[25] The zones are determined centrally in the Spatial Planning Act.
[26] According to the Art. 18 from the Appendix No. 2 to the LTFA.

- swimming pools –23 BGN per cubic metre, and
- parking places –15 BGN per space.

1.3.3 Tax value assessment of commercial and residential buildings

The tax value assessment of commercial and residential buildings / constructions, including houses, apartments, house floors[27], garages, and stores is calculated by using a similar but longer formula than the one used to determine the tax value assessment of land plots. Thus, their tax value assessment[28] is calculated using the general formula:

$$TVA = BTV \times C_l \times C_i \times C_{ch} \times C_h \times C_o \times constructed\ area$$

where:

- TVA is the total amount of the tax value assessment in BGN;
- BTV is the basic tax value per square metre. in BGN;
- C_l represents the location coefficient
- C_i represents the infrastructure coefficient;
- C_{ch} represents the characteristics coefficient;
- C_h represents the height coefficient; and
- C_o represents the obsolescence coefficient.

(1) BTV

The most important parameter in the formula is the basic tax value (BTV) calculated in BGN per square meter of constructed accommodation, as shown in the Table 9.2 below:

Table 9.2: Calculation of the BTV of buildings / constructions

Construction type	Apartments	Houses	Non-residential premises
Ramshackle construction	4.40	3.70	4.80
Not-fully solid construction	7.50	6.40	8.20
Solid construction without iron and concrete elements	11.00	9.40	12.10
Precast concrete slabs construction	14.00	12.00	15.40
Solid, bricks wall construction	17.00	14.50	18.70

Source: Art. 5(3), Table 2, Appendix 2, LTFA.

Two-storey flats and studios have the same basic tax value as apartments. The BTV of garages is calculated with a 20% discount from the figures above, as they are considered to be ancillary properties.

[27] Floors of houses are considered to be separate property units where they could serve as an independent unit for their intended use. This is the case where the floor has its own entrance and all other facilities, allowing its independent use from other parts of the house.

[28] Art. 4 from the Appendix No. 2 to the LTFA.

(2) The location coefficient C_l

The location coefficient C_l is the same as the one applicable to the calculation of the TVA of land plots described in 0 above.

There are, however, two additional parameters, being the availability of central heating and a telecommunication system, which should be incorporated within the infrastructure coefficient C_i used for evaluation of the land plots. Hence, the formula used for determining the infrastructural coefficient of a building or construction is:

$$C_i = 1 + A + B + C + D + E + F.$$

The exact numbers are presented in Table 9.3 below.

Table 9.3: Calculation of the infrastructure coefficient used for determining TVA of constructions

Infrastructural element	Existing within the construction	Not existing within construction	Not existing within the construction but available in the quarter
Water supply (A)	0.00	-0.05	-0.03
Sewerage (B)	0.00	-0.05	-0.03
Electric supply (C)	0.00	-0.07	-0.05
Central heating system (D)	+0.06	0.00	0.00
Telecommunication system (telephone) (E)	0.00	-0.02	-0.02
Street network (F)	0.00	-0.08	-0.08

Source: Art, 7, Table 5, Appendix 2, LTFA.

(3) The Characteristics coefficient C_{ch}

C_{ch} represents the characteristics coefficient, and reflects the individual location of the property within a building, (e.g. on first or top floor), as well as its current state and the existence of any improvements made to the property. It is calculated according to the formula:

$$C_{ch} = 1 + C_1 + C_2 + C_3$$

where: C_1 represents the correction.

Table 9.4: Corrections

Floor location	Buildings without elevator having 6 or more floors		Other buildings*	
	Non-residential	Apartments	Non-residential	Apartments
First floor	+0.10	-0.05	+0.10	-0.05
Second to fifth floor	-0.03	+0.10	0.00	+0.03
Sixth and higher floor	-0.10	-0.03	-0.08	0.00

*Including those with an elevator.
Source: Art, 8, Table 6, Appendix 2, LTFA.

If the property is located on the top floor of a building with two or more floors, the entire characteristics coefficient is reduced by -0.05[29].

C_2 is a correction reflecting the condition of the real estate property and in general is equal to 0. However, in cases where the physical condition of the property is very poor, because there has been no refurbishment of the property over the last 20 years, the correction is equal to -0.05. if the property has been damaged and not yet repaired, for example, if it has been adversely affected by a natural disaster or similar event, the correction varies from -0.10 to -0.60 according to the extent of the damage.
C_3 is a correction representing the sum of the individual numbers of the different improvements. From the tax point of view, these are considered to be the following installations in the property:

- heating installation (0.04),
- cooling installation (0.06),
- luxury joinery (0.04),
- energy-efficient isolation (0.03),
- special roof coverings and roof isolation (0.03), and
- decorative elements (0.02).

(4) The height coefficient C_h
The height coefficient C_h is applicable only to non-residential buildings with an industrial, commercial or agricultural character. In principle, the coefficient is equal to 1 except with respect to premises which are higher than four meters measured externally. In such a case, the coefficient is calculated using the following equation

C_h = (Height (in meters) - 3)$^{0.05}$.

(5) The obsolescence coefficient C_o
This obsolescence coefficient reflects the age of the building. C_o is equal to 1 when the assessment takes place within a period of five years after the completion of the

[29] For buildings without an elevator.

construction. However, with respect to constructions older than five years, the obsolescence coefficient is calculated using the following formula:

$C_o = [100 - (NY - 5) \times AC_o]/100$

where NY is the number of the years after completion of the construction, and AC_o is the annual coefficient. The latter depends on the type of the construction and varies from 0.5 to 1.00.

(6) Constructed area
The amount of the constructed area is based on the entire area of the building located within the external borders of its walls, i.e. the total sum of the area of all floors i.e. the gross internal floor area (GIFA).

Due to their auxiliary character, the relevant construction area of basements and attics is diminished by 30 % if those are part of residential properties, and by 60 % in cases where they are part of non-residential buildings.

1.3.4 Tax value assessment of unfinished constructions

The tax value assessment of unfinished constructions is calculated as a percentage of the tax value assessment assuming the completion of the project[30]. In cases where the construction is substantially complete, the tax value amounts to 63% of the otherwise completed assessment. In other cases, it amounts to 37% of the tax value assessment of the unfinished construction, calculated on the basis of the completed project.

1.3.5 Tax value assessment of restricted property rights

i Tax value assessment of the right of construction
The tax value assessment of the right of construction before it is transformed into an ownership right over the construction is calculated using the following formula:

TVA of CR = the area of the construction $\times$ 0.25 $\times$ BA $\times$ C_a $\times$ C_b $\times$ C_c

where BA is the basic tax amount reflecting the construction and the purpose of the building; Ca represents the location coefficient; Cb is the infrastructure coefficient of land plots within the designated areas of cities and villages; and C_c is a coefficient reflecting the number of the years for which the construction right has been established. The latter is equal to $1 - 1.05^{-n}$ where n is the number of the years for which the restricted property right has been established.

[30] Art, 12, Second Appendix LTFA.

ii Tax value assessment of the right of use of real estate property

The tax value assessment of the right of use over real estate property is equal to the tax value assessment of the land (or the respective part of it) over which the restricted property right has been established, multiplied by a coefficient (C_a) reflecting the period in years for which it has been established, i.e. it is equal to $1 - 1.05^{-n}$ where n is the number of the years for which the right of use has been established. Thus:

TVA of RU[31] = the area over which the right is established × C_a

This coefficient C_a cannot exceed 0.9. If the right of use is established for indefinite period of time, the coefficient is formed by subtracting the age of the holder of the right of use from 70. If the holder is older than 70, the coefficient is 5.

It is important to mention that if real estate has been encumbered by a right of use, the tax value assessment is diminished by the tax value of the right of use established over the real estate. Therefore the liability of the owner is diminished pursuant to the liability of the person holding or using the property.

1.4 Administration and enforcement

1.4.1 Tax payers

As mentioned above, persons liable to pay the real property tax are the owners of the properties subject to taxation, regardless of whether the property is used during the respective tax period or not. In the event of co-ownership, each of the co-owners is obliged to pay their part of the tax in proportion to their share in the property.

There are several exceptions from this general principle. A major exception occurs where there are privately-owned buildings constructed on land plots which is in municipal or state ownership. In such cases, each owner of each building is also obliged to pay the tax due for the plot on which the building is located or its respective part if the real estate is merely co-owned by a municipality or the state. In such instances, the state is not liable to real estate tax over such properties.

Another exemption is the situation in which a concession over public property is established, in which case the taxpayer becomes the person obliged under the concession and not the owner of the real estate. That would be the case when state properties of certain economic value are provided for exploitation to private parties. In such cases that state, as the owner, is not liable.

[31] Right to use, Art. 57, Ownership act.

1.4.2 Tax declaration principle

As a basic principle, the registration of taxable real estate properties results from the completion and submission of a tax declaration following the acquisition of property ownership, or restricted property rights, (being a construction right or a right to use the property).

Every owner or holder of a restricted property right is required to submit such a tax declaration within two months following the acquisition of the property or the restricted property right. The acquisition date is also the issuing date of the notary deed by the notary public.

The same period of declaration applies in the case of a change in the circumstances relevant for the determination of the tax value. The liable person has a general responsibility to declare any such changes circumstances in due time.

The tax declaration should be submitted to the local tax department at the relevant municipality where the property is located.

If the property right is acquired as part of an inheritance, the period for declaration is six months from the death of the legator.

If more than one person inherits the property or the restricted property right, the submission of a tax declaration by any one of them releases all the others from the responsibility to make such a declaration of acquisition.

To any tax declaration, the applicant has to attach documents certifying the acquisition of the property right, e.g. notary deed or any other official document. The local tax officer may also request relevant documents and information from other authorities or public bodies. These bodies are required to deliver the requested information or documents and must respond within seven days from the date of receiving the request.

As stated above, the valuation for the purposes of the real estate tax is based on the annual tax assessment made by the respective municipal tax authority. Should there be any change concerning the tax assessment, the additional tax due after the adjustment of the tax value is payable from the month following the month in which the change has been reflected within the tax register by the local tax officer.

After submission of the tax declaration, the local tax officer is obliged to review it together with all information and documents related to it. After assessing the tax value of the property, the local tax office is required to notify the person(s) liable to pay the tax regardless of the fact that it was the actual taxpayer who submitted the tax declaration or whether this has been done by another person, (such as a co-owner or co-beneficiary).

Administrative sanctions (fines) can be imposed on persons, who fail to submit the required tax declaration in time, who fail to declare a change in relevant circumstances, or who have declared changing circumstances incorrectly. With respect to natural persons, the amount of the fine could be between 10 BGN and 400 BGN. Much more severe are the sanctions applied to legal persons or sole traders, which could involve a fine of between 500 BGN and 3,000 BGN.

1.4.3 General information about the collection of Real Property Tax

According to data recently published,[32] the collection of the Real Property Tax achieves one of the highest collection rates within the local tax revenue, and amounts to 78–80% of duties paid within eighteen months of the date due.

Moreover, despite the lack of official statistics, it is clear that real property tax collection is highly efficient because the administrative costs relating to the collection of the Real Property Tax are not very high.

1.4.4 Determining, securing and collecting duties arising from Real Property Tax

Local tax officers have the same rights as the officers of the Bulgaria tax administration[33], (the National Revenue Agency), to determine, secure and collect payments arising from Real Property Tax obligations. This means that local taxes are collected by the same means as those provided by the Tax and Social Security Procedural Code[34].

All local tax officers are civil servants of their respective municipality who are selected and appointed by virtue of a written order issued by the Mayor[35] of the municipality.

Unlike the state tax officers, the local tax officers are entitled not only to determine tax obligations for local taxes, but also to carry out temporary enforcement measures over assets of the tax payers, e.g. to seize bank accounts. Thus, in respect of the initial temporary payment legislation, the local tax officers act as public enforcement officers.

However, the actual collection of revenue for local taxes must demanded by public or court enforcement officers, who are the only ones authorized to execute measures over properties and other assets owned by private individuals.

Taxpayers have the right of appeal against the tax assessment of the real property determined by the local tax officers to the mayor of the municipality. As a result of such

[32] Cited according to the material recently published on www.imoti.net, 13. 3. 2015.
[33] Art. 4 (1) of the LTFA.
[34] Tax and social security procedural code *(Данъчно-осигурителен процесуален кодекс),* enacted by SJ No. 105/29. 12. 2005, last amended through SJ No. 92/ 17. 11. 2017.
[35] The mayor is the highest elected public officer of the municipality, charged with representing it as a legal person – Local Self-Government and Local Administration Act.

an appeal, the administrative organ, (i.e. the mayor) is authorized to postpone the payment of local tax obligations up to an amount of 100,000 BGN per taxpayer per year. The postponement of any local taxes in a higher amount can only result from a decision of the respective municipal council.

If the appeal brought to the superior tax organ (i.e. the mayor of the municipality) is rejected, the taxpayer can submit a judicial appeal to the competent administrative court on grounds of the legality of the assessment.

Should the judicial appeal be rejected by the court of the first instance, the interested party may submit a final appeal before the Supreme Administrative Court of the Republic of Bulgaria.

1.5 Revenue importance and revenue performance

There are no aggregated data published by the National Institute of Statistics on how the importance of the revenue from the property tax has changed over the last few years.

The Table below (Table 9.5) reflects the local tax revenues over the last two years of the two biggest Bulgarian communities, the cities of Sofia and Plovdiv.[36] In spite of the absence of data covering the entire republic, a similar ratio between the different local taxes is shown by the revenue published by other large Bulgarian cities.

Table 9.5: Local tax revenues of the Municipality of Sofia for 2015 and 2016 in BGN

Year	Real Property Tax	Inheritance Tax	Motor Vehicles Tax	Acquisition tax	Tourist Tax
2015	approx. 92,900,00	approx. 41,700	approx. 72,000,000	approx. 74,800,000	approx. 1,450,000
2016	approx. 94,500,000	approx. 42,500	approx. 72,000,000	approx. 75,500,000	approx. 1,450,000

1 EUR is exchanged for 1,95583 BNG.

[36] The data are published within the draft annual budgets of both municipalities on their websites at: www.sofia.bg and www.plovdiv.bg and have been summarized by the author in the above tables.

Table 9.6: Local tax revenues of the Municipality of Plovdiv for 2015 and 2016 in BGN

Year	Real Property Tax	Inheritance Tax	Motor Vehicles Tax	Acquisition tax	Tourist Tax
2015	18,274,344	7,084	15,114,814	12,880,804	337,900
2016	21,370,000	6,077	15,985,879	15,336,277	340,938

1 EUR is exchanged for 1,95583 BNG.

As the above Tables show that the real property tax forms the largest single tax revenue source for the municipal budgets, in comparison to other local taxes. However, overall of similar importance in terms of revenue is the local sales tax payable as a result of the acquisition of assets, as well as the motor vehicles tax[37].

So far the trends of the last two years within the Municipality of Sofia has shown a slight increase in revenue performance. This is due to the reorganization of the city's tax collection system, during 2014 - 15, which affected all local taxes, including the real property tax.

In comparison, the statistics in Plovdiv (as well as those in other cities in Bulgaria) show a decrease of the efficiency of the tax collection, despite the enforcement measures undertaken by the local tax offices. This could also be attributed to the fact that often in large cities in Bulgaria, the tax value assessment is significantly lower than its market value. The above, as well as potential improvements in the collection mechanisms are the basis of discussions for future reforms.

a. Possible future reforms of the Real Property Tax

After major statutory changes, which came into force in 2007 and which have enabled each municipality in Bulgaria to determine the tax rate on an annual basis by up to 4% of the tax value assessment, there is no doubt that any future reform concerning the real property tax would focus on the mechanisms for the determination of the tax value of the real estate.

The reason for that is the fact that the decisive factors in the formation of the tax value of real estate properties is not based on any *ad valorem* principle. Given that, the result is that the tax value assessment of all properties in the large Bulgarian cities is often less than half of the market price.

[37] See above, footnote 8.

Low tax assessments influence not only the amount of tax collected but also the revenue from the local tax[38] collected on the transfer ownership of real estate property, because the tax value assessment is also the basis for determination the tax due, for example. In cases of gifts of real estate.

Despite that, as of April 2017, there is no stated intention to reform the real property tax regime. Neither the Bulgarian Government nor the Association of the Municipalities have expressed any plans for modernizing of the relevant legislation.

2 Evolution of Real Estate Markets

2.1 Property restitution

After the fall of the communist regime on 10 November 1989, one of the biggest economic and legal reforms was the intention of the Bulgarian Parliament to return the ownership of real estate to their former entitled parties, i.e. previous owners and their heirs.

In order to achieve that goal, the Bulgarian Parliament adopted several statutes dealing with different kind of properties, such as real estate within cities and villages, agricultural lands and forests.[39]

Initially, the real estate restitution in Bulgaria was based on the principle of the "real return" of the properties which had been the subject of nationalization by the Bulgarian state and Bulgarian municipalities from 1944 to 1989. Thus, the land plots together with the structures built on them were to be returned according to the former boundaries which existed on the real estate maps pre-1944.

However, if for some reason, there was no possibility to return the properties to their former owners, the restitution legislation provided for the former owners, and their heirs, to be compensated with other properties equivalent in value, size, location and purpose.[40]

Different statutes provided different outcomes with regard to the rights of third persons who had acquired real estate rights, depending on the nature of restitution and the kind of

[38] Ibid.
[39] The main applicable statues are The Act on the Ownership and Use of Agricultural Lands (*Закон за собствеността и ползването на земеделските земи*), published in SJ No. 17/01. 3. 1999, last amended by SJ 58/ 18.07.2017 ; The Act on Property Restitution of Forests and Lands from the Forestry Fund (*Закон за възстановяването на собствеността върху гори и земи от горския фонд*), published in SJ No. 110/ 25. 11. 1997, last amended through SJ No. 90/09. 10. 2009; The Act on the Restitution of Ownership over Nationalized Real Estate Properties (*Закон за възстановяване собствеността върху одържавени недвижими имоти*), published in SJ No. 15/21. 2. 1992, last amended through SJ No. 53/30. 6. 2006 etc.
[40] A detailed analysis is to be found in Bobatinov, M., Vlahov, K. Veshtno pravo. Praktischeski problem. Sofia, 2007. P. 183 subs.

property involved. However, acquisition in good faith was a sufficient defence against a claim from persons entitled to restitution.
The different treatment of these cases as well as the fact that restitution in Bulgaria has been performed by administrative bodies, (e.g. Restitution Commissions established for that purposes in respect of agricultural lands and forests, and the municipal administration in respect of town properties), has led to some hundreds of thousands of court proceedings and the process has lasted more than 15 years, having begun within the period of 1993 and 2005.

Despite that, the restitution process of Bulgaria has contributed significantly to the increase of the number of properties owned by private individuals and hence has supported the growth of the real estate market in Bulgaria since the mid 1990s.

2.2 Privatisation

The privatisation process in Bulgaria started in 1992 with the adoption of the first statutory instrument aiming at the decentralization of the former centralized planned economy and towards the goal of a modern market economy, being the Act on the Restructuring and Privatisation of State and Municipal Enterprises[41], by virtue of which the Bulgarian Privatization Agency was created.

The Privatization Agency has organized and undertaken the entire process of privatisation, involving the transfer of individual assets of publicly-owned enterprises and the transfer of shares or stocks to private natural and legal persons. Larger state-owned enterprises were sold in this period following a procedure led jointly by the Privatization Agency and the ministry to which the privatized enterprise belonged.

Bulgaria started this reform in an extremely difficult climate, from the industrial and financial points of view. On the agenda were three parallel tasks, which were hard to combine with each other. These were:

- to restructure the old central planned economy;
- to try to keep the industrial and other production output at a certain level; and
- to bring revenue to the state budget from the sale of the huge assets owned by the Bulgarian state and its municipalities.[42]

The receipt of revenue was achieved relatively rapidly, as only 15 % of the number of publicly-owned property had to pass into private hands. Another reason for this smooth transition was the fact that most of the municipal real estate consisted of shops, and small- or medium-sized enterprises. Even if the municipalities were not able to sell such

[41] The Act on the Restructuring and Privatisation of State and Municipal Enterprises (*Закон за преобразуване и приватизация на държавни и общински предприятия*), published in SJ No. 38/ 8. 5. 1992, repealed through SJ. 28/19. 3. 2002.
[42] Similar conclusions are to be found in Atanassov, B. Privatisation and Corporate Governance in a Transition Economy: The Case of Bulgaria. Delaware, 2003. P. 13 subs.

properties at market prices, because they were not attractive to those seeking to acquire privatized properties at lower prices, such properties were not difficult to maintain and, in most of the cases, they could be and were rented by private individuals. In this way, they provides a significant increase to the municipalities' revenue.

Between 1991 and 1993, more than 25% from the number of the Bulgarian state-owned enterprises, and only 7 % of those owned by municipalities, were subject to the privatization procedure. About 230 state-owned and 431 municipality-owned enterprises had been sold by the end of 1994, and further privatisation procedures have been started with respect to other 1,500 state enterprises and 1,800 municipal enterprises.

In Bulgaria, three main stages in the process of privatisation can be distinguished. Each was shaped by the conflicting resolutions of frequently changing governments and aimed at achieving different political goals.

The first stage (1990-1993) is characterized by the relative low number of enterprises of which the Bulgarian state was willing to be deprived.

As in other former socialist countries, great emphasis was placed on the so-called commercialization of state-owned enterprises. This did not involve the actual transfer of state property into private hands, but rather the transformation of state-owned enterprises into independent commercial entities, being mainly limited liability companies or joint-stock companies, as well as the establishment of subsidiaries of such companies. The goals of transferring properties to what were considered to be a more suitable management structure, which were greater operational efficiency and the application of modern methods of production, were not achieved.

The second stage (1993-1995) represented an attempt at privatization in which the employees and the management of certain state-owned or municipal enterprises were entitled to acquire shares or stocks in the company, and as a result of which, such enterprises would pass into private hands.

However, after the failure of both models, Bulgaria sought to implement a third model based on the principle of mass privatization, in which every Bulgarian citizen could participate.

In 1996, the legal regulations for mass privatisation were introduced and a privatization fund was established. In the meantime, the process had evolved a fourth stage, during which a strategy of privatization was formulated under the supervision of a monetary council, and following various agreements with the IMF and the World Bank being adhered to.

However, the third attempt has also failed dramatically. The expectation that a large part of the state property would be privatized within a short period of time in Bulgaria has not

been met, for a number of reasons. The first one is related to the weak private sector, which was not able to serve as the engine of the reform. It also reflects the fact that ordinary people in Bulgaria had not been used to investing, especially having had no experience of a capital market or tax incentives for the last 60 years. About one-fourth of Bulgaria's state-owned enterprises (1,040) were partially privatized through the programme by June 1997.

However, the major disaster for the country came, not from the failed mass privatisation programme but with the privatisations undertaken after 1997. By this time, many of the biggest state-owned enterprises had been purchased by foreign investors with no Bulgarian credentials, and these have failed to fulfil the obligations related to the privatization, such as to invest in the enterprise over a minimum of five years after the acquisition of the shares, and to retain a part of the workforce in those enterprises.

For example, there were serious concerns in the case of the privatisation of the Bulgarian airline "Balkan" in 1999,[43] which was sold at what was clearly below the market value of its assets. This company was declared bankrupt in 2003, only few years after the purchase and the sale of the assets, including many airplanes, by the new private owner to third persons.

Currently, the Bulgarian Government plans to restart privatisation in sectors in which there are still certain production monopolies, such as in the defence industry. This is certainly a consequence of the fact that Bulgaria has no longer any big industrial enterprises which could be highly sensitive from a security perspective, such as the industrial weapon and military equipment production sector. The goal is also to preserve the personnel and the structure of the Privatization Agency, which has been running at a financial loss over the last few years.

2.3 Nature of the property market

The residential property market in Bulgaria has shown substantial growth from the beginning of 2005 until the end of 2009. Growth stalled in part because of the substantial influence of the worldwide financial crisis over the Bulgarian economy and its entire construction sector. As an example, the post-2009 real estate market has only reached 80% of the prices that it achieved pre-2009 and have been continuously in decline since. According to recently published information[44], in 2016 the real estate market has grown to 66% of the top level achieved in 2009, meaning that although it is still recovering, it is steadily restoring itself to pre-crisis levels.

[43] http://www.temanews.com/index.php?p=tema&iid=168&aid=4412, 13. 3. 2015.

[44] http://www.capital.bg/biznes/imoti/2017/01/30/2909013_sdelkite_s_imoti_rastat_v_sofiia_i_golemite_gradove/ .

Another possible explanation for the increase in market demand is the substantial reduction of mortgage interest rates to their lowest level from 2007, reaching an average of 4.69 % per year.[45]

The most developed housing markets in the country (in Sofia, Varna, Burgas and Plovdiv) have registered the greatest rates of growth over the past two years.

The largest cities in the country, such as Sofia, and Plovdiv, have seen the biggest increases in home prices. Foreign buyers, most of whom are seeking vacation apartments or houses, tend to be attracted to the Black Sea coast, in particular the cities of Varna and Burgas, followed by ski resorts such as Pamporovo and Borovets.

The capital of Bulgaria, Sofia, is the most preferred location for foreign and local buyers. The average price of homes in Sofia in the second quarter of 2016 was 960 EUR per square metre, compared to 835 EUR for the same period in 2015. In Varna, the average price has risen to 900 EUR per square metre[46].

Table 9.7: Prices of apartments per square metre in Bulgaria in BGN according to the official statistics published by National Statistical Institute (NSI) from 2005 to 2014 (no newer official statistics are available)

Regional centres	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**
Total	**738.04**	**846.52**	**1,091.24**	**1,363.48**	**1,072.22**	**963.86**	**905.39**	**881.38**	**865.68**	**869.75**
Blagoevgrad	757.67	797.88	1,038.67	1,257.08	915.72	849.30	780.16	787.57	764.18	747.12
Bourgas	1,126.54	1,227.04	1,442.08	1,722.88	1,472.63	1,196.34	1,169.93	1,146.57	1,118.38	1,137.29
Varna	1,198.08	1,316.00	1,762.63	2,116.88	1,816.33	1,,579.03	1487.79	1,429.69	1,390.33	1,377.00
Veliko Tarnovo	701.56	811.08	968.92	1235.35	830.80	817.82	729.57	713.47	713.67	728.46
Vidin	356.75	587.58	802.28	897.09	659.97	657.09	579.56	553.55	545.09	512.51
Vratsa	464.75	637.83	825.13	1,013.54	824.46	666.81	628.13	582.45	542.72	516.51
Gabrovo	485.71	620.88	771.92	863.21	768.17	643.70	532.53	533.35	532.36	514.77
Kardzali	622.98	628.75	727.88	835.04	666.18	683.33	687.50	676.15	655.04	650.14
Kyustendil	365.42	459.21	601.58	743.04	565.99	566.79	564.91	544.40	514.53	484.12
Lovech	365.76	540.01	646.13	876.47	718.22	671.78	621.38	587.18	568.04	558.41
Montana	479.89	641.25	778.67	919.71	817.62	741.57	679.15	597.12	572.58	558.53
Pazardjik	460.29	588.42	720.63	866.42	706.52	648.58	656.16	660.16	619.96	611.04
Pernik	532.29	656.00	918.21	1145.00	890.75	804.33	703.18	653.02	619.27	594.26
Pleven	738.67	769.50	1004.46	1323.39	990.30	838.34	808.64	793.53	788.83	772.81
Plovdiv	862.88	940.29	1143.17	1521.08	1149.10	1036.39	971.85	935.50	927.13	951.71
Razgrad	431.63	558.21	744.17	938.75	882.88	734.20	664.36	656.98	650.14	651.00
Rousse	727.00	895.67	1262.00	1652.42	1041.95	892.79	865.35	873.05	882.17	887.09
Silistra	406.53	461.67	640.29	740.15	649.48	683.21	662.47	641.51	625.67	629.99
Sliven	618.21	670.21	822.17	1018.63	885.25	759.70	719.03	659.76	613.53	589.39

[45] http://www.standartnews.com/biznes-finansi/lihvite_padat_i_prez_2017_g-347119.html .
[46] Although Bulgaria still has its own currency most of the real estate listings and transactions are made and executed in EUR.

Regional centres	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Smolyan	507.77	712.20	839.52	994.98	819.76	764.05	713.92	669.45	653.88	634.94
Sofia City	1,222.38	1,341.79	1,813.17	2,329.88	1,737.63	1,568.81	1,468.10	1,452.64	1,439.79	1,481.06
Sofia Region	387.13	411.71	488.14	721.67	619.75	715.72	721.76	699.44	692.45	678.42
Stara Zagora	775.63	914.58	1,144.75	1,415.33	1,025.67	898.81	888.14	884.61	870.46	892.99
Dobrich	485.58	589.38	743.75	913.83	848.48	786.68	705.83	671.14	654.54	641.69
Targovishte	488.87	586.01	845.46	894.22	686.54	673.01	635.84	652.17	653.48	654.60
Haskovo	593.25	740.63	922.71	1055.63	900.46	888.35	848.34	810.57	780.53	760.64
Shumen	579.67	675.96	819.46	1,005.08	918.11	803.85	683.01	687.52	685.78	704.75
Yambol	513.58	591.21	683.47	881.49	768.68	712.17	669.10	623.09	609.87	598.54

3 Property Data - Property Register and Cadastre

In 2001 a registration reform took place in Bulgaria. Real estate books began to be kept based on the principle of the real registration of property, according to which a separate dossier of each parcel of real estate was created. The reform was achieved by the adoption the Cadastre and Property Register Act[47] in 2000, following the German proprietary approach.

Until then, every registration concerning the acquisition, change or loss of a property right was registered under the person-based system established in Bulgarian civil law, i.e. it had to be reflected within the files of the persons who are to be regarded as owners or holders of restricted property rights, and not within a land-based system.[48]

However, after the major reform of the property registration regime in 2001, Bulgaria has started the procedure of developing and adopting cadastre maps under the authority of the National Office for Geodesy, Cartography and Cadastre for the entire territory of the Republic. This process is still ongoing.

According to the provisions of the relevant legislation[49], the cadastre is a register including the following real estate data:

- information about the ownership over real estate properties and their boundaries, i.e. land plots or constructions, including buildings and/or other structures on the property;
- information regarding any other property rights which have been established with respect to those properties;
- data about the state borders, and the borders of the administrative entities; as well as
- information about any restrictions established with respect to the construction of real estate.

[47] Cadastre and Property Register Act (*Закон за кадастъра и имотния регистър*), published in SJ No. 34/ 25. 4. 2000, effective from 1. 1. 2001, last amendment through SJ No. 57/22. 7. 2016.
[48] Stavrou, S. Vaprosi na bulgarskoto veshtno pravo. Sofia, 2010. P. 48.
[49] Being the Cadastre and Property Register Act.

Given this function of the cadastre in Bulgaria, the current legal regime provides that there should be a permanent connection between the Property Register and the Cadastre, which is no longer administrated by the respective regional courts, but by administrative officers at the Bulgarian Registration Agency.

Within the Property Register are registered all acts and deeds, which entitle persons to acquire or dispose of a property right, all deeds establishing a mortgage, a special pledge or a seizure over real estate property as well as all acts, which have to be registered following statutory provisions, such as claims, and the initiation of court proceedings affecting a certain property right.

Registration within the Property Register in Bulgaria has in principal only a declarative effect, i.e. the person acquiring the property right becomes its owner not by way of the registration of the respective deed or act, but with its separate legal implementation (in most of the cases such transactions are concluded before a notary public acting within one of 113 district courts in Bulgaria).

The only exception of this principle is the rule in Art. 113 of the Ownership Act[50], which states that if a subsequent[51] buyer of real estate property registers first his notary deed within the Property Register, this individual acquires ownership irrespectively of the fact that first buyer should have acquired ownership as a result of the signing of his notary deed, and the fact that the seller was no more entitled to transfer ownership to the second buyer after having transferred it to the first one. Therefore, although the registration of the transfer is not an element of its effect, it is possible for a property to be "sold" twice if the first purchaser is slow in registering ownership in the Property Register. This rule is enacted both as means to protect third parties based on the presumption for accuracy of the public Register and as a repercussion for failure to undertake the registration of the transaction.

In the light of the above, the Property Register plays a very important function in giving clear information regarding who should be treated as a person acting in good faith in relation to a real estate property purchase. For example, a buyer of a land plot would become the owner of a newly acquired property if that ownership is registered prior to the registration of a claim submitted against the original seller of the property by the original transferor.

Both the Cadastre and the Property Register can be accessed online through the website: www.icadstre.bg after registration by the inquirer, and by the payment of the required state fees in order to be able to consult both registers.

[50] Ownership Act (*Закон за собствеността*), published in SJ No. 92/16. 11. 1951, last amended through SJ 107/24.12.2014.
[51] Acquiring the property later than the first one.

Conclusion

The role of the property tax in Bulgaria is important but not decisive for the budgets of the municipalities.

Since every municipality is empowered by law to determine annually the tax rate within a range from 0.1% to 4.5% of the tax value of the respective land plot, every municipality has the necessary legislative tools to increase or decrease the amount of the tax payable within its territory.

However, the real property tax represents an important factor for the development of the real estate market. The reason for that is that many municipalities prefer to have a dynamic property market which results in an increase in the yield from of the acquisition tax, than to increase the rate of the real property tax.

The collection of the real estate tax is facilitated by the broad powers which local municipal tax officers have in order to administer its collection.

The main problem seems to be the absence of a link between the market price of real estate and the tax value which is assessed not assessed on an *ad valorem* bases, but currently on formulae reliant on numerous criteria, including the location and the infrastructure available to the property.

Despite this fact, there are no clear indications of the direction of potential reforms, which could result in a much more important role to the Real Property Tax in the future.

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Real Property Taxation in the Emerging Economy of the Republic of Slovenia

NEVA ŽIBRIK & TINA HUMAR

Abstract In Slovenia, the taxation of real estate has a long tradition but it is still stigmatized and misunderstood. From both theoretical and also ideological reasons, those who oppose the taxation of wealth will need to be convinced, as will politicians at both the State and local level. The use of a generalized (market) value of real property as a tax base eliminates all of the constitutional issues previously raised regarding the equality of treatment and "fairness" throughout Slovenia, and makes the property tax transparent for the State, local communities and most importantly, for the taxpayers. Even some of the respected constitutional legal experts in Slovenia agree that the burden of real property tax as an assets tax has to reflect the actual, 'true' value of a taxpayer's real property – real value being its market value. Although both the theory and the experiences of many countries support a value-based property tax as not only an efficient and reliable tax source for local communities but also as an effective instrument for directing spatial and property management, its introduction is most of all an important political issue that will have to be resolved one way or another, because the existing system is no longer tenable.

Keywords: • Slovenia • property tax • immovable property tax • valuation • tax reform

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Introduction

The Republic of Slovenia identified a need to change its system of property taxation over 20 years ago; however the reform has still not been put in place. The current system of property taxation remains as it had been established in the times of socialism, including limited private rights to property. The Tax on Property, which is kind of luxury recurrent tax on buildings and parts of buildings owned by private persons and so called Charge for the Use of the Building Lands, which is actually a recurrent tax on undeveloped building land and on buildings, have many legal, operational and constitutional issues and are retained only to ensure the continued source of local finance until the reformed property tax is put in place. Therefore, the economic, spatial and social effect of the current property taxation system is not as it would be if the tax base was market value.

Slovenia has had an old and well managed land book for many years and also a land cadastre (from Austro-Hungarian times) but did not have the building cadastre (with the identification and physical description of real estates). This was established in 2006.

In 2002, Slovenia reformed the legal basis regarding property rights, introduced rules for the registration of property, and established the rules for a mass valuation system both in 2006. Generalized market values have been publicly available for every property in Slovenia since 2012. The Real Property Tax Act was introduced in 2013, but because of some aspects of its content, that have been ruled as unconstitutional, this Act was repealed by the Constitutional Court of Slovenia even before the first tax assessment was made. The Real Property Mass Valuation Act was for the same reason declared unconstitutional if used for real property taxation. With this decision Constitutional Court reverted to the use of the previous property tax system and limited mass valuation to non-tax use. But the reform must continue/start again in real time since the current situation in property taxation from both the formal (risk of constitutional disputes) and material (risk of losing the revenue source) points of view present huge problems for the financing of local government.

1 Property Tax

1.1 History

In Slovenia, a kind of real estate tax was in use in Roman times when special taxes on land within city walls were collected. The revenue was used to assure the taxpayers of the protection of the city. At the same time, inheritance and transfer taxes were also levied. In the Middle Ages there was no similar tax system in use, although all peasants had to pay one tenth of their produce to their landlord. Later, from the ninth century on, the primary tax source was a transfer tax on goods.

Originally property taxation was based on the Austro-Hungarian system, which included a cadastral system as a system of parcel data, and since 1871, a fully developed land book

as a register of real estate rights. Under the Austro-Hungarian monarchy, part of which included the territory of today's Slovenia, cadastres were used also for the levying of income tax, which was based on the potential revenues from the agricultural production of the land. A similar system was in use until the First World War; however the real modernization of the system was introduced after the Second World War.

Local self-management in this region has a long tradition, having been started with medieval independent cities and developed with the establishment of the first communities in 1848, after the March revolution. Therefore, the development of the political system at the local level went hand in hand with the process of decentralization. Local communities were the centre of local affairs but also the units of the state administration. During the Second World War local management was led by so called "national liberation committees". After the Second World War, during the time of Yugoslavia, a part of which was Slovenia, the first main entities to be established at the local level were the People's Committees. These units did not have much political power and mainly acted as an agency of the State. In 1955, there was a reorganization with the intention of strengthening local communities. A communal system was introduced and instead of the huge number of (more than 3.800) People's Committees, 561 municipalities were established. In 1974 local communities became self-managing political units based on the public rights to property. In Yugoslavia after the Second World War a more modern tax system developed and real estate taxes were introduced as local taxes. Gradually two different systems were introduced in the 1980s, a Tax on Property and a Charge for the Use of Building Land, and both systems still exist today.

Slovenia declared its independency on 25 June 1991. The country has a two tier government system, comprising a central government and local municipalities. The Constitution of the Republic of Slovenia allows also for the setting up of a third tier at regional level, but so far this has not been put in place. With the development of the political system towards a democratic market economy, Slovenia has introduced some important political, structural and legal changes.

Following the establishment of basic rights of their citizens for active participation in the creation of the decisions concerning the administration of public affairs in their locality, a new self-government system at the local level was introduced. Municipalities were established as new entities based on a new distribution of competence between the State and local level and new system of financing, which assures the units of local government the right to their own sources of income, the right to financial compensation for executing State tasks at the local level. Also established is the right to solidarity toward less propulsive municipalities, which results in an instrument for redistribution of part of the State budget (financial compensation), which is transferred to local communities (54 % of income tax) from richer local communities to communities whose revenue from that source does not cover "appropriate consumption", as calculated by the State annually. In 1991, Slovenia was divided in 60 municipalities.

In December 1991, a Constitution of the Republic of Slovenia[1] was solemnly declared in the Republic's Parliament. On 29 March 2004, Slovenia became a member of North Atlantic Treaty Organisation (NATO) and on 1 May the same year a member of the European Community (EC/EU). As of 1st of January 2007 Slovenia adopted the common European currency - euro and, on 21 July 2010, became a full member of Organisation for Economic Co-operation and Development (OECD).

The new foundations and legal grounds for the operation of municipalities were introduced in 1993, based on the Local Government Act, the Act on the Establishment of Municipalities and the Determination of their Territorial Boundaries, which established municipalities as self-governing local communities. Municipalities must be capable of satisfying the needs and interests of their inhabitants and of performing other tasks in accordance with these and other statutes. Within the framework of the constitution and laws, municipalities autonomously arrange and perform their affairs and execute tasks transferred to them by statute. Local communities are entities of public law with the right to possess, acquire and dispose of all types of property. As a result of move towards decentralization, larger local communities started to divide into smaller units. In 1995 the number of municipalities rose to 174 and today there are 212 municipalities of which 11 have urban status. On average they have 10,000 inhabitants, however, half of them have less than 5,000 inhabitants and some only few hundred inhabitants.

The historical development gave the base for essential socioeconomic changes, which are reflected also in the tax system. The system for the collection of contributions through the self-managing interests of communities was abolished and a uniform tax system was introduced (taxes on income and on the transfer of goods). One of the segments that did not benefit from any changes is the property tax. Slovenia inherited its current tax system from the former Yugoslavia and, as a result of the changes in the economic system, progress in democracy, the rule of law and the progress in the autonomy of local communities, the system desperately needs reform to achieve more transparency, fairness and efficiency.

1.2 Position of property tax

The responsibilities of the self-governing local communities is defined in the Constitution of the Republic of Slovenia, which states that the State may transfer to municipalities the responsibility for specific duties otherwise within the State competence if it also provides the appropriate financial resources.

Originally, such tasks were those which the municipalities control independently and which only affect the residents of the municipality, such as the management of municipal property, investment activities, the planning of spatial development, providing the public

[1] Official gazette of Republic of Slovenia, No. 33/91-I.

services of the management of building land, the creation of the regulation governing housing construction, ensuring an increase in the social rented housing fund, the provision of primary schooling, the provision of water, electricity and other communal services including fire safety, environmental protection activities, and the assistance and rescue in the event of natural and other disasters.

Transferred tasks are allocated between the local and national levels as determined by individual sectoral laws. Laws governing relevant responsibilities define the specific tasks the implementation of which is within the competence of either the municipalities or the State, particularly in the areas of the management of public suburban transport, the implementation of tasks in relation to environmental encroachment, the construction of structures, a public networks of gymnasiums, secondary and vocational schools, and secondary public health care services.

The original tasks are financed from the revenues of local communities as laid down by the Municipal Financing Act, and from financial settlements from the State budget; while transferred tasks are funded by the transfer of funds from the State budget, based on the costings of such programmes and services.

In consolidated the national public budget of Slovenia, all tax revenue represents about 85 % of total revenue. The main source (with almost 40 % of total tax revenue) are taxes on transfer of goods and services (VAT and excise duties) and social security contributions which provide nearly 40 % of the total tax revenue. Taxes on incomes and profits represent around 18 %. Taxes on property raise only 1.85 % of the total tax revenue of the State and contribute only 0.6 % to GDP.

In order to provide financial sufficiency and stability to municipalities, the Financing of Municipalities Act[2] sets out three main sources of funding: the first being the original and own revenue sources; second being designated State budget sources part of which is also financial compensation (transfers) to the local communities in cases where the other sources cannot cover their needs as set out by the law. In addition, the State budget supports municipalities with investment transfers.

[2] Official Gazette of Republic of Slovenia, No. 123/06, 57/08, 36/11, 14/15 – ZUUJFO.

Table 10.1: Total revenue of municipalities in Euros

	2000	2005	2010	2015
Tax Revenue				
Taxes on income & profits	379,196,308	576,701,512	1,137,193,059	1,024,977,061
Taxes on property	106,287,493	167,243,672	219,553,109	235,680,880
Taxes on goods and services	39,862,464	81,072,915	61,737,092	47,601,728
Other taxes	94,867	23,775	1,195,412	50,545
Total Tax Revenue	**525,441,132**	**825,041,875**	**1,419,678,673**	**1,308,310,214**
Non-tax Revenue				
Enterpreneurial and property income	49,285,169	93,846,069	148,496,215	203,705,573
Fees, sales, fines	11,255,245	16,146,688	19,492,994	25,984,122
Other Non-tax revenue	61,509,865	88,080,310	124,551,287	86,658,515
Total Non-tax Revenue	**122,050,278**	**198,073,067**	**292,540,495**	**316,348,211**
Capital Revenue	**36,641,464**	**104,286,153**	**49,344,563**	**47,425,717**
Grants	**4,069,275**	**4,693,289**	**4,021,776**	**3,194,738**
Transfers **- of which from EU budget**	**209,175,622** **0**	**292,845,606** **9,212,177**	**294,611,119** **46,022,275**	**547,405,110** **351,538,724**
EU founds	**0**	**0**	**1,354,364**	**3,691,993**
Total Revenue	**897,379,854**	**1,424,939,989**	**2,180,402,953**	**2,262,375,985**
Tax revenue as % of total revenue	**58.5 %**	**57.9 %**	**65.1 %**	**58.8 %**

Source: Republic of Slovenia, Ministry of Finance, Bulletin of Government Finance (published monthly, available at http://www.mf.gov.si/si/delovna_podrocja/javne_finance/tekoca_gibanja_v_javnih_financah/bilten_javnih_financ/).

The total budget of municipalities (see Table 10.1) represents around 13 % of the consolidated State budget, with nearly 65 % being tax revenue, and more than 80 % of

that being personal income tax revenue allocated from the State to the local level. Property taxes account for around 15 % of total tax revenue at the local level, this percentage being rather constant in last few years. Transfers from the State budget comprise around 5 % of the total local revenue. Transfers are mainly intended to support the investment needs of public infrastructure such as schools, hospitals, and to support their operational costs if local communities are not able to cover them in total.

For the provision of services for which municipalities are responsible by law, they are entitled to a proportion of the personal income tax yield, which is originally a State budget revenue source. The percentage is set by the law at 54 % of total personal income tax revenue. Actual income from this source for specific municipalities depends on the economic welfare experienced within the municipality, increasing with economic growth and decreasing with a decline in employment. So, the amount of this source varies according to the State's cost calculation.

Municipalities with revenue from a corresponding share of income that is lower than the calculated corresponding costs are entitled to equalization funding, which is diverted from the income tax revenue that exceeds the cost required by other municipalities. In addition, they also receive additional equalization revenue from the State budget.

Municipalities are not entitled to revenues from the corporate income tax.

In the last few years, as a result of the economic crises. some important changes to the financing of municipalities have been introduced. With different laws (such as the Fiscal Balance Act, Implementation of the Republic of Slovenia Budget for 2013 and 2014 Act, Act Regulating Measures Aimed at Fiscal Balance of Municipalities), the share of income tax revenue redirected to municipalities, originally set at 54 %, has started to diminish. The same has happened to the share of the financial support from the State budget for investments. In addition, the criteria for allocating financial compensation to local communities has sharpened. As a result, the transfers from the State budget have constantly decline. The structure of the State transfers has also drastically changed, with a decline in the level of direct transfers which prevailed in 2000 at 80 %, and an increase in investment supporting transfers which currently already present more than 80 %. Strict limitations for the level of indebtedness of municipalities were set and discussions on the enforcement of financial self-sufficiency of municipalities strengthened. As a most suitable "own" source of revenue for local authorities, a reformed real estate tax is under discussion again.

Despite the constitutional changes in 1972, which gave the republics more fiscal sovereignty, as part of the former Yugoslav Republic in 1991, Slovenia inherited a fiscal and tax system, which was comparable with those among the former Yugoslav republics, especially concerning the financing of local communities and property taxation.

In the Slovenian tax system, units of real estate are the normal subject of taxation as a source of income, as well as the subject of transfer, and as a property. After June 2008, when a complete real estate register was established and the system of definitive identification of each real estate was introduced, the data are often used also for tax purposes, but this is not yet systematical nor is it obligatory.

After the secession from the former Yugoslavia, Slovenia largely reformed its income and transfer taxes. A new system of personal income tax was introduced in 2005 and upgraded in 2007 (Personal Income Tax Act[3]), with the main changes being the inclusion within the tax ambit of the whole of the income of residents (regardless of where it originates) and excluding from the integral income so called "passive revenues", which are taxed independently. In addition to dividends, interests and similar income, passive income also includes income from the renting of real estate and the capital gain made from its disposal. The tax on rental income is based on the amount of rent paid[4], reduced by 10 % for normal costs incurred or by the actual costs. The tax rate is 25 %.

Capital gains tax is applied to the difference between selling price (contract price or estimated market value), reduced by allowable costs, and the acquisition price (contract price or estimated market value) which is increased for allowable costs. The tax rate decreases according to the length of ownership.

Table 10.2: Tax Rates according to the length of ownership

period of possession/ownership (years)	tax rate (%)
less than 5	25
from 5 to 10	15
from 10 to 15	10
from 15 to 20	5
over 20	exempt

Source: Article 132 Personal Income Tax Act.

[3] Official Gazette of Republic of Slovenia, No. 54/04, 56/04 – popr., 62/04 – popr., 63/04 – popr., 80/04, 139/04, 17/05 – UPB1, 53/05, 70/05 – UPB2, 115/05, 21/06 – UPB3, 47/06, 59/06 – UPB4 in 117/06 – ZDoh-2.
[4] Actually paid, not merely due.

1.3 Structural components

As far as annual recurrent taxes on real estate are concerned, Slovenia uses two parallel systems, the Tax on Property and the Charge for the Use of Building Land.

1.3.1 Tax on Property

The legal basis for the Tax on Property is a part of the Civil Tax Act[5] which dates from 1988. The system has therefore been in use for 27 years without any significant change. The tax on property is a tax on buildings, parts of buildings, dwellings, garages and second homes, owned or used by individuals in their capacity as an owner. Taxpayers can only be physical persons.

The rates of tax on property are progressive (in that they depend on the value of the property determined as described in paragraph 1.5.1 below) and range from 0.1 % to 1 % for buildings and apartments, from 0.2 % to 1.5 % for holiday or second homes, and from 0.15 % to 1.25 % for business premises. For business premises that are not used for commercial activities (i.e. empty or used for non-commercial activities) or are not let out for rent for that purposes, the tax rate is increased by 50 %. The tax rates are set by central government and cannot be changed by the municipalities.

The same goes for reliefs and exemptions, which are determined by the law and cannot be changed or amended by municipalities. For apartments and dwelling houses, in which owners or their children have permanent residency, the law allows a reduction in the tax base of 160 m^2. In addition, exemptions are set for buildings used for agricultural purposes and residential homes of farmers; for business premises, used by the owner or user for business activity; and for cultural or historical monuments. A temporary exemption of 10 years can be granted for new or renovated buildings, if the renovation increases the value of these buildings by more than 50 %. In the case of a tax payer with more than three family members, who all live with the taxpayer in the taxpayer's own house, for the 4^{th} and every additional family member the tax may be decreased by 10 %. Exemption for own-used apartments and commercial premises and the progressive rates for non-used commercial premises make this tax a kind of 'luxury' tax.

1.3.2 Charge for the Use of Building Land

The second and significantly more important tax on real estate (in terms of yield) is the Charge for the Use of Building Land. This originated during socialist times when building land was in common ownership so the charge was actually the compensation for the

[5] Official Gazette of Socialist Republic of Slovenia, No. 36/88, 8/89, Uradni list RS, št. 48/90, 8/91, 14/92 – ZOMZO, 7/93, 18/96 – ZDavP, 91/98 – ZDavP-C, 1/99 – ZNIDC, 117/06 – ZDVP, 117/06 – ZDDD, 24/08 – ZDDKIS in 101/13 – ZDavNepr.

communal costs. The original legal base for the tax is Building Land Act,[6] later upgraded by, for example, some of the provisions of the Construction Act[7] in 2002. The charge, which has the characteristics of a real estate tax, was introduced in all Yugoslav republics and it is been in use in Slovenia for over 30 years. It applies when the land is also privately owned. This tax has a lot of problems and limitations; for example, it taxes only certain types of real estates, it is very nontransparent and arbitrary, and, as a result, the corrections made by the additional provisions in the Construction Act were considered as temporary until a reformed real property tax is introduced.

The charge for the use of building land is commonly understood as a compensation (payment) which the user of the building land has to contribute to the local community in exchange for the provision of public communal infrastructure. Thus, local communities most commonly use this revenue to invest in the communal infrastructure (roads etc.), although, according to the law, it is presented as a revenue source of the municipalities with no specific purpose (a part of general budget of the municipalities).

The charge is levied only on vacant (developable) land and developed land in the locations that are defined as such by municipalities. The tax object for the vacant building land is land, assuming the necessary permissions for the building of residential and / or business premises could be obtained. As such, these provisions determine building land for which building permit has been already issued, or where the land has the potential to connect with communal infrastructures. In the case of land which has been developed, the tax object are the buildings of all types that have been constructed on the land. The tax base for the vacant building land is the area of the parcel of vacant building land; and for developed building land, the tax base is the useful area of the building or part of the building.

The person liable to pay the charge is the actual user of the building land, which could be the owner, tenant or other person holding the right to use the property. Taxpayers may be both legal and physical persons.

Exemptions from the Charge are established by law and concern land and buildings used by the army, churches, embassies and other official foreign entities. The law also allows for municipalities to grant the temporary exemption of five years for newly constructed residential buildings or apartments, and an exemption for people with low incomes. But in practice, local communities adapt the system to their fiscal and political needs which raises issues and disputes involving potentially unlawful and unconstitutional practices. The local communities in many cases (in comparison to regular residential property) overtax commercial properties and residential properties owned by individuals, who do not live in their jurisdictions (such as summer residence), and grant exemptions that are

[6] Official Gazette of Socialist Republic of Slovenia, No. 18/84.
[7] Official Gazette of Republic of Slovenia, št. 102/04 – uradno prečiščeno besedilo, 14/05 – popr., 92/05 – ZJC-B, 93/05 – ZVMS, 111/05 – odl. US, 126/07, 108/09, 61/10 – ZRud-1, 20/11 – odl. US, 57/12, 101/13 – ZDavNepr, 110/13, 19/15, 61/17 – GZ in 66/17 – odl. US.

not allowed by the law (such as to properties owned by the municipalities). Some municipalities even exempt individual properties or streets. In the past twenty years, the Administrative and Constitutional Court have on more than 100 occasions decided that the decrees of local communities are against the law and unconstitutional. Even if the decree is apparently against the law or constitution, the tax authority has accept the decree as valid when levying the charge until the Constitutional Court decides that a decree is unconstitutional or unlawful.

So the charge is a very suitable local fiscal source because municipalities can easily adjust the rules and the level of taxation to reflect their budgetary needs and it takes quite a lot of time and effort from an individual tax payer to get the unconstitutional/unlawful local decree to be ruled out by Constitutional Court.[8] So it is understandable that local communities would like to keep this power and are very reluctant to move towards a new real property tax based on more specific legal provisions, on setting the tax base according to market value and on transparent differentiation based on tax rates, because with a transparent tax base the only instrument available to local communities would be seting tax rates which would lead to open competition.

1.3.3 Other property taxes

Transactions in real estate, if not taxed with VAT, are subject to the Real Property Transfer Tax. The legal base for this tax is the Real Property Transaction Tax Act,[9] which was introduced in Slovenia in 1990 and has been modernized in 2006.. Initially, the tax rate was considered to be high (5 %) and the tax belonged to the State budget. From 1995, the tax belongs to the municipalities and the tax rate reduced to 2 %. All salient features, (the tax object, taxpayer, tax base, tax rate, exemptions or reliefs), are set out in the Act. Local communities have no power to influence them. The tax is assessed by the state tax authority organized as Financial Administration of Republic of Slovenia (FURS) and the revenue allocated to the municipality, in which the unit of real estate is located. The taxpayer is the vendor, whether a legal person or an individual. The tax base is sale price.[10] Generally, it is the second most important own tax revenue for local authorities in terms of revenue, but it is very dependent on the property market activity. So, with the reduction

[8] In order to succeede in a constitutional dispute an individual taxpayer must first use all of regular objections and appeals options within the State Administration, Administrative Court and Supreme Court, which all together usually takes several years.
[9] Official Gazette of Republic of Slovenia, No. 117/06.
[10] Since the mass valuation system was introduced (in 2011), the tax base could not be set lower than 80 % of the generalized market value, however the taxpayer has the chance to justify the sale price as the tax base with an individual valuation. However, following the decision of the Constitutional Court, No. U-I-313/13/86 dated on 21. 3. 2014, according to which the generalized market value is not in accordance with the Constitution if it is used as a basis for the for taxation of real estate, this provision was annulled with the decision of the Constitutional Court, No. U-I-168/15 dated on 23. 3. 2016. Thus, the burden of proof that the stated sale price as tax base is correct, is placed strictly on tax authority even if it is less than 80 % of the generalized market value.

in the value of transactions of real estate during the recent economic crises, the importance of the revenue has diminished.

In the process of negotiations with EU for membership, Slovenia introduced a value added tax (VAT) in 1999. With regard to the transfers of real estate, Slovenia decided to include transactions in new buildings and building land only within the ambit of VAT. Also, if VAT is charged, the Property Transfer Tax is not applied. At present VAT rates in Slovenia are generally 22 % with a reduced rate of 9.5 %; latter being applied to the provision of residential properties for social purposes (i.e. apartments under 120 m^2 and residential houses under 250 m^2). The revenue from VAT belongs to the State budget.

As a special form of taxing the income of individuals, Slovenia also taxes inheritance and gifts. The legal base is the Inheritance and Gift Taxation Act[11]. Originally, the tax was part of the legislation that determined the taxes of individuals, and was introduced in a similar form in all Yugoslav republics in 1988. The taxpayers are individuals who are the testamentary heir(s) or the heir(s) by law, or the gift recipient(s). Taxable persons are divided into four categories according to their relationship with the deceased or donor: Class I are direct descendants and spouses; Class II are parents, siblings and their descendants; Class III grandfathers and grandmothers; and Class IV all others. Tax rates are progressive according to the tax base and range from 5 % to 14 % for Class II; from 8 % to 17 % for Class III; and from 12 % to 39 % for Class IV. Class I is tax exempt. The tax base is the net transaction value after the deduction of debts and other liabilities.[12] The tax is the revenue of the local community in which the taxpayer resides. Because most transactions take place among close relatives (Class I) and are thus tax exempt, the tax is not an important revenue source.

In 2012, Slovenia introduced Tax on Profit from the Change of Land Use. The tax is assessed on the profit achieved by selling building land, if the change of use is from agricultural to building land and occurred within the past 10 years prior to the sale. The taxable person is the vendor, whether an individual or a legal person. For individuals, the tax involves additional income tax on the capital gain from the disposal of the building land. The tax base is the difference between selling price (contract price or estimated market value), reduced by the permitted costs and the acquisition price (contract price or estimated market value, increased by permitted costs). The tax rates depend on the time difference between the change of use and the sale. If that period is less than a year, the tax rate is 25 %; if it is between one to three years, the rate is 15 %; and if it is more than

[11] Official Gazette of Republic of Slovenia, No. 117/06.

[12] For real estate, the law also says that the tax base is 80 % of the „generalized market value", unless the taxpayer proves otherwise with an individual valuation. However as a result of the decision of the Constitutional Court, No. U-I-313/13/86 dated on 21. 3. 2014, according to which the generalized market value is not in accordance with the Constitution if it is used for taxation of real estate, this provision was annulled with the decision of the Constitutional Court, No. U-I-190/15 dated on 5. 5. 2016. Thus, the Tax Authority can no longer automatically use "generalized market value" to set the tax base but has to research the market at the time and the taxpayer can challenge the proposed tax base by the provision of an individual valuation.

three and less than ten years, the rate is 5%. The aim of the staged tax rates is to discourage speculation in space planning.[13] The yield from this tax is the revenue of the State budget.

1.4 Administration

1.4.1 Property Tax

The setting of the tax base (calculating the taxable value of the real estate) and the determination of the tax assessment is managed by the State Tax Administration (FURS). The tax is levied once a year at 1 January, based on data on the characteristics of the unit of real estate, transformed into a number of points. This is provided for each real estate in the tax register and the value of a point is set by each municipality as at a same date. Tax demands are sent out before 21 March and the tax due can be paid in at least two installments.

Since the valuation of the property (how the characteristics of real estate are transformed into the number of points) and the value of the points are prescribed either by law (valuation) or by local community's decree (the value of the point), the tax payer can actually object only to the characteristics of real estate, that were transformed into points, and used to calculate the tax base. The tax authority reviews any objections and, if appropriate, corrects the data. Since the tax payable is quite low and because of the large number of exemptions, there are not a lot of appeals against the assessment.

[13] Due to the decision of the Constitutional Court, No. U-I-313/13/86 dated on 21. 3. 2014, according to which the "generalized market value" is not in accordance with the Constitution if it is used for taxation of real estate, the decision of the Constitutional Court, No. U-I-139/14 dated on 26. 3 .2015 annulled the provision of the law which implied the use of a "generalized market value" as a correct acquisition value of the property, unless proven otherwise.

1.4.2 Charge for the use of building land

The charge for the use of building land is entirely within the competence of the municipalities, except for the issuing of a tax demand and for tax enforcement, which is undertaken, based on data provided by the municipalities, by the State Financial Administration (FURS). The Charge for the use of the building land is the reason for more than 50 % of all tax complaints to the tax administration. All complaints are reviewed by the municipalities. Taxpayers can verify the data held and used by the municipality but cannot argue the number of points attributed to their real estate, nor can they argue the value of a point. The point system is explained at 1.5.1 below. The tax authority has no right to decline the use of obviously unlawful or unconstitutional decrees of municipalities, such a right is reserved only for the Administrative Court.

The tax is levied once a year, based on the data on the units of real estate provided in the municipal evidences on 1 January, on the number of points attributed to the unit of real estate and the value of a point, which applies in the individual municipality as at the same date. The number of points and the points' values are established by municipal decrees. Tax demands are sent out by the tax administration (FURS) before 21st of March and can be paid in at least two installments.

1.5 Valuation

1.5.1 Property Tax

Because the tax was originally and remains the exclusive revenue of municipalities, the system allows the municipalities to participate to some extent in determining the tax burden. Properties subject to the property tax are registered in a special tax data base with the tax authority. Taxpayers can review only their own file, and the evidence is not connected to any other official real estate registries. Every new owner (physical person) is obliged to report the acquisition of the property to the State tax authority. As part of this process, the owner must complete a special questionnaire to declare the type of property and their relevant characteristics such as quality of construction, useable space, and the number of rooms. All characteristics are allocated a certain number of points as defined in legal rules (secondary legislation), based on the Housing Act. Thus, the point system is unified across Slovenia. Municipalities have the right to set the value of a point for their area annually. The tax base for the property is set at a value, determined by the centrally administratively pointing system and values of points, which differ between municipalities.

The valuation of the property is calculated by the following equation:

$$VA = No \times Vp \times Us \times Cf \times L,$$

where the following symbols mean as follows:

- VA is the taxable value of the taxable property;

- No is the number of points attributed to the construction elements of an residence per unit (m^2), such as: the structure, taking into account the year of construction, the year of reconstruction, and the year of any maintenance-related works; quality of the windows, by taking into account the type of frames, window shades and glazing; quality of the doors, by taking into account their age and the method of their installation; floors, by taking into account type of floor covering in individual rooms; the decorative treatment[14] method of the interior walls; the facade, by taking into account thermal insulation, the final external layer and age; quality of the fittings (plumbing, electricity, heating, gas fittings, joint TV aerial, cable TV, telecommunications connection, intercom, compulsory ventilation system); other equipment (lift, air conditioning system, individual metering devices for water and thermal energy used, anti-theft devices and burglar alarms); and other areas belonging to the unit (outdoor covered parking place, outdoor non-covered parking place, atrium). Also relevant are the deductible points for the lack of insulation in the basement or ground-floor apartment (visible moisture signs), bathroom facilities separated from an apartment and attic apartments (reduced headroom).

- Vp is the value of a point: the value of the point is defined by every municipality individually; the law does not provide any guidance.

- Us is the corrected net internal floor area of the taxable property. The floor area of rooms for preparation of food, personal hygiene, living and sleeping accommodation is multiplied by the corrective factor 1, while in case of ancillary rooms (such as: a balcony, terrace, basement, or garage), the floor area is multiplied by different corrective factors, ranging from 0.25 to 0.75.

- Kf is the impact of the size (corrective factor): for apartment property up to 30 m^2 the corrective factor is 1.057; from 30m^2 to 45 m^2 1.024; from 45 m^2 to 65 m^2 1.000; from 65 m^2 to 75 m^2 0.966; and above 75 m^2 the corrective factor is 0.95.

- L is the impact of the location of the property (from 1 to 1.3). This is regulated in detail in a special decree and is defined by the municipality. When the impact of the location has not been determined, a factor of 1.00 is applied in the calculation.

[14] e.g. wall paper, wood panelling, stone.

1.5.2 Charge for the use of building land

Relevant rules are set autonomously by municipalities. The law provides just some general factors that have to be considered, such as location, level of infrastructure availability, and special benefits, but there is no common regulation for valuation (being the number of points and the value of each point). Generally, municipalities set the rules by the issue of a municipal ordinance in which they determine the (geographical) areas where the charge is to be paid and the rules for the setting of the points relevant to the each taxing object according to their type. The value of a point is usually set annually by municipal decision. The multiplication of points and the value of a point gives the tax liability for each property.

The data on real estate units that are subject to the charge are determined based on municipalities' spatial plans and collected from the owners or users by the municipalities. Thus, every municipality has its own register with the specific data that their rules for attributing points demand. Since the real estate registers were established at the State level, municipalities are more and more started to use this central database (being the real estate register held at the Surveying and Mapping Authority of Republic of Slovenia), but they are not obliged to do so. To some extent, this is understandable even though the data in the real estate register at the Surveying and Mapping Authority are not the same as those needed for administering the charge.

Worked Example: Presentation of the calculation of the charge on the use of building land[15] for Ljubljana City Municipality Ordinance on the charge for the use of building land[16].

Firstly, the location of the real property is taken into account. The Ljubljana City Municipality is divided into seven zones:

- Zone I (building land in the narrow city center);
- Zone II (building land in the greater city center);
- Zone III (building land with dense construction at city entry roads and areas of the city which are important for the development of the town);
- Zone IV (mainly developed building land outside the built-up city area, in city districts important for the economy with highly developed transport and business infrastructure);
- Zone V (mainly developed building land at the outskirts of the city and important local centers near communication and infrastructure corridors);
- Zone VI (sparsely developed building land at the outskirts of the city and smaller local centers near communication and infrastructure corridors); and

[15] "Building land" is the general description for both: empty land, prepared for starting the construction or land on which the building hase already been built. That's why the charge is calculated for undeveloped (empty) building land and build-up building land seperately.
[16] Official Gazette of Republic of Slovenia, No. 103/03, 120/05, 4/06, 57/06, 122/07, 107/09.

- Zone VII (remaining building land on the territory of Ljubljana City Municipality with an available water distribution system, electricity grid and road network).

For every zone different points are determined regarding the land use allocation of the building land.[17]

Table 10.3: Example on how the location and land use allocation with regard to building land relates to points

	Number of points according to location/zone						
	I	**II**	**III**	**IV**	**V**	**VI**	**VII**
Land use allocation							
(A) For industrial purposes	1100	1100	1100	700	600	300	300
(B) For industrial and business purposes	1100	1100	1100	800	600	300	300
(C) For business purposes	1430	1430	1300	900	600	300	300
(D) For service industry and retail purposes	800	800	800	500	400	200	200
(E) For public administration and services	400	400	400	250	200	150	100
(F) For social activities	100	100	100	90	70	70	70
(G) For residential purposes	100	100	100	90	70	70	70
(H) For farming and forestry	600	600	600	150	150	50	50

Source: Article 8 Ljubljana City Municipality Ordinance on the charge for the use of building land.

For every land use allocation, different points are determined regarding the provision of urban installations and other facilities and services to the building land, such as: roads, parking spaces, green areas and areas for recreation, a sewage system, a water distribution system, pipelines, a heating installation system, electricity, telecommunication infrastructure, and access to public transportation. The recorded information of many of

[17] Many municipalities also charge points for exceptional benefits of the location with regard to the generation of income in economic and business activities (such as: international trade, banking, business services, exchange services, pawn shops, stock exchange, wholesale outlets, hospitality industry, beauty treatment centers).

the facilities include detailed divisions. There is the potential for a reduction in points for such negativities as the exposure to noise, odour, dust, shade or other adverse effects which exceed the usual limits expected in the city.

Table 10.4: Example on how the provision of urban installations and other facilities and services to the building land relates to points

		Land use allocation		
		A+B+C+D	**E+F**	**G+H**
1. PROVISION OF ROADS				
	a) provisional access road, no asphalt	30	20	10
	…			
	c) contemporary furbished roadway with kerbs, at least one footpath for pedestrians, public lighting with cables and lampposts	60	40	15
	…			
6. PROVISION OF PUBLIC CITY TRANSPORTATION				
	a) line with the frequency of up to 20 mins	45	30	15
	b) line with the frequency of over 20 mins	20	20	10

Source: Article 9 Ljubljana City Municipality Ordinance on the charge for the use of building land.

The Municipality Ordinance also determines the exemptions from the payment of the Charge for a limited period of time for all exemptions determined by the law. This applies, for example, to taxable persons who receive a permanent level of social relief, whose real estate value or usage suffers the negative effects of a natural and other disaster, and when the payment would jeopardize the subsistence of the taxable persons and their family members. Also, there are permanent exemptions (although the law does not allow such exemptions[18]) for Ljubljana City Municipality's public institutions dealing with social activities and citizens' welfare, for the fire brigade of Ljubljana, for businesses located in the technological park of Ljubljana, and some land parcels, used for retail shops located at specific addresses in Ljubljana.

[18] In fact, the law does not allow additional exepmtions but until they are eliminated by the Constitutional Court, they have to be accepted by the tax authority.

For 2015, the value of the point was set at 0.000488 EUR per m^2 per month for constructed building land, and at 0.000732 EUR per m^2 per month for vacant building land.

1.6 Revenue performance

As own tax sources for the municipalities, the Financing of Municipalities Act[19] identifies the Real Estate Tax, the Tax on Water Vessels, the Tax on Inheritance and Gifts, the Real Estate Transfer Tax and the Tax on Prizes from the Classical Games of Chance. Property taxes, especially recurrent taxes on real estate, are the original revenue sources of municipalities in Slovenia. As an own source, municipalities can also use the self-contributions of residents (voluntarily agreed dedicated temporary charge), fees, fines, concession charges, payments for local public services and others. Own sources are not allocated for any particular purpose and municipalities can use that revenue freely: but in most cases this revenue is used for investments in various types of infrastructure.

Table 10.5: Property tax revenue of local governments in Euros

	2000	2005	2010	2015
Property Taxes				
Real Estate Taxes of which:	81,560,582	122,807,914	173,047,839	197,835,974
Tax on Property	…	3,517,241	4,008,469	4,232,508
Charge for the Use of Building Land	…	119,290,673	169,039,370	193,603,465
Tax on Water Vessels	11,922	37,177	421,482	314,916
Tax on Inheritance and Gifts	1,817,441	4,829,936	13,649,263	8,062,774
Real Estate Transfer Tax	22,897,547	39,568,644	32,434,525	29,467,217
Total Property Tax Revenue	**106,287,493**	**167,243,672**	**219,553,109**	**235,680,880**
Property tax as a share of Tax revenue of municipalities	**20.2 %**	**20.3 %**	**15.5 %**	**18.0 %**
Property tax as a share of GDP	**0.6 %**	**0.6 %**	**0.6 %**	**0.6 %**

Source: Republic of Slovenia, Ministry of Finance, Bulletin of Government Finance (published monthly, accessible on http://www.mf.gov.si/si/delovna_podrocja/javne_finance/tekoca_gibanja_v_javnih_financah/bilten_javnih_financ/).

As a result of the nonsystematic and incomplete tax evidence and the extensive exemptions, the Property Tax is an insignificant tax revenue source for the municipalities, providing less than 1. 3 % of their property tax revenue.
The charge for the use of building land is on average the most important own tax revenue of municipalities because it contributes more than 15 % of their tax revenue (although the

[19] Official Gazette of Republic of Slovenia, No. 123/06, 57/08, 36/11, 14/15 – ZUUJFO, 71/17 in 21/18 – popr.

share varies among municipalities from 0.3% to 28 %), and around 80 % of the total Property Tax revenue of municipalities. The Charge is considered to be a potential instrument of land policy to encourage rational planning demands, but many of the municipalities (76 of 212) do not tax vacant land at all and others tax it at a very modest rate and non-systematically (only 4.2% of total Charge revenue derives from vacant land). The main revenue source for the Charge are business and industrial real estate, which contribute over 42 % of total revenue while residential properties contribute less than 24 %.

1.7 Revenue collection

All the taxes and social contributions in Slovenia are collected centrally by the State tax administration (FURS), including the taxes that are the revenue of the municipalities. Tax collection in Slovenia is rather good, since the ratio of debt in terms of annual revenue is constantly decreasing. According to yearly reports of FURS[20], the ratio of the debt in yearly terms of annual revenue was been reduced to under 10% in 2015, and in 2016 the ratio was even 9%. Of this debt 3.4% is the revenue of the municipalities. The reason behind this trend is the efficiency in the collection of taxes and the increased discipline of taxpayers. FURS is conducting many different activities in order to stimulate the voluntary payment of taxes – including the education of certain target groups, easy and electronic payment, and payment reminders. In the first 6 months of 2017, 286,641 written payment reminders were sent and 1,213 telephone calls were made.

If taxpayers can not pay the debt, they can apply by pay by installments (some taxes are automatically payable in installments) or for the abatement of debts. For late payments the Tax Procedure Act[21] determines that the taxpayer must pay a daily penalty interest 0.0274%.

[20] http://www.fu.gov.si/o_financni_upravi/, accessible on 11. 5. 2018.
[21] Official Gazette of Republic of Slovenia, št. 13/11 – uradno prečiščeno besedilo, 32/12, 94/12, 101/13 – ZDavNepr, 111/13, 25/14 – ZFU, 40/14 – ZIN-B, 90/14, 91/15, 63/16, 69/17 in 13/18 – ZJF-H).

2 Evolution of real estate markets

2.1 Property restitution

Under the socialist system, private property was in some cases limited (for example, there was a limit of 10 hectares of farm land per farm) but permitted, with exception of building land which was all publicly owned. At the end of November 1991, a Denationalization Act[22] introduced the system of returning nationalized property (nationalization took place mostly after the Second World War) either in fact or through the payment of compensation to the original owners or their legal successors. The Act was also the basis for the privatization of all building land for the benefit of the holders of the user rights. In the process of privatization, an important role is also played by the Housing Act,[23] which was adopted in October 1991. This Act ensured that in the following few years most of the apartments in multi-apartment blocks (over 160,000 apartments) in public ownership were privatized, being bought by their users or tenants at very favourable prices (at approximately 10 % of the market prices[24]).

2.2 Privatization

The first structural changes toward privatization began in 1990 when Slovenia was still a part of Yugoslavia. There was a lot of ,,wild privatization" at that time because of the (then) more liberal legal basis.[25] In addition to the above-mentioned Denationalization Act and Housing Act, the third law dealing with privatization was the Ownership Transformation of Companies Act,[26] which was adopted at the end of 1992. This Act was a compromise between different expert and political interests.

The Act prescribed seven different methods of privatization, ranging from a free give away to commercial privatization methods. In order for the people to become owners of capital assets, every citizen was given a certificate which could be exchanged for shares or stocks in companies. The privatization process was carried out for six years and in that time almost all companies made the transition from public to private ownership. In 1998, the second part of transition process began, being the privatization of state owned assets.

The privatization method adopted in Slovenia has ensured the large inclusion of workers and employees in the process; however the final dispersion of ownership rights is not transparent. The ownership process has in (too) many cases been concentrated through

[22] Official Gazette of Republic of Slovenia, No. 27/91-I.
[23] Official Gazette of Republic of Slovenia, No. 18/91-I.
[24] The purchase price was set as a percentage of the administrative value, calculated in a similar way as today the value for Property tax is calculated. Immediately after privatisation, the market started to grow, so the "favourable" nature of the prices is based on a comparison between the administrative purchase price and actual prices that occured in market transactions after privatization.
[25] According to the report of the Agency that was established to control the privatization, more than 1.2 billion EUR was wiped off the value of public property (revalued as at 2008) as a result of the sell-off.
[26] Official Gazette of Republic of Slovenia, No. 55/92, 7/93, 31/93, 32/94 – odl. US, 1/96, 30/98 – ZZLPPO.

time and has been carried out through different investment groups that actually blur the concentration of the ownership.

2.3 Limitations of land/property ownership

The Constitution of the Republic of Slovenia places limitations on property ownership rights for foreigners. This provision of the Slovene Constitution has been changed twice. At first it prescribed that foreigners can become owners of real estate in Slovenia under certain conditions that are prescribed by law. Later, in 1997, this provision was supplemented by the condition that it can also be prescribed by a ratified international contract.

After Slovenia became member of the EU in 2004, all contracts that are the basis of the EU, became valid in Slovenia, since Slovenia did not negotiate any exceptions or transition period for the free flow of the capital for real property. From 1 May 2004, citizens of EU member states have the same rights as Slovene citizens and can become owners of real estate in Slovenia without limitations or special conditions. On the basis of the conditions of the European Economic Area, citizens of Republic of Iceland, the Principality of Liechtenstein and the Kingdom of Norway are also equal to citizens of Slovenia regarding the rights of ownership of real estate. Swiss citizens can buy real estate in Slovenia under an agreement between the EU and the Swiss Confederation.

The law stipulates that physical and legal persons from candidate states for EU membership can also obtain property ownership if there is reciprocity. Citizens of all other states can become owners of real estate in Slovenia only by inheritance if there is reciprocity for Slovene citizens.

2.4 Nature of property markets

With regard to land administration and land registry, Slovenia retains the old tradition from the period of the Austro-Hungarian Empire. During the former Yugoslavia, Slovenia had the most systematic and complete land register and most complete land book registration system among all the republics. The land register contained information on all land parcels, allocating them parcel numbers and recording data on area and actual use. The land book was also supposed to contain data on property rights and data on owners of the property rights for all real estate, parcels and buildings. But under the socialist system, the recording of ownership was neglected and discouraged. So, databases were not maintained nor updated systematically and there were no records kept regarding data about buildings.

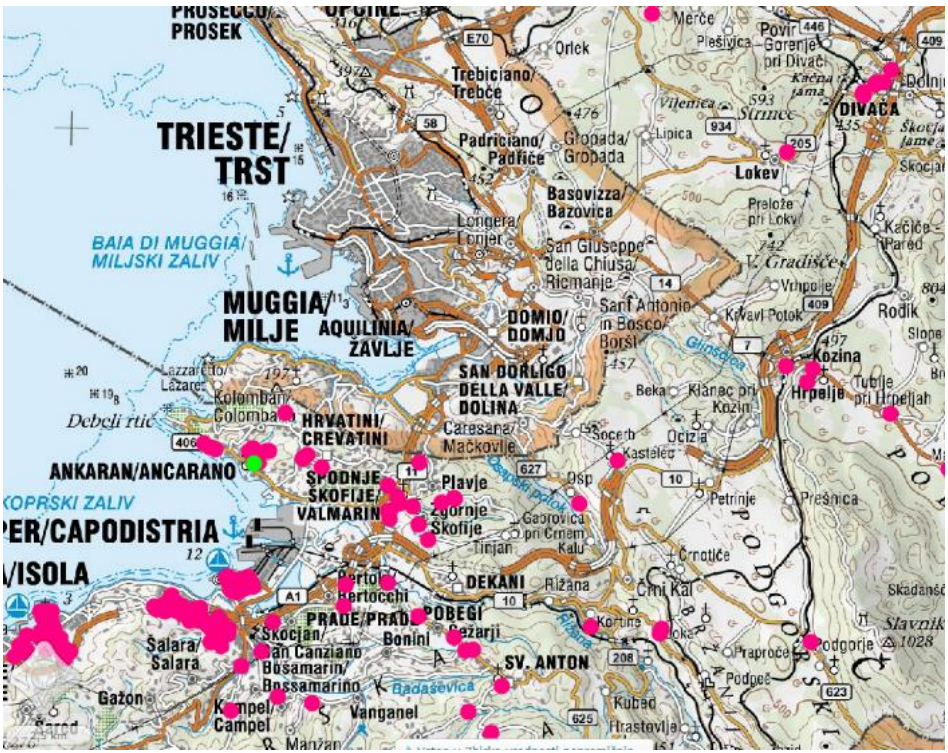
After independence, with the process of democratization, denationalization occurred, allowing for property nationalized after the World War II to be returned to the original owners or their legal successors. Within the same process, all building land was redistributed to the holders of land use rights. As a result of privatization and

denationalization, private property became more and more important, which also strengthened the real estate market.

The first systematic collection of sales and rent data was introduced with Real Property Mass Valuation Act[27] in 2006. This Act established a special data base (Real Estate Market Register) in which all transactions involving real estate are recorded. The data recorded includes basic information on the location, price paid, rent agreed and the most important characteristics of real estate (except personal data), and these data are in the public domain. More detailed information from the Register is freely provided for professional use (for banks, valuers etc). Data from the Register are a basic source for statistical analyses (e.g. housing index), for economic analyses, and research etc. Collected sales and rental data also provides a transparent overview of market activity, based on which yearly reports on the real estate market in Slovenia are published (also in English).

[27] Official Gazette of Republic of Slovenia, No. 50/06, 87/11, 40/12 – ZUJF, 22/14 – odl. US in 77/17 – ZMVN-1.

Figure 10.1: Public view into the Real Estate Market Register – dots represent transactions



Source: Surveying and Mapping Agency of Republic of Slovenia (accessible 11. 5. 2018 on http://prostor3.gov.si/ETN-JV/).

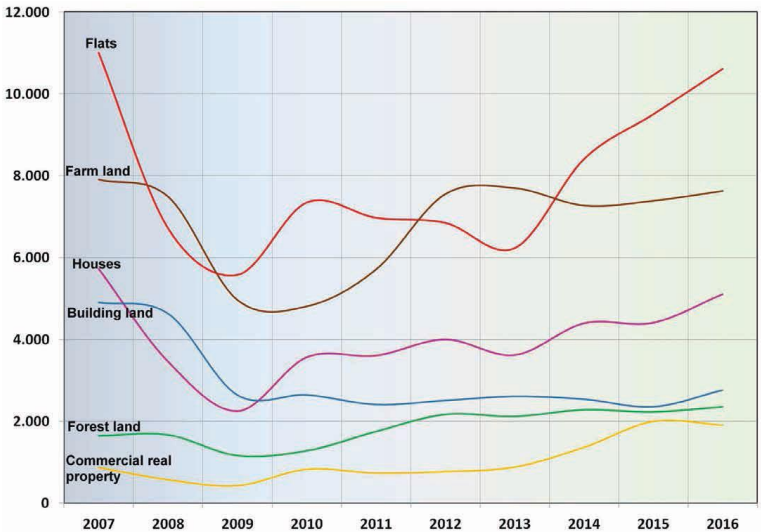
Collected data allows the monitoring of real estate market activity, which has dramatically changed in the last ten years. Having experienced a dynamic market in 2006 and 2007 Slovenia, like many other countries, faced the bursting of the real estate bubble, with huge drops in market prices and in the number of transactions between 2008 and 2013, especially in housing and commercial real estate sectors (Table 10.6 and/or Figure 10.2). The market has recovered significantly in the last two years, nearly reaching the total value of all transactions in 2007 (Figure 10.2), but the prices are still much lower than those achieved in 2008 (Figure 10.3). Trends are slowly turning upwards, but some experts are already warning of a new real estate bubble.

Table 10.6: Number of sales data of real property (alternative to Figure 10.2)

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Flats	11,003	6,719	5,578	7,346	6,973	6,850	6,232	8,408	9,504	10,613
Houses	5,726	3,460	2,250	3,565	3,605	4,000	3,619	4,396	4,410	5,108
Commercial property	871	574	428	827	735	770	882	1,364	1,998	1,907
Building Land	4,906	4,632	2,643	2,646	2,411	2,510	2,610	2,541	2,356	2,764
Farm land	7,907	7,490	4,966	4,810	5,711	7,554	7,699	7,272	7,389	7,629
Forest Land	1,645	1,668	1,162	1,279	1,750	2,170	2,121	2,281	2,231	2,354

Source: Surveying and Mapping Agency of Republic of Slovenia (accessible 11. 5. 2018 on http://www.e-prostor.gov.si/fileadmin/etn/Porocila/Letno_porocilo_za_leto_2016.pdf).

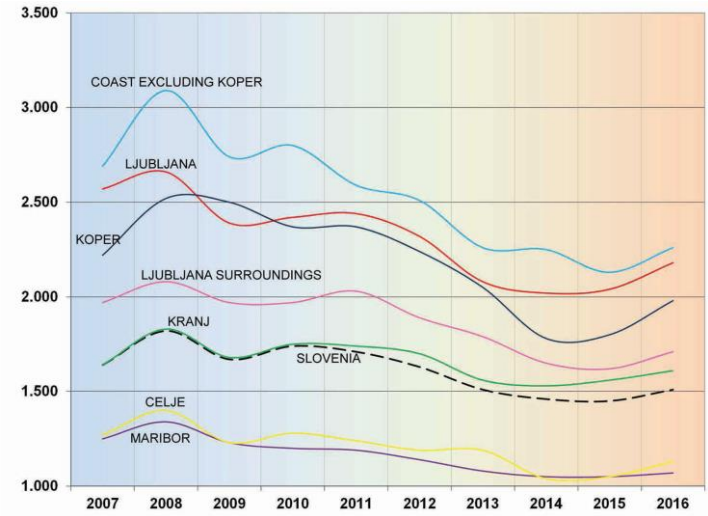
Figure 10.2: The number of recorded sales by types of real property, Slovenia 2007–2016



Source: Surveying and Mapping Agency of Republic of Slovenia (accessible 11. 5. 2018 on http://www.e-prostor.gov.si/fileadmin/etn/Porocila/Letno_porocilo_za_leto_2016.pdf).

Figure 10.3: The number and value of recorded sales of real property in the free market and at public auctions, Slovenia, 2007–2016

Figure 10.4: Average price trends for used flats (EUR/m^2) in selected market analysis areas, Slovenia 2007–2016



3 Reform

As mentioned above, the system of real estate tax in Slovenia is in need of a major reform. The basic problem is the duality of a system, where two similar taxes are charged on the same unit of real estate and individuals are required to pay two taxes at the same time. From the systems point of view, there is also the question why the tax is only levied on some types of real estate (most of the land is not taxed). But the main problem is the obsolete nature of the existing system which is nontransparent, arbitrary, and consequently unfair towards taxpayers and often even unconstitutional.

Specifically, the problems of the existing Tax on Property include the incomplete register at the Tax Authority, tax payers being only individuals (and not legal persons), and the valuation of the tax base being nontransparent. Thus, taxpayers have difficulty in challenging the tax base as they can only argue about the characteristics of the property used for determining the points but they cannot argue about the valuation itself (how the points are determined for each characteristics). Also, as a result of the extensive exemptions and under-valuation of the tax base, this tax is rarely the object of taxpayer complaint. The tax is relatively unknown to tax payers and is often mistaken for the new, reformed tax on real estate.

In addition, the legal provisions for the Charge for the use of building land are relatively superficial and they allow municipalities to set elements of the charge. This apparent freedom of the municipalities in determining the tax objects, the rate of taxation and the exemptions often results in solutions that are not in accordance with a law and often not even in accordance with the Constitution. This alone is a major constitutional dilemma, since legal protection is guaranteed to the taxpayers only in the Constitutional Court.

In the last two decades more than 110 municipal ordinances have been subject to constitutional challenge and, in most cases, they have been found to be partially unconstitutional and have had to be revised.[28] The Constitutional Court has also on occasions decided that the Charge for the use of building land is itself problematic and must be converted into a Real Estate Tax as soon as possible.

Initially, under the old socialist system, the Charge for the use of the building land served as a special municipal charge because there was no concept of private property. Residents were using public land and were required to pay for these services provided through the Charge. When the system changed however, so did the context of the Charge. The Charge for the use of building land actually became a tax, because the services the land provided to the tax payers were no longer funded by the municipality – the land was now privately owned and no longer public. Consequently, the legal basis for the Charge needs to be

[28] Gerbec, F. (2014), Odprta pravna vprašanja sedanje ureditve nadomestila za uporabo stavbnega zemljišča (The legal right of the contracting authority to replace the construction landowner), Podjetje in delo 6-7/2014/XXXX, p. 1159.

updated to the new system.[29] One of the main criteria for setting the base for the Charge for business premises is „a possibility of creating a profit". With the enforcement of business income tax payments, such criteria are obsolete since they create a range of constitutional questions regarding double taxation.

Based on the recommendations of international organizations (World Bank, International Monetary Fund (IMF) and the United Nations' Food and Agriculture Organization (FAO)) and on the decision of the government at that time, attempts at introducing a real property tax in Slovenia began in 1996. There were a number of inter-related projects, the aims of which were the improvement of the real estate registration system, the upgrading the legal framework for real estate management, the establishment of an agricultural land use monitoring system, and the design and testing of a market-based property tax and valuation system. All projects were intersectional, so they provided harmonized solutions in different but mutually-dependent sectors.

Based on these projects Slovenia developed a digitalized land cadastre, established a building cadastre and a real estate register, introduced a unified system of real estate identification numbers, established a computerized land book system, created a connection between the land register and the land book, developed agricultural land monitoring system based on aerial detection of actual use, started developing solutions that enabled the introduction of a mass valuation system and gave directions for possible introduction of modern real estate tax.

Actually, the incentives were the FAO project (1996-1998) for developing a modern system for the classification and valuation of agricultural land and two projects of the World bank (ONIX from 1996 to 2000 and the Real Estate Registration Modernization Project from 2000 to 2005) for the development of geo-informational infrastructure and the increased efficiency and effectiveness of real estate administration systems.

Overall most of the results from other subprojects also contributed to the development of a new real estate valuation system, mainly by ensuring the systematic registration and detection of units of real estates and the recording of their characteristics.

The most important results of the World Bank project were:

- Digitization of cadastral maps;
- Introduction of a uniform Real Property Code;
- Production of Ortho-photo maps;
- Creation of a Building Cadastre and Real Property Register;

[29] Even the Constitutional Court (decision No. U-I-39/97 dated on 16. 12. 1999) has stressed that the Charge for the use of the Building Land remains active only until the new tax on real property is established, since it is one of the most important sources of municipal income, used for the economic and social development of the municipalities, and can not be revoked without a proper replacement. More: Gerbec, F. (2014), Odprta pravna vprašanja sedanje ureditve nadomestila za uporabo stavbnega zemljišča (The legal right of the contracting authority to replace the construction landowner), Podjetje in delo 6-7/2014/XXXX, p.1161.

- Creation of a data interface between the computer systems of the survey and mapping authority (SMA) and other user-agencies;
- Computerizing the land book registry system; and the
- Development of agricultural land use monitoring based on Ortho-photo maps.

Based on the results of the project, important changes were also made in legislation with the following new legislations adopted:

- Real Estate Recording Act[30]
- Law on Property Code[31]
- some updates to Land Register Act
- Act on the Acquisition of the Strata Title of a Part of a Building on the Proposal of the Owner and on Determining the Land Belonging Thereto[32]
- Mortgage Bond and Municipal Bond Act[33]
- Real Property Mass Valuation Act.

The results successfully upgraded the legal, regulatory and operational framework for real estate management, which is, in many ways, satisfactory for the needs of a modern real estate mass appraisal and taxation system in Slovenia.

3.1 Property data

The ONIX project was supported by the World Bank and conducted by the Ministry of the Environment and Spatial Planning. The goal of the project was to create the conditions for accelerating the progress of establishing and maintaining the digital databases needed for the management of the spatial environment and real estate. As the Ministry of the Environment and Spatial Planning was (and still is) responsible for the problematic system of the Charge for the use of building land, one of the sub-projects was to develop the institutional, process and data model for a new real estate tax based on market value.

Expectations were very ambitious and were not entirely met. The sub-project aimed to develop models for market-based mass valuation, to prepare the proposal for information systems with data needed for valuation, and to prepare new legal foundations. The results, which were the analyses of all real estate data at the State and local level and the detection of the need for a common data base for different purposes, the recognition of the need to collect real estate market data systematically and provide some reforms to the system of the Charge for the use of building land, were, however, a good starting point for the continuation of the process.

[30] Official Gazette of Republic of Slovenia, No. 47/06, 65/07 – odl. US, 79/12 – odl. US.
[31] Official Gazette of Republic of Slovenia, No. 87/02, 91/13.
[32] Official Gazette of Republic of Slovenia, No. 45/08, 59/11 in 34/17 – ZVEtL-1.
[33] Official Gazette of Republic of Slovenia, No. 17/06, 58/09, 10/12 – ZHKO-1.

As a result of the ONIX project, by 1997 selling prices were being captured by the tax administration through the tax assessment of the real estate transfer tax, based on a special questionnaire attached to the tax estimate. This was the important and indispensable source of data which will later enable the introduction of an actual real estate mass valuation system.

The second phase that actually developed a base for a new valuation system and provided all the essential knowledge for the potential introduction of the property tax was conducted within the Real Estate Registration Modernization Project. The project that was operating from 2000 to 2005 was also initiated and supported by the World Bank. Wide coverage of the projects on topics connected to real estate registration problems ensured the development of all necessary infrastructures. The development of the real estate mass valuation system would not have been possible without the cooperation of all of the responsible sectors.

For a high quality mass real estate market valuation system, a few basic components are needed: a complete real estate register with data on real estate characteristics, the registration of market data (prices and rents) and professionals with special skills. To develop the computer-based mass valuation system, all data and information about the properties are needed in a compatible digital format of an appropriate quality level. To develop the valuation models, sales data and information of good quality is necessary in quantities to fulfill minimum statistical standards.
At the start of the development of the valuation system very little relevant information was available on the buildings and parts of buildings, such as type, size, year of construction. The development of the valuation system became an important driving force for collecting this property information (in establishing the real property register) that today is helping many other State organizations to fulfill different kinds of public needs and tasks. It was also a starting point for establishing a database of market information.

Based on the intersectional activities within the Real Estate Registration Modernization Project, the building cadastre was established and began operating in 2000. But the building cadastre was, like the land book and land cadastre, established as an administrative register recording data on buildings and parts of buildings but only on the basis of the building plan and measurements. According to the regulations mainly new buildings, that were intended to be registered in a land book, were recorded, as a result only approximately 20% of all parts of buildings (apartments, business premises, etc.) are registered in the building cadastre.

Soon it became clear that this is not an efficient nor an effective way to establish a complete real estate register, which would provide all the required information as demanded by the property market and the proposed valuation models. As a result, the authorities started to develop a register which would cover all land and buildings and to achieve the registration of units of all real estates in a single source. Thus, they began to develop a special real property register as a database of all real estate in the country (all

land parcels with attached buildings and parts of buildings) according to their actual condition, identified by a unique identification code. The idea was that data would be collected from all available sources including the owners themselves (via questionnaires).

Today Slovenia has a complete real estate register recording more than 6.5 million units of real estates.

3.2 Title registration

The Land Registry Court (local court) initiates the registration process for the entry of a title in the land register (land book), on the basis of the land registry proposal. The amendments to the Land Registry Act adopted on 27 March 2009 and implemented on 1 May 2011 have ensured the mandatory submission of a proposal (with appendices) to register a title in electronic form to the courts. The land registry procedure is completely computerized. If a third party wishes to enter a right in the land register, the signature on the contract will have to be verified by a notary public, the agency/authority competent for such certification of signature. The submissions to the land registry may be entered by the applicant directly or via a notary public or attorneys and real-estate agencies acting on behalf of the applicant. Simultaneously, the amendments to the Act have transferred the responsibility for depositing original documents (e.g. contracts) that were attached to the submissions from the courts to the notary, whereby the notary's confirmation of authenticity renders the evidence value of the electronic version equal to that of the original.

The amendments also enable free access via a web-portal to the contents of the land register, including pending notations, and to land register extracts, neither of which were freely available prior to the reform. The proposal is sent to a central unit of the court which automatically assigns it to the least burdened local court. Once the proposal is filed with the competent land registry court, the registration process is initiated ex officio and the entry is ensured by way of a land registry seal. The seal in the land registry that safeguards the priority order is obtained immediately. The priority order takes effect on the day on which the proposal has been filed.

Thus, a buyer can theoretically dispose of a property as soon as the purchase agreement is signed and (direct or indirect) possession of the property is obtained by the buyer. The potential to dispose of the property at this stage would depend on the other party to the new contract. A buyer whose title is not yet entered the land register but who has already obtained possession of the property enjoys the position of a proprietary possessor in good faith, being the presumed owner. The latter has, among others, the right to claim the return of a property in the event of its dispossession from a proprietary possessor in good faith who has the property but with a weaker legal title. In any case, the buyer has a right to claim the return of the purchase price, but has no claims under the law to the property until the title is entered the land register.

From 1st May 2011 the proposal has to be filed in an electronic form. The land registration fees, which were set in terms of points some time ago, are now set in terms of the share of the (market) value of the property.

The necessary documentation includes the Land Registry proposal, the document including the registration clause with the certified signature of the vendor, confirmation of the payment of the tax or taxes, and the purchase contract (if not the same as the document including the registration clause).

A land registry extract is obtained by the seller from the Land Registry as proof of ownership. Information regarding potential encumbrances on the property is a vital part of such an extract. Most real estate information is available on-line, therefore it can be obtained immediately in the form of a pdf file. In rare instances, however, relevant information has to be physically sought out, which takes longer as well as requiring additional (administrative) costs.

The ownership of real estate in Slovenia is quite diverse since all real estate is owned by around 1.15 million different owners and more than 1.5 million units of real estate have more than one owner.

Table 10.7: Diversity of ownership structure in Slovenia (16. 1. 2017)

	Number of units of real property	**Number of owners**
Ownership of 1 to 10 units of real property	1,897,038	944,093
Ownership of 11 to 100 units of real property	3,191,601	189,191
Ownership of 101 to 500 units of real property	453,918	7,059
Ownership of 501 to 1,000 units of real property	102,651	242
Ownership of more than 1,001units of real property	1,056,558	171
Total	6,701,766	1,140,756

Source: Surveying and Mapping Agency of Republic of Slovenia (presented in http://vrs-3.vlada.si/MANDAT14/VLADNAGRADIVA.NSF/18a6b9887c33a0bdc12570e50034eb54/f22fd3ff7ee1e7b7c12581a200273744/$FILE/ZMVN_1_gr_4_2.pdf, page 16).

3.3 Mass valuation

A sub-project of the main World Bank project covering the development of a mass valuation and real estate taxation system was developing separately for taxation purposes. The Slovenian government at that time decided that the system on mass appraisal should be implemented first and the more politically sensitive subject of its application for taxation purposes should be prepared later based on the already implemented valuation results. That was actually a good decision which supported the development of an independent multipurpose mass valuation system which can be used for many different purposes. The sub-project also focused primarily on valuation with the design of the system aimed at collecting market data, developing a methodology and a proposal for valuation models, developing the strategy for the implementation of the system and the preparation of first drafts for valuation and taxation law. The proposed methodology of the real estate mass appraisal system was successfully tested in three municipalities in 2003.

The Real Property Mass Valuation Act was adopted in 2006 and, following international experience, it provided the legal basis for mass valuation as an independent method for the creation of the market values of units of real property. On the basis of available market data, special valuation models are created that actually simulate the behaviour of the real estate market. The valuation models enable the determination of the generalized market value for a large number of units of real estate at the same time.

Although the Real Property Mass Valuation Law was created within the Ministry of Finance, the operational duties are executed by a special department organized within the Surveying and Mapping Agency (SMA) of Republic of Slovenia, which is a state organ of the Ministry of Spatial Planning. The Surveying and Mapping Agency is also in charge of the gathering and updating of most of the real property data needed for valuation purposes.

The law has provided basic definitions the terms used within mass valuation, the criteria of valuation models and the procedures in which the valuation models are determined. It has been upgraded by nine sub-laws that together with the provisions of the Act determine the standard of mass valuation of real property in Slovenia. The standard is in accordance with all International Valuation Standards (IVS) and upgrades them with methods of statistical analysis of market data.

The most important sub-law is the Governmental Decree on Valuation Models. In this Decree the valuation models are defined for each sector of real estate that has to be, according to the market, valued in the same way. In the first Decree from 2011, 21 valuation models were defined (for example, for apartments, houses, garages, offices, industrial buildings, farmland, forestland, and building land). Each model is defined with

a description of the real property, the valuation data and their influence on the value (the impact factor in the models' formula), date of the model, valuation zones and levels.

The law requires that values should be reassessed if the market shows an index of change of more than 10 %, and that models should in any even be checked every four years.

The procedure for determining the valuation models is complex. First, the Surveying and Mapping Agency continuously observes and analyses the activity of the real property market. According to the observations, drafts of valuation models are created and then discussed with local communities. Municipalities have the advantage of spatial knowledge since they are the organizers of spatial development. With the help of municipalities, value zones and value levels within the valuation models are determined in more detail. It is important to state that the first valuation process was executed with the extensive help of local individual assessors[34], knowledgeable in the real estate market and especially in terms of supporting the zoning process.

After the valuation zones and value levels were agreed with the municipalities, the valuation models and initial generalized market values for every property were made public. Every owner has a right to express disagreement with the valuation model (as well as with the value zones and value levels). The Surveying and Mapping Agency considered all comments about the valuation models and took into account those that were justifiable. The final valuation models were established by Governmental decree.

The generalized market value of the real property is determined by the use of the valuation model and the data of real property that is collected in different public databases. The collection of the data is executed by the rules that apply for each database.[35] The generalized market values are changed if the data of the property is changed in the public database, when the valuation models are changed or when the indexation occurs, i.e. when the change of prices exceeds 10 % and in any event, every four years.

According to the Surveying and Mapping Agency there are around 6.7 million units of real estate in Slovenia, of these there are around 5.6 million land parcels and more than 1.8 million parts of buildings in almost 1.2 million buildings. Generalized market values for all registered real property in Slovenia has been available from 2012 and since then has been updated on three occasions with an indexation factor, the last one being in 2018 to reflect the real estate market as at 31 March 2017. The first valuation in 2012 showed

[34] External advisors were involved in a project phase. The actual implementation (and development of the models) was performed by employees of Valuation Office at Surveying and Mapping Authority with the support of individual valuers (in zoning and the leveling of the models) and with municipalities.

[35] Basic data on the parcel or building (identification number, borders, area, current use, factor of production quality of land, position and shape) are gathered through a special administrative procedure on the basis of geometric measurement and owners' declarations. The planned use of the vacant parcels is determined with a spatial act by the local communities with the participation of land owners. Data on the quality of the forests is provided by the Forest Institute of Slovenia. All other additional data used for valuation process is gathered directly from the owners with a questionnaire.

that in Slovenia real property assets were worth almost 140 billion EUR. However, after three indexations, following the real estate market dropped in value to 119 billion EUR in 2015, the aggregate generalized market value of real property in the country after the recent rise in values is around 122.3 billion EUR.

Table 10.8: Generalized market value of real estate in Slovenia

Description	Generalised market value (Dated 25. 4. 2012) in EUR	Generalised market value (Dated 25. 1. 2017) in EUR	Generalised market value (Dated 14. 1. 2018) in EUR
Houses	51,808,076,089	44,872,625,879	45,492,428,468
Apartments	31,510,335,555	26,821,640,518	9,389,873,340
Offices	11,379,874,191	9,474,598,702	9,313,944,646
Business premises	6,639,848,689	5,395,325,615	5,293,790,395
Industrial Buildings	4,696,491,601	4,468,553,789	4,555,033,572
Power Plants	3,973,387,938	3,585,339,541	3,544,797,972
Public Buildings	1,960,429,395	1,535,192,594	1,553,426,219
Garages	1,678,025,806	1,826,969,719	1,851,956,339
Gasoline Pumps	1,090,561,684	550,999,569	529,513,419
Heavy Industry Buildings	807,478,644	749,760,590	756,973,307
Ports and marines	516,401,616	682,953,316	779,163,497
Vine storage shed in the vineyard	467,428,254	474,296,175	475,531,452
Other Buildings	259,891,690	310,222,075	323,065,722

Description	Generalised market value (Dated 25. 4. 2012) in EUR	Generalised market value (Dated 25. 1. 2017) in EUR	Generalised market value (Dated 14. 1. 2018) in EUR
Farm Buildings	234,899,980	279,483,318	284,711,741
Mines	140,275,241	52,915,428	54,145,707
Special real property	134,521,055	110,229,504	58,128,332
Farm land	7,098,383,180	7,115,765,879	7,294,580,367
Building land	6,121,086,124	1,806,834,934	1,795,429,936
Forest land	4,580,969,300	4,509,518,383	4,513,786,569
Other land	3,289,219,633	3,395,228,386	3,405,593,897
Built land	1,304,328,479	999,930,761	993,975,940
Total	**139,691,914,144**	**119,018,384,673**	**122,259,850,836**

Source: Surveying and Mapping Agency of Republic of Slovenia (presented in http://vrs-3.vlada.si/MANDAT14/VLADNAGRADIVA.NSF/18a6b9887c33a0bdc12570e50034eb54/f22fd3ff7ee1e7b7c12581a200273744/$FILE/ZMVN_1_gr_4_2.pdf, page 17).

Valuations determined according to the Real Estate Mass Valuation Act are independent from their use and can therefore be used for a range of purposes. The system is very dynamic since it allows the values of the property to be synchronized with the data changes in public registers on a daily basis and allows for constant adjustments of values to reflect market behaviour.

In Slovenia all real estate data and also data about generalized market values are public and freely accessible on-line. As a result, the system presents an important tool for market transparency since the buyers and the sellers and other interested parties can be easily informed and make their own judgment as to value.

Within the public system, the generalized market value is used for social security support purposes to determine the material status of applicants and their family members. Another important use for the generalized market value is set out in the law regarding the siting of

infrastructure projects of national importance. Although the rules are not yet fully developed and implemented, generalized market value is also intended to calculate in a uniform and transparent way the compensation to be paid for the value of real estate acquired through a compulsory purchase process to facilitate investment in public infrastructure. Data on the values of real estate from the real property register are also used to calculate a house price index using the hedonic approach, for monitoring land prices through indexes, and to develop a methodology for upgrading the calculation of GDP that includes real estate values in the framework. The Mortgage Bond and Municipal Bond Act allow the generalized market value to be used to set the mortgage collateral value of real estate. It is also used by the Bank of Slovenia for updating the calculation of the capital adequacy of banks under the Basel II agreement.[36]

The generalized market value and data from the sales price register are the only systematic source of data on the operation of the real estate market and therefore are regularly reviewed by individuals and used by individual assessors.

3.4 Real Property Tax Act[37]

The proposal for a Real Property Tax Act was drafted and discussed in 2013.[38] The Act was a response by the Government to the challenges of the stabilization of public finance. Following the global financial crisis of 2008, Slovenia experienced a huge depression and was in need of additional financial sources. The reform of the Real Property Taxation was intended to address that issue as a priority. Thus, the goal of the new Real Property Tax Act was to increase the revenue from property taxation from 0.6 to 1.2 GDP and to divide the revenue evenly between the State and the local communities. In this respect, Slovenia achieved a temporary balancing of the budget and was able to continue to balance its budget without the delegated support of the EU.

The new Real Property Tax was designed as a substitute for the existing property tax system (Tax on property and the Charge for the use of building land), and as a unified, transparent, fairer and more effective real estate tax with a wide definition of the tax object. The goal was to include all types of real estate and to set the tax base at a market value. Based on the bad experience of the previous system, the setting of the tax base and tax rates are to be established in a uniform way, and the opportunity for any adjustment by the local communities was to be legally controlled and transparent. The new solutions were widely discussed, including with local communities, however during the last session

[36] Mitrović states that the system of mass valuation is carried out by the State, and that therefore it is in the public interest to use the system and its results in as many public administrative and court procedures linked directly or indirectly to real estate as possible. Mitrović, D. (2010). Uporaba sistema množičnega vrednotenja nepremičnin (Use of the system of quantitative excellence). Geodetski vestnik 54/2, p. 231.
[37] Official Gazette of Republic of Slovenia, No. 101/13 in 22/14 – odl. US.
[38] Žibrik explains that this was not the first attempt to introduce a modern real estate tax based on market values. More: Žibrik, N. (2016). The process of introducing a modern real property tax in Slovenia. Land Tenure Journal. The Food and Agriculture Organization of the United Nations and the World Bank.

in the Parliament before the Act was adopted a significant number of amendments were made to the law (including a lower tax rate for power plants, a higher tax rate for illegal buildings (those constructed without the appropriate permissions and certification), exemptions for buildings used for non-profit-making purposes, as a special social relief and a relief for disabled people). The Real Property Tax Act was adopted on 9th December 2013, with the first tax assessment to be made in 2014. Because the new Real Property Tax Act replaced the previous Charge for the use of building land, the Property Tax and a special fee for maintenance of the forest roads, the legal basis for the tax, the Charge and the special fee were repealed.

The tax base for the new tax was set to be the generalized market value, being the value determined by a mass valuation as at 1 January of the year for which the tax is being imposed. Subject to the tax are all units of real estate that are or should be registered in the Real Property register on that date. The tax payer is legal or private person, who is the owner or the co-owner of the property, or a private person who has a personal servitude on residential property.

The tax rates were determined quite heterogeneously. For residential buildings owned with the land on which they stand the tax rate was set at 0.15% for occupied residential real estate;[39] at 0.50 % for non-occupied residential real estate; 0.75 % for business and industrial real estate (except power plants); 0.4 % for power plants; 0.30 % for farm buildings; and 0.50 % for all other buildings. For land without buildings the tax rates were 0.15 % for farm land; 0.07 % for forest land; 0.75 % for land for business and industrial use; 0.4 % for land for power plants' use; 0.50 % for building land with the highest accessibility to communal infrastructure (road, sewage, electricity, water supply etc.); 0.15 % for land for residential use (land used together with residential buildings); and 0.50 % for all other land. For residential buildings with a value exceeding 500,000 EUR, the tax rate was increased by 0.25 percentile.[40]

The local communities have the right to increase or decrease the tax rates (for the part of the revenue that is assigned to the local community) by 50 %.

For illegal buildings (determined by local inspection that the building is built without the necessary building permit), the tax rate was to be higher: where such buildings are

[39] Occupied residential real estate is the one in which the owner permanently lives or has a registered rental business in it.

[40] Tax rates for the new Act were determined following a vast analysis of current effective rates of tax and in the light of the aforementioned goal to double the revenue. The analysis that was undertaken by the Ministry of Finance showed that under the current system in 2013, the residential real estate was taxed at an average rate of 0.081 %; however there were huge variations between local communities. The effective rates applied to residential real estate varied from 0.002 % up to 0.4 %. In city local communities, where the values of residential real estate are highest, the effective rates were around 0.09 %. The effective rates applied to business and industrial real estate ranged from 0.01 % to over 3 %, averaging around 0.71 %. Regarding the differences in the current system between local communities, the new Act was to provide a solution that would allow the majority of local communities to achieve the same amount of revenue and still ensure the State received additional revenue for the state budget.

occupied residential premises, the tax rate would be 0.50 %; and for all other buildings the tax rate could be increased three fold. The information about the illegal status would be obtained from official records of building inspections and executed by tax authority (ex officio).

The law specified a number of exemptions: diplomatic real estate and the real estate of international organizations that are exempted by international contracts, the real estate of humanitarian organizations, public goods, cultural monuments that are not residential buildings or real estate for business or industrial use or farm buildings, religious buildings that are owned by registered religious organizations, and forests with a special purpose (such as forest that protect land from erosion, and forests which are protected because of their natural, ecological or biological features).

Also, special reliefs were provided. Thus, for recipients of social benefits from the State, the tax rate on their occupied residential properties could be decreased by 50 %; and for disabled wheel chair users, the tax on their residential real estate the tax could be decreased by 30 %. Information to exercise this exemption could be obtained from the official records of the social services and executed either by tax authority (ex officio) or at the requested of the taxpayer.

The revenue was to be divided in the ratio of 50:50 between the State and local communities.

The tax administration is entirely provided by Financial Administration of Slovenia, leaving local communities to reach a decision of the increase or decrease of tax rates as mentioned above.

The tax could be paid in more installments than previously permitted – four for physical persons and seven for businesses.

Immediately after the new law was adopted, the constitutional dispute arose. In January and February 2014, four proposals for a constitutional assessment were submitted to the Constitutional Court of Republic of Slovenia from one of the opposition parties, the National Council of the Republic of Slovenia, together with the Association of Local Communities, the Local Community of the City of Koper and the Local Community of Rogašovci. Local communities argued that the division of the tax revenue between the State and local communities is unconstitutional because the property tax yield should belong only to local communities. They also argued that the law does not provide them with enough independence for making decisions to support local policies. Opposition parties stated that the level of the property tax is too high and is regressive (confiscatory tax), and that proposed differentiations in tax rates (higher tax rate for nonresidential apartment, lower tax rate for power plant, higher tax rate for illegal constructions etc.) are

not sufficiently justified to withstand constitutional tests. They also stated that the taxpayers should be allowed to challenge the tax base by individual valuation.

3.5 The decision of Constitutional Court, No. U-I-313/13-86[41]

The Constitutional Court first decided to postpone the execution of the Act even before the tax could be assessed for the first time. The final decision of the Constitutional Court was published on 21 March 2014; however before the decision was published, the government presented to the Constitutional Court a detailed explanation of every change made in the Act, but the Constitutional Court did not accept any of them.

The decision of the Constitutional Court was a severe set-back for the government because it reached beyond the Property Tax Act and affected also the Real Property Mass Valuation Act. The latter was declared unconstitutional when used for real property taxation purposes; and the Real Property Act was repealed as a whole. Since the repealed Real Property Tax Act also annulled the previous systems of Property Tax and Charge for the use of the building ground, the Constitutional Court decided that the previous systems are to be used until a new and constitutionally correct Property Tax is introduced.

The Constitutional Court stated that taxes require special and direct treatment under the Constitution. The State law and only the State law should define what fiscal obligations a taxpayer has to the State or local community. The Constitution demands that all similar cases to be treated equally, so the tax burden should be distributed evenly among all taxpayers considering their different situations. The criteria for different treatment should have a reasonable connection to the tax subject, and the logic that justifies any different treatment must stand a test of proportionality. For the taxpayer, the tax burden must be determined within the provisions of the legislation and should not be defined merely by a sub-law. In addition, the definitions or the criteria for the identification of the tax payer, the tax subject, the tax base and the tax rate should be provided in the State legislation.

The Property Tax law was held to be contrary to the Slovene Constitution on several points and repealed as a whole, because the tax base is set at the generalized market value determined by the "unconstitutional" provisions of the Real Property Mass Valuation Act. The generalized market value to be used as the tax base did not meet the legal requirement, because the Real Property Mass Valuation Act did not meet the relevant criteria. According to the Constitutional Court, the Real Property Mass Valuation Act did not provide enough legal certainty and safety for the taxpayer because it allowed essential elements of the mass valuation system to be determined by an executive regulation instead of by the legislation, and explicitly did not allow for the generalized market value to be challenged. In addition, the Real Property Mass Valuation Act was not synchronized to the Real Property Tax Act and the taxpayer's right to appeal over all elements of tax

[41] Official Gazette of Republic of Slovenia, No. 22/14.

assessment (including the tax base) was in fact hollow.[42] The provisions that define the valuation models were not clear to the extent that taxpayers could check that their tax base was set correctly, as determined within the law. It was not in accordance with the principle of legal certainty if some definitions, the criteria for mass valuation and the detailed definitions of the data are determined in a sub-law.

Also, the tax rates themselves were in some aspect found to be unconstitutional because the differentiation between the different sectors of real property was based on unfounded criteria. The different tax rates did not meet the test of logic that justifies different treatment. The different treatment of primary and secondary residential real estate was not reasonably applied to the subject nor did it reflect the purpose of the taxation of real estate.[43] Based on the same reasoning, the different tax rates for business, industrial and power plant real estate were considered to be contrary to the provisions of the Constitution.[44] The proposals for a constitutional challenge also argued that the tax rates were set too high (especially for residential property) and bore the characteristics of wealth confiscation.[45] The Constitutional Court did not address these issues but only mentioned the possibility of the tax rates to be too high and therefore unconstitutional. All of the proposals for the constitutional assessment of the Act, stated that the law did not provide enough autonomy, independence and flexibility for the municipalities to collect sufficient income, since the State was to retain 50 % of the income from property tax. The Constitutional Court agreed with the arguments and decided that the provision requiring that the tax revenue should be divided between the State and the municipalities in the ratio of 50:50, together with the provision that the local communities have the right to increase or decrease the legally set tax rates by 50 % did not comply with the constitutionally-determined independence of local communities. Thus the Act did not allow local communities enough financial control to successfully and effectively manage their income source and carry out their legal and constitutional tasks. The Court did not

[42] During the process of the constitutional challenge, the government present to Parliament a proposal to amend the Real Property Mass Valuation Act that would nullify the unconstitutional provisions, but it did not affect the Court's decision. The proposed amendments of the Real Property Mass Valuation Act were later withdrawn from the Parliament and were not adopted. In late 2017 new Real Property Mass Valuation Act took effect.

[43] The Government explained that the different tax rates for primary and secondary residential real estate are not inconsistent with the constitutional rights of the economic and social function of ownership. Different tax rates for primary and secondary residential real estate is justified through the purpose of the real estate: primary real estate provides housing for the owner and therefore secures one of the citizens' basic needs. Secondary housing is however used for no economic or social advantage (the owner does not receive an income nor is the accommodation provided for a third party). The purpose of this distinction was to encourage the rational and socially beneficial management of the ownership of residential buildings (market renting). Constitutional Court decision, No. U-I-313/13-86, Section 18.

[44] In Slovenia the energy-related real estate is burdened with some concessional and environmental duties compared to other industrial real estate.

[45] The government provided an analysis of the impact of the real property tax in relation to the income of the tax payers which showed that the tax was regressive. The Act therefore provided some reliefs for tax payers with lower income. However, it has to be mentioned that for a residential property of 200,000 EUR (which would represent an apartment of 70 m2 in the city center of Ljubljana or a house on the outskirts of Ljubljana) the amount of the tax payable per year would be only 300 EUR.

deny the constitutional possibility of the division of revenue between the State and the local community, but expressed the opinion that the local communities should have the majority of the revenue, since it is to be their original and main source of income.[46,47] Although the decision of the Constitutional Court had a huge impact on the on-going reform of property taxation, it did not define the possible constitutional issues against the system of mass valuation, as a tool for setting the tax base, although the main challenges were the lack of transparency, the lack of general understanding of the process, and the legality of the system.

4 The next step in reform

The current government has started the next stage in the reform of the Property Tax in a different manner in order to address and correct the mistakes from the previous attempt Firstly, two governmental bodies were constituted: a Project Council and a Project Group. These two bodies included non-governmental real estate experts, members of all three associations of local communities, and representatives of all ministries involved in the valuation process, including data gathering. The government has provided some basic guidelines for the new system[48] but the design of the detailed guidelines and a new legal basis for the reformed system is however the task of both bodies.

Since the tasks of the project are distributed among different ministries, it was recognized that the coordination between them needed improvement. Therefore, the Leader of Project Group was assigned to take on the additional role of Project Coordinator. This individual acts on behalf of the Ministry of Finance, since the Ministry of Finance is the leading government department for the project.

[46] The government explained that the Property Tax Law does not take away this source of revenue from local communities since they are by law directly entitled to a share of the revenue from this source. It stated that the law guarantees sufficient mechanisms for local communities to actively influence the amount of the revenue they receive – directly through the tax rates (increase or decrease for 50 %), or indirectly through their spatial development responsibilities which affect the value of the real estate and hence the amount of the tax raised. The local communities were guaranteed the right to spend the revenue freely for their original functions. Constitutional Court decision, No. U-I-313/13-86, Section 27.

[47] Pirnat states that the decision of the Constitutional Court should not be understood simply as a mathematical principle that the local communities get more than half of the income. The share of the local communities should be sufficient to provide them with the necessary financial means to carry out their legally assigned tasks. Since the municipalities are very heterogenic, the share of the tax revenue should be determined according to the needs of an average municipality. Pirnat, R. (2014), Obdavčitev nepremičnin de lege ferenda in v prehodnem obdobju (Obligations of leases in the period under review), Podjetje in delo 6-7/2014/XXXX, p.1125.

[48] Such as: the modernization of the methodology of valuation and systems, an extensive tax base with a limited number of exemptions, addressing all the aspects of the Constitutional Court decision, the use of public data on real property, a long-term low cost system for all involved, the revenue to be exclusively that of the municipalities, and the tax burden not to exceed the burden imposed by the current system. A detailed description is included in the Governmental decision on the establishment of the Project Council and Project Group for the new taxation system of real estate. (available at http://www.mf.gov.si/fileadmin/mf.gov.si/pageuploads/mediji/2015/2015feb12_projektni_svet_nepremicnine.pdf accessed 13. 10. 2017).

The work on the project began with the preparation and amendment of the Real Estate Mass Valuation Act and also a Real Estate Recording Act to ensure that a generalized market value would satisfy all the needs for its use, and also for the setting of the tax base for the new real estate tax. A professional debate and dialogue about the mass valuation system and the necessary data quality revealed many unanswered issues and raised some new ones. To address the reluctance of valuation and other professionals to accept what was perceived to be an administrative value rather than a market value (which could only be fixed by individual assessment), the Project group organized a series of formal and informal expert consultations about the mass valuation system. A special document was prepared as guidance as to how the mass valuation system and valuation models could be reformed, and which data are more appropriate to be included in the valuation models to achieve better generalized market values.

In addition, the Ministry of Finance of Slovenia applied for technical assistance to International Monetary Fund, which produced an international report on the revision of Mass Valuation System and Property Tax System in October 2015. This report concludes that the Slovenian mass valuation system is technically very modern and of high quality because the methodology used is internationally comparable and capable of successful implementation. The report also points out that the Slovenian system innovatively diminishes issues concerning lower rates of transactional activity in the real estate market. However, the system continues to face legal issues that need to be addressed before its implementation, and there is a need to pay special attention to data quality.[49]

From the start of the project, a draft of a public relations campaign was developed. As a result, both formal and informal communication plans with expert groups, local communities and the general public were prepared.[50] Different interest groups (including the Chamber of Commerce, Chamber of Trade, and the Chamber of Craft and Small Businesses) and all the Associations of Local Communities were involved in the project and new solutions were presented to the public in a real estate conference and newspaper articles. Within the web site of the Ministry of Finance, a special web page was assigned to provide information to the public about the mass valuation system.[51]

[49] International Monetary Fund (2015). Republic of Slovenia: Technical Assistance Report - The 2013 Property Tax Act: Evaluation of its Design and the Employed Mass Valuation System. IMF Country Report No. 16/53 (available on https://www.imf.org/external/pubs/cat/longres.aspx?sk=43716.0 seen 13. 10. 2017).

[50] According to Erjavec and Kovačič Poler, since there was no wide and systematic public response from the government when implementing the Real Property Tax Act in 2013, public opinion was generated and influenced mainly by mass media. In this regard it did not help that the mass media presented the mass valuation system and the generalized market value as a negative thing in more than 60 % of the articles reviewed. Only 12 % of articles reported positively about the project. Erjavec, K. and Kovačič Poler, M. (2011). Novinarsko sporočanje o poskusnem izračunu vrednosti nepremičnin v Sloveniji (Newspaper talks on the quest for the accuracy of the verdict in Slovenia). Geodetski vestnik 55/3 (2011), p. 530-545.

[51] Available on http://www.mf.gov.si/si/delovna_podrocja/davki_in_carine/mnozicno_vrednotenje_nepremicnin/ seen on 13. 10. 2017.

Because of the extensive dialogue with all interest parties and the different ideas brought forward on how to address the unconstitutional issues of the old Act, the proposal for the new Real Property Mass Valuation Act has been more than two years in preparation. On 20 July 2017, the government finally sent the new Real Property Mass Valuation Act to the Parliament,[52] and the new Real Property Mass Valuation Act[53] was adopted at the end of 2017. The new Act now contains none of the unconstitutional elements which were identified in the decision of Constitutional Court, No. U-I-313/13-86. The process of a new valuation cycle is now in progress and new valuation models and new values are to be determined in August 2019.

Conclusion

In the letters of support for the new Real Property Mass Valuation Act which were sent to the Government and to the Parliament from different parties and also from the associations of local communities, there is a clear necessity for a rapid reform of the property tax system.

Certain issues regarding the new Property Tax Act will have to be dealt with in the next governmental administration of 2018 - 2022. Putting aside the above-mentioned problems with the current system of real property, there are also formal issues that require the early implementation of the new system. The repealed Property Tax Act has annulled the previous legal basis (including municipality decrees) for the held-over system of Property Tax and The Charge for the use of the Building Land. Consequently, the municipalities cannot change anything in the decrees that were annulled. The Government has provided them with an optional legal basis to create new local decrees but only a few of the municipalities have done so. At this point more than half of the municipalities are relying on the basis of unlawful local decrees when imposing the obligation to pay the Charge for the use of the building land. In several cases, the Administrative Court of Slovenia has declined to use a local decree that has been annulled and later changed. Such decisions made in respect of taxpayers with a large tax burden could mean a substantive risk for the security of local funding and the resulting paucity of public services.

The solution is also incomparably more economical to operate, with the use of only one central register (instead of the present 212 local registers) and the reduction of implementation costs to less than 2% of the total annual revenue of the existing property taxes.

[52] In May 2017, the coalition parties decided that the new Real Property Mass Valuation Act would be delayed until after the election in summer of 2018. After this decision was made public, the coalition parties received formal letters expressing the need for the new mass valuation law to be adopted as soon as possible, and seeking support from all the interest groups and including the associations of local communities that had cooperated in the drafting of the law.

[53] Official Gazette of Republic of Slovenia, No. 77/17.

In Slovenia, the taxation of real estate has a long tradition but it is still stigmatized and misunderstood. Mostly connected to the services provided by municipalities it is very difficult to achieve a paradigm shift to a property tax based on the value of real estate. This is especially so in the transition period when private property began to be seen not only of useful asset, but also as a symbol of wealth, personal protection and even a status symbol. People consider real estate as their constitutionally protected asset and see the tax which intervenes in the value as a confiscatory charge. That was also one of the considerations of Constitutional Court when deciding on Property Tax Act in 2014. So it is very difficult to change the existing system despite the fact that it is outdated, nontransparent and is even problematic from the constitutional point of view. One of the reasons for the failure of every reform in last twenty years is also that the levels of the taxes on property are very low and one of main concerns of the real estate owners that new tax burden would be considerably higher. Because of the dispersed ownership (most of residential properties, nearly 90 %, are occupied by their owners i.e. natural persons) question on property tax reform is also very populist one and so a very sensitive political question. Any change demands highly sophisticated proposals and a huge level of consensus, which in taxation is difficult to achieve. So the reform will probably have to be gradual in terms of taxation levels, and the shifting of the tax base from administrative calculations to the market value will probably have to be widely discussed and explained, not only to the general public, but also professionals.

From both theoretical and also ideological reasons, those who oppose the taxation of wealth will need to be convinced, as will politicians at both the State and local level. The use of a generalized (market) value of real property as a tax base eliminates all of the constitutional issues previously raised regarding the equality of treatment and "fairness" throughout Slovenia, and makes the property tax transparent for the State, local communities and most importantly, for the taxpayers. Even some of the respected constitutional legal experts in Slovenia agree that the burden of real property tax as an assets tax has to reflect the actual, 'true' value of a taxpayer's real property – real value being its market value.[54] Although both the theory and the experiences of many countries support a value-based property tax as not only an efficient and reliable tax source for local communities but also as an effective instrument for directing spatial and property management, its introduction is most of all an important political issue that will have to be resolved one way or another, because the existing system is no longer tenable.

[54] Deviation from such a basis could result in the different treatment of similar cases and of different cases being treated equally which would create constitutional issues. Taxpayers with more valuable assets could be less burdened with the property tax and vice versa. Kerševan, E. (2014), Postopek za odmero davka in pravna sredstva, Podjetje in delo 6-7/2014/XXXX, p.1148.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
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New Real Estate Tax in Croatia

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Abstract The taxation of real estate in Croatia has very little impact on the amount of tax revenues at the local budget level, nor for the overall tax system, either. However, it has significant potential to become an important source of financing for local government units. Problems in local governments financing, and the public finances at central level have led to a discussion about possible changes regarding the taxation of real estate. Therefore, the introduction of some kind of general real estate tax has been announced as a step forward in the building a coherent tax system. At present, there is only one tax that is in the group of real estate taxes – partial type: tax on holiday houses, introduced in 2003. This is a local and an optional tax. By 2007, there were taxes on uncultivated agricultural land, unused land and unused commercial real estate, which, by the decision of the Constitutional Court, were declared unconstitutional. Nevertheless, the importance of real estate taxes in the context of the equality and equity is well recognised, so it is not enough to examine this type of taxation solely in the context of its efficiency and revenue sufficiency. The achieved market maturity and built institutional and legal support should be recognised as prerequisites for the inevitable evolution of the current system of real estate taxation. The real estate tax was introduced as part of a comprehensive national tax reform, with one year vacatio legis so it is expected to come into force from 2018. However, recent legislative amendments deleted the real estate tax provisions for political reasons. This confirms that Croatian real estate taxation is not following the path of other modern tax regimes.

Keywords: • Croatia • property tax • immovable property tax • valuation • tax reform

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Introduction

This chapter reviews the Croatian real estate tax regime. It thematically discusses, from the historical perspective, real estate taxation in Croatia and its administration. This is not a comprehensive survey from the academic standpoint and it is not a study of all tax aspects and regimes applicable in the context of real estate. This paper is devoted only to the real estate tax, so does not include observations regarding other types of taxes closely connected to the real property, e.g. tax on income from real estate, tax on inheritance and gifts, tax on the transfer of real estate, capital gain tax.

With respect to the limitations of the nature and purpose of this study, the authors did not engage in theoretical and academic discussion on the topic, although in the Croatian academic arena there is developing an interesting debate on this matter, especially during the current and very recent period. This study focuses on the annual tax on real estate as one type of property taxation. While the term "immovable property" generally encompasses both "real property" and "real estate", (terms that have different technical meaning but that often are used synonymously), the authors emphasize this difference because 'real property' refers to the rights, interests and benefits connected with real estate. Real estate as a parcel of land and any structures on that land[1] are the taxable objects for the real estate tax.

1 Property Tax

1.1 Historical overview of real estate taxation in Croatia

An historical review of real property taxation in Croatia reflects three developmental stages, taking the chronological sequence into account. Thus, the categorization of the history of real property taxation in Croatia covers four stages: the first, the ancient one; the second stage comprises real estate tax treatment that ends with the tax system in Croatia as part of the former Yugoslavian Republic (hereinafter: the former SFRY).[2] The third stage is represented by the tax system established by the Republic of Croatia following its declaration of independence in 1991 and ends with the introduction of the real estate tax in 2017 that was expected to come into force in 2018. So, this last stage might be seen as a developing stage that has just begun with the recent amendments of October 2017, which repealed the Local Taxes Act provisions on real estate taxation.

Historically, real estate taxes which took the form of particular types of taxes known as "kućarine" and "zemljarine" were the oldest forms of public revenue. Even in ancient times, land or house ownership was used as source of state's revenue, where the size of the public contributions of a citizen was determined in line with a taxpayer's economic capacity and strength. However, land and house ownership were only a supplementary

[1] Term "land" or "immovable property" have the same meaning as "real estate".
[2] The acronym SFRY stands for: the Socialist Federative Republic of Yugoslavia, the official name of the country (in English).

tool in determining the amount of other duties, and were not the object of taxation. The so-called "kućarina" form of tax levied on a house, was a personal tax known as the "chimney tax". This "kućarina" developed into a "full real estate tax" at the time when the building itself became a taxable object, regardless of the economic strength of its owner, and was taxed on the basis of the building's useful value. Such a form of taxation of property began in the 19th century and continues in the tax systems of many countries.

In 1542, the Hungarian government introduced a real property tax. In the period of feudalism in the territory of Croatia then known as "Banska Hrvatska", the tax on the land was introduced as the royal tax.[3] The Croatian territories that had once been a part of the Ottoman Empire also paid taxes to the Sultan, including the Sultan's property tax, and the taxpayers of that tax were the "bearers of inheritance".

In the 17th Century, significant changes occurred in the system of taxation of property.[4] Gradually, the scope of the general real estate tax became widespread and changes were made so that the taxation of real estate became a dominant form of taxation. The reason for such a change was the state's increased need for revenue, as well as the realization of the principles of fairness and ability to pay in taxation.

At the time of the Kingdom of the Serbs, Croats and Slovenes, several different systems of direct taxes were applied in the territory of today's Republic of Croatia, and various different forms of real estate tax were levied. Thus, the Austrian system of direct taxes applied in Dalmatia which experienced several real estate taxes. Similarly, the Hungarian system of direct taxes applied at the beginning of the 20th century in Croatia, Slavonia and Međimurje, which included a number of real estate taxes such as a land tax, a tax on buildings, a house tax, all with additional sub-types.[5]

In general, in the late 1970s and 1980s, countries reduced their tax burden on real estate or even abolished property taxation, as a result of the many shortcomings and pressures that arose from high tax liabilities, because those real estate taxes did not take into account the revaluation of the value of the property that was the object of taxation.

The second mentioned stage, covered the period until 1990, before the Republic of Croatia's independence. During that time, real property was one of five tax sources that were the object of property taxation applied in the taxation system of the former SFRY.[6] A unit of real property and income from such property were subject to taxation, as follows: a real property tax, a tax on the income from property, an inheritance and gifts tax, a tax on gains from gambling, and a tax on the transfer of real estate. Within that pre-1990 legal framework, real property taxpayers were the owners of residential buildings

[3] Jelčić, B. i dr., Financijsko pravo i financijska znanost, Zagreb, Narodne novine, 2008, p. 448.
[4] Šimović, J., Imovina kao predmet oporezivanja, Zagreb, Zakonitost (47), no. 1, 1993., p. 62-63.
[5] Jelčić, B., Bejaković, P., Razvoj i perspektive oporezivanja u Hrvatskoj, HAZU, Zagreb, 2012., p. 26-27.
[6] Act on Taxation of Citizens, Official Gazette "Narodne novine", no. 54/85, according to Simovic, J., p. 70.

or apartments, business premises, garages or holiday homes. The tax on residential buildings or apartments was not paid if the property was used for housing.

The tax base was the value of the property, except for the garage where the tax was paid as lump sum. The value of real property was set by the municipal administration. The tax base was reduced by the cost of maintenance and an amount representing the yearly depreciation, prescribed as a percentage of the capital value of the buildings. Property tax rates were as follows:

- an apartment from 0.10 to 1 percent;
- office space from 0.15 to 1.25 percent; and
- houses from 0.20 to 1.5 percent.

Revenues from such property taxes did not have important fiscal significance. Theoretical discussions on property taxation at the time revolved around whether the property of citizens in the socialist socio-economic system should be a source of tax revenue. Similarly, there was a dilemma as to whether the tax base should be a value of property or whether the determined ownership of the property might serve as adequate statement for taxation.

Thus, it is possible to conclude that real property taxation was part of the tax system in the former SFRY, as a form of partial real property tax, and characterized with many difficulties. Similar problems continued during the period after 1991. In reconsidering the introduction of a real property tax, most concerns were focused on administrative burden issues, preparatory and assessment costs and fiscal effectiveness. This can be seen in the example of the former SFRY in which the fiscal importance of revenues from property tax in the structure of municipal budgets throughout the period of 1978 to 1986 was of limited significance. Studies from this period on the taxation of property and income from the property of citizens in Croatia indicated various objective and subjective weaknesses which reflect insufficient preparations and administrative inefficiency, such as incomplete registers of real property and institutional weaknesses. Determining the real property's taxable value or tax base was understood as a prerequisite for fair property taxation, but this remains an open enquiry to this day.[7]

The third stage of the "modern era" in the historical overview of real property taxation in Croatia began with the tax system established by the Republic of Croatia after its declaration of independence, in 1991. This period might be divided in two sub-stages: from 1991 till the financial crisis period of 2010; and from 2010 until today. In the first sub-stage, the new legal framework of the tax system, introduced by the Act on Direct Taxes, omitted property taxation, without any explanation.[8] Yet in the academic literature

[7] The Act on the Revaluation of Residential Buildings and Apartments, that should be implemented by the municipal authorities, was adopted in 1977, but a complete revaluation was never fully realized – according to Šimović 74.

[8] The Act on Direct Taxes regulated: the profit tax, income tax (including income from real property), inheritance and gift tax, the tax on winnings (gains) from games of chance, and the tax on the acquisition of

this omission has been recognised and discussed.[9] However, in 1992 the Regulation on state fees on buildings, vacation facilities, motor vehicles and vessels was passed.[10] Despite the use of the term "fees", this was actually a tax, introduced for a limited period of one year. Therefore, it was the Act on Financing Local and Regional Self-Government Units that introduced (again) a real property tax into Croatian tax system.[11] By introducing a tax on holiday homes, this Act created one real property tax.

During 2001, three partial real property taxes were introduced: a tax on undeveloped building land, a tax on uncultivated but viable agricultural land and the tax on unused entrepreneurial real estate.[12] There were two outcomes to be achieved by introducing these taxes into the Croatian tax system: non-fiscal, and more importantly, fiscal goals. Nevertheless, the Croatian Constitutional Court has held that the aforementioned taxes, as special types of real property taxes, are unconstitutional.[13] The Constitutional Court, however, said that the legislator is authorized to prescribe different legal measures to encourage the processing or cultivation of uncultivated agricultural land, the use of unused entrepreneurial real property, and the building on undeveloped construction land, including those measures that limit the ownership rights in accordance with Constitution. However, the Constitutional Court has emphasized that it is not acceptable to introduce such measures and limits in a manner that breaches fundamental constitutional values. In the Courts' opinion, such a breach as in the present case of prescribing taxes, is contrary to the purpose of the taxes and the tax system in general.[14] In other words, such taxes were in reality regulatory measures having no fiscal purpose.[15]

Finally, this part of the historical overview of real property taxation in Croatia, concludes with the current legal framework that prescribes a one special, partial tax on real estate - the tax on holiday houses - that will be “replaced” by the introduced a new real estate tax.

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assets, Official Gazette “Narodne novine”, no 19/90, and was adopted before the declaration of independence in 1991. But it was without the changes promulgated on the grounds of the Act on the Amendments to the Act on direct taxes, Official Gazette “Narodne novine”, no. 28/90 subsequently amended by Acts Official Gazette “Narodne novine”, no. 14/91., 73/91, 25/93.

[9] A large number of respected experts, professors of financial law and financial science: Jelčić, B., Lončarić-Horvat, O., Da li je potrebno u novi porezni sustav Republike Hrvatske uvesti porez na imovinu fizičkih osoba. Financijska praksa, 1992 (7-8). P. 409-422. See, also Horvat, L., Šimović, J., et.al.

[10] Regulation on state fees on the building, vacation facilities, motor vehicles and vessels, Official Gazette “Narodne novine”, no. 68/92.

[11] Act Concerning the Financing of Units of Local Government and Regional Self-Government, Official Gazette “Narodne novine”, no. 117/93.

[12] Act on the Amendments to the Act on Financing Local and Regional Self-Government Units, Official Gazette “Narodne novine”, no. 59/01.

[13] It is considered that these three types of real property taxes have not achieved their expected objectives and fiscally were ineffective because the revenue collected for the budgets of those municipalities that passed a decision about their implementation was considered to be insignificant.

[14] Decision no.: U-I-1559/2001, U-I-2355/2002, from February 21st 2007, published in, NN No. 26/2007.

[15] Lang, Pistone et al. EU-tax, Linde, 2011, National Report Austria, p. 23. See more on the Austrian Constitutional Court practice, loc.cit.

However, it should be noted that since the global financial crisis, the debate on the issue of property taxation in Croatia has intensified. So far, although well prepared, the introduction of a general real property tax has been delayed several times although, finally in 2017, the Local Taxes Act has been passed with one year *vacatio legis*.[16]

The fourth stage of the development of real estate taxation in Croatia has just begun with the Local Taxes Act. The parts of the Local Taxes Act that regulate real estate tax were planned to come into force on 1 January 2018.[17] A new real estate tax was to replace the following three public contributions, in force until the end of 2017: the tax on holiday houses, the user charge and the monument-heritage charge.[18]

It is possible to argue that the grounds for further maintaining or introducing a real property tax into the tax system should be the fact that nowadays the complexity of economic life has led to the situation in which the fundamental principles of taxation cannot be wholly realized and achieved within the systems of the primary taxation of income and the secondary taxation on turnover.[19] In other words, a real estate tax should be introduced or remain in the tax system, representing a sort of tertiary circle of taxation, having supplementary but important functions.[20]

1.2 Position and structure of the real estate tax in Croatia

The constitutional rules concerning the designing of tax systems in Croatia are very few. The Croatian Constitution has only in one article, (Art. 51), which explicitly refers to the tax system, and which states:

"Everyone is obliged to participate in the settlement of public needs, according to his economic capacity. The tax system is based on the principles of equality and equity."[21]

However, there are some constitutional provisions regulating other issues that can be seen as limitations on the taxing power in Croatia. Thus, the third part of the Croatian

[16] Official Gazette "Narodne novine", no. 115/16, (hereinafter: LTA); Art. 30. - 40. i čl. 50. i 51. were expected to come into force on 1. 1. 2018., while Art. 2.sub. 1.(12.), and Art. 25., 26., 27., 28., Art. 42. (1. 3.) and Art. 49. cease to be valid. Unfortunately, the provisions on real estate tax were deleted by the last amendments of the Local Taxes Act, Official Gazette "Narodne novine", no. 101/17.

[17] Official Gazette "Narodne novine", no. 115/16, (hereinafter: LTA); Art. 30. - 40. i čl. 50. i 51. came into force on 1.1.2018., while the Art. 2. sub. 1.(12.), and Art. 25., 26., 27., 28., art. 42. (1.3.) and Art. 49. cease to be valid.

[18] Cro. "spomenička renta". See, more in Explanatory notes with the Proposal of LTA, p.3. , available at: https://vlada.gov.hr/UserDocsImages/Sjednice/2016/3%20sjednica%2014%20Vlade/3%20-%201.6.pdf (15.4.2017.)

[19] Šimović, J., p.65.

[20] See, Zunic Kovacevic, N. Trebaju li nam promjene u nekim aspektima oporezivanja (nepokretne) imovine? Zbornik 1 Pravnog fakulteta u Rijeci. Rijeka, 2007 (1). P. 493-510., See also, Tax reforms: experiences and perspectives, Conference proceedings, Institute of public finance, Zagreb, 2014.

[21] Constitution of Republic of Croatia, Official Gazette "Narodne novine", no. 56/1990, 135/97, 113/2000, 28/2001, 5/2014, (hereinafter: Croatian Constitution).

Constitution, entitled Protection of Human Rights and Fundamental Freedoms, contains the stipulations (Art. 16) about the potential for limiting rights and freedoms. Because of its breadth, it is a key constitutional instrument that limits the power of the state in terms of taxation power by protecting taxpayers' rights and freedoms. The Croatian Constitution (Art. 48) provides a guarantee of the right of ownership of real estate, and it is generally understood as a rule that this excludes harsh or punitive taxation measures.[22] Paragraph 2 of the same provision (Art. 49) contains the limitation on the right of ownership. Prescribing that ownership implies 'obligation', and that owners should contribute to the general welfare of society, this rule is sometimes interpreted as a delimitation on tax authorities in tax law design. Basic economic rights and freedoms regulated in Constitution (Art. 49) protecting entrepreneurial and (foreign) investors rights might be also understood as a constitutional limitation of taxation.

As a local tax, the real estate tax implies the implementation of the European Charter of Local-Self Government.[23] The real estate taxation normative framework was until 2017 prescribed by the Act on Financing Local and Regional Self-Government Units (LRGFA).[24] The new LTA repeats that which was prescribed by the LRGFA,[25] in relation to county taxes: being the inheritance and gifts tax, the road motor vehicle tax, the vessels tax, and the tax on coin-operated machines for games for amusement.

A municipality's or a city's own sources of funds (prescribed in Art. 29 LRGFA) are revenue from its own property, municipal or town taxes regulated in accordance with this law, fines and confiscated pecuniary gains for offences that they themselves prescribe, administrative charges and holiday charges, municipal economy fees, contributions and other charges laid down by a separate law, fees for the use of public, municipal or city land, and other revenue laid down by separate laws.

[22] See, Arbutina, H. Constitutional and Supranational Limitations and Guidelines on taxing powers – case of Croatia. In Edrey, Y., Greggi, M. (eds.). Bridging a Sea: Constitutional and Supranational Limitations to Taxing Powers of the States across the Mediterranean Sea, 2010. P. 15-43.

[23] Official Gazette "Narodne novine – međunarodni ugovori", (hereinafter: NN MU), no.53/91 14/97, 4/2008.

[24] The Act on Financing Local and Regional Self-Government Units, Official Gazette "Narodne novine", no. 117/93, 33/00, 73/00, 59/01, 107/01, 117/01-correction, 150/02, 147/03, 132/06, 73/08, 25/12, 27/14. (hereinafter: LRGFA). The Croatian Constitutional Court Decision was published in the Official Gazette "Narodne novine" No. 26/07, the last amendment came into force and is applicable from 2014. This law governed the sources of funds and the financing of matters from the self-governing sphere of the units of local and regional self-government (the county, the municipality and the city) within the limits determined by the law that governs individual matters. It is prescribed that units of local and regional self-government provide funds in their budget for the performance of matters within the jurisdiction of local self-government in proportion to their expenses. A county's own sources of funds are revenues from its own property, county taxes, in accordance with this law, fines and confiscated pecuniary gains for misdemeanours that they themselves prescribe and other revenue laid down in separate laws.

[25] Art. 5, LRGFA ceased to be valid from 1 January 2017, since the new LTA regulates this.

1.2.1 Tax on holiday homes

The tax on holiday houses is defined as municipality or city tax.[26] As a municipal or city tax, the nature of this type of real estate tax in Croatia is clear: it is a single, partial real estate tax in the current tax system that will be replaced from January 1st 2018 by the local general real estate tax. As it is prescribed as a local tax, all of its revenue funds local municipalities' budgets. Specifically, the revenue from this tax belongs to the municipality or city in the area where the holiday house is situated. While the holiday house tax is an optional tax, because there is need for the a decision of a municipality or city for its application at the local level, this is not the case with the proposed real estate tax in the LTA.[27]

The tax on holiday houses is paid by legal entities and individuals that are the owners of holiday houses. Every building or part of a building or flat that is used occasionally or seasonally is deemed a holiday house. Farm buildings that are used for the housing of agricultural machinery, tools and other accessories are not considered to be holiday houses. The tax rate is from 5 to 15 HRK (€0.6 - €2) per m^2 of the usable area of the house. The amount of tax on holiday houses is prescribed by a decision of an individual municipality or city and is dependent on the location, the age, the state of the infrastructure and other circumstances essential for the use of holiday houses.

There is no tax obligation if a holiday house cannot be used. It is also explicitly stipulated that there is a legal presumption that holiday houses that cannot be used because of war destruction and natural disasters (floods, fire and earthquake), age and dilapidation are deemed to be unusable. Similarly, there is no tax obligation while displaced persons or refugees are quartered in holiday house. The same treatment is prescribed in the case of rest and recreation centres owned by a unit of local or regional government used for the accommodation of children up to the age of 15 years. The municipality or city can prescribe other exemptions from the payment of the tax on holiday houses for economic or social reasons. [28]

In every case, as mentioned above, municipalities have to issue a binding decision in accordance with the right given in the Act. When they do so, municipalities have only a limited ability to influence the structural components of this real estate tax: the amount of tax within the limits laid down by law and additional exemptions to those already prescribed. The calculation and manner of payment of the tax are prescribed by a decision of the municipality or city. Taxpayers have to provide the competent tax body with relevant information, relating to the place where the facilities are and the usable area of

[26] Ceased to be valid Art. 30., LRGFA. LTA prescribes the same, the surtax on income tax, consumption tax, trade name tax and use of public land tax.
[27] Almost all authorities have enacted these provisions.
[28] See, *amplius* on the exemptions in the field of property taxation, Zunic Kovacevic, N. Porezni izdaci u sustavima imovinskih poreza: poredbenopravna rješenja. In Bratić, V., Fabris, M. Skrivena javna potrošnja, Sadašnjost i budućnost poreznih izdataka. Zagreb: Institut za javne financije, 2012. pp. 207-219.

the holiday house. This information should be given to the administration before 31 March of the year for which the holiday home tax is assessed. It might be interesting to note that a significant number of municipalities have decided not to implement this local tax.

1.2.2 User charges

All the most important elements of user charges as sources of public revenue are governed by the Utility Services Act, Section IV (Art. 22 to 28).[29] These provisions constitute the legal basis for collecting user charges in the Republic of Croatia. Pursuant to the authority given in the Utility Services Act, (Art. 23, para.1), a local government representative body decides the on the level of utility compensation, prescribing in its decision and in some detail the factors relevant for the user charge's obligation. Such a decision prescribes, for example, the terms of payment, the real estate types that are fully or partially exempted from the payment of the user charge, the grounds for exemptions, the sources of revenue that will be used to finance earmarked activities, and whether individual users are exempted from paying the charge. There is opened discussion about the legal nature of the user charge as it is prescribed, since it is rarely successfully applied in practice. Some of the shortfalls have informed the introduction of the real estate tax. From the standpoint of public finances, there are some observers who find that the user charges are a "hidden" local tax – as is the real estate tax.[30]

1.3 A new real estate tax

During 2016, the Croatian Government delivered a comprehensive tax reform and most of the provisions came into force as of 1 January 2017. The exception that takes effect from 1 January 2018 concerns the taxation of real estate, and as a result of this legislation, the monument contribution annuity, the tax on holiday houses and the communal contributions will all be abolished.

The new real estate tax will be calculated on the total net floor area of the property. The annual amount of tax per square metre of taxable area of the property is determined by multiplying the point value, the purpose coefficient, area coefficient, condition coefficient and age coefficient. Local, sub-national government units have power to set two of these coefficients - the point value and the purpose coefficient.

The LTA prescribes that the person responsible for paying real estate tax, (or the subject of the tax), is primarily the occupant or user of the property, but it may be the owner of

[29] The Utility Services Act, Official Gazette "Narodne novine", no. 36/95, 70/97, 128/99, 57/00, 129/00, 59/01, 26/03, 82/04, 110/04, 178/04, 38/09,79/09, 49/11, 144/12, 84/13, 94/13, 153/13, 147/14, 36/15.

[30] See, Švaljek, S., Kukić, N. Porez na nekretnine: osnovne značajke i rasprava o uvođenju u Hrvatskoj, Privredna kretanja i ekonomska politika 132, 2012., p. 55-60., 80., See, also, Žunić Kovačević, N., Gadžo, S., Komunalna naknada u RH i njezino pozicioniranje u odnosu na teoretske i normativne koncepte financijskog prava, Zbornik Pravnog fakulteta Sveučilišta u Rijeci, v. 35, no. 1, 2014., p. 245-270.

the property too. Certainly, if the occupier is unknown, it will be the property owner.[31] No difference is made between natural or legal persons in relation to the type of person owning property for this purpose. It is also prescribed that the occupants are taxpayers when they use property owned by the state.[32]

A tax exemption is only applied to real estate owned by local government units and sacral objects in the part of the real estate where religious ceremonies are performed.[33]Local governments have no discretion over exemptions or other forms of tax relief. As mentioned above, during 2017, the existing LTA was amended and the real estate tax provisions were deleted.

1.3.1 Notification of changes of taxpayer

For most public charges that comprise the revenue of the local government budget, such as the utility charges and the taxes on holiday house, taxpayers are required to report their obligations. Unfortunately, in practice they rarely do, so the provisions of the Real Estate Transfer Act have been amended[34] in such a way that notaries and courts are required to submit a copy of the document of the transfer of ownership of real estate to the tax administration. It is likely that this requirement will be extended to the local authorities in the area where the property is located.

There is, however, a problem in that there is a lack of systematic data exchange between other state authorities that would allow local government a timely implementation of the legal provisions, and thus achieve a better and more efficient collection of its public revenues. Therefore, for example, if local governments submitted data on signed contracts on the sale of real estate, they would have timely information on changes of taxpayers. In addition, the submission of data on the liabilities incurred in relation to the real estate transfer tax as revenue for the local government's budget would also allow for better planning of budget revenues.

The procedures and administration, including the manner of assessment and the collection of the tax on holiday houses, represent significant organizational difficulties for local governments. The General Tax Act is applied to the process of administering (assessment, appellate procedure, the decision delivery issues, etc.).[35] If not otherwise regulated by special acts on certain types of taxes and other public charges, the General Tax Act represents a common basis for the implementation of the tax system. As such, it is not only a challenge in application, but it comprises such complex provisions that local governments frequently delegated these activities to the tax administration for a fee.

[31] LTA, art. 32/4.
[32] LTA, art. 32/2.
[33] LTA, art. 31/2.
[34] Real Estate Transfer Tax Act, Official Gazette "Narodne novine", no. 115/16.
[35] General Tax Act, Official Gazette "Narodne novine", no. 115/16.

1.4 Valuation and real estate tax

The issue of assessing the market value of the taxable real property is of enormous importance in the real estate taxation. It is not so important for the assessment of the tax on holiday houses in consequence of the prescribed tax base provisions. As mentioned above, the tax base of the tax on holiday houses does not depend on the value of the property but on its useable surface area and location - i.e. factual information. However, according to potential future developments and announced amendments to a new tax on real estate, the "full real estate tax" will be based on the value of real property. It was for this reason that enhanced activities of the Croatian Ministry of Construction and Physical Planning were involved in preparing the real estate value estimation law, the Act on the Assessment of Real Estate Value.[36]

There were many reasons for enacting the law on the assessment of real estate value, including the introduction of the order and the regulation of activities and the need to resolve the identified deficiencies in the implementation of regulations on the assessment of property values.[37] As noted, certain deficiencies in the application of valuation techniques, such as the lack of quality data, the appraisers' lack of technical knowledge, and the non-compliance with the regulations, resulted in the decision to regulate this area, on the basis of German legislation.

The law defines the authorized persons to carry out the valuation of real estate, clarifies the issue of the certified expert and certified court appraisers, and establishes methods and procedures. Its main intention is the introduction of the assessment of real estate valuation based on market value. The Act defines the general valuation methods (three prescribed methods) and specific procedures (seven prescribed methods). The prescribed methods and procedures for valuation remain as in the aforementioned Regulation on the assessment of property values.[38] The law defines and regulates the gathering, issuing and evaluation of data. It is envisaged that the Ministry will establish and maintain an information system on the property market – "*Erealproperty*", an integral part of which is the collection and recording of sales prices and the plan of approximate values. The provisions of the Act on the Assessment of Real Estate Value also provide for the establishment of assessor committees and the superior valuation commission within the Ministry, for providing expert advice and opinions.

1.5 Revenue importance and revenue performance

As presented in Table 11.1, the average contribution of the real estate transaction tax in terms of the total revenue of the Croatian State budget during the years 2010 – 2015 is

[36] Act on the Assessment of Real Estate Value, Official Gazette "Narodne novine", no. 78/15.
[37] The Draft Law on the assessment of real property value was until 2 January 2015, at a public hearing. This issue was regulated by the Regulation on the assessment of the real property value, Official Gazette "Narodne novine", no. 74/14.
[38] Loc.cit.

0.4 percent. As for the tax budget at the State level, it is volatile at approximately 0.6 percent, while at the local levels, the real estate transaction tax represents approximately 2.9 percent of the total revenues and 5.3 percent of total tax revenues during the period shown in the Table. The distribution of revenue from the real estate transaction tax in Croatia between the state and a municipality (or a city) is 40:60,[39] during the period from 2010 to 2013; although it was changed to 20:80 in 2015.

Table 11.1: Public revenue and real estate revenue Croatia, Zagreb and Rijeka 2010 – 2015 (HRK)

	2010	**2011**	**2012**	**2013**	**2014**	**2015**
Total revenue - State budget	107.784.657.202	107.416.677.883	109.837.283.952	108.844.543.102	114.044.484.837	106.433.602.468
Total revenue - Local budgets	21.855.409.679	21.047.657.029	21.338.671.530	22.944.924.329	22.109.792.677	21.654.270.976
Total tax revenues - State budget	61.808.896.417	61.088.579.332	64.332.057.705	62.713.258.494	63.074.040.448	64.000.910.285
Tax revenues - Local budgets	11.486.441.170	11.311.892.962	11.938.587.467	13.198.733.035	12.768.532.804	9.846.946.904
Real estate transa. tax - Local budgets	648.013.359	653.573.943	578.192.384	671.472.375	559.388.569	652.839.692
Real estate trans. tax - State	443.982.618	448.489.038	397.736.183	462.314.591	385.980.936	172.367.524
Real estate transaction tax - Total	**1.091.995.977**	**1.102.062.981**	**975.928.567**	**1.133.786.966**	**945.369.505**	**825.207.216**
Zagreb						
Total revenue	6.308.018.728	6.160.003.312	6.253.091.718	7.313.481.747	6.607.809.704	6.160.981.148
Tax revenue	4.410.893.500	4.336.628.074	4.594.849.305	5.542.587.995	5.030.213.934	4.543.313.469
Real estate transaction tax revenue	168.892.000	190.795.029	156.587.827	214.498.152	146.472.395	131.083.756
Rijeka						

[39] The Amendment of the Act Concerning the Financing of Units of Local Government and Regional Self-Government, published in NN No. 147/14, changed this ratio into 20:80, as it is "joint" tax.

Total revenue	702.924.371	650.205.948	714.936.830	668.514.001	640.284.574	651.891.002
Tax revenue	294.165.176	315.157.356	346.499.995	360.924.037	367.704.737	352.523.820
Real estate transaction tax revenue	13.292.583	14.183.543	17.534.556	17.585.451	15.587.797	23.596.543

Note: 7.5 HRK = 1 Euro.
Source: The Ministry of Finance, Statistics and Reports, available at: http//:www.mfin.hr/en/time-series-data.

The data for Zagreb and Rijeka, two large towns in Croatia, show similar results. Despite their differences in size, positions and structure, both towns are 'below expected' in their average percentage in terms of the portion of real estate transaction tax funding the municipal tax revenues. Zagreb[40] the country's capital, has only 3.5 percent of its tax revenue from the real estate transaction tax. On the other hand, in Rijeka[41], a coastal, university town and industrial centre, the real estate transaction tax contributed an average of 5 percent to tax revenue, for the period from 2010 to 2015.

2 Evolution of real estate markets

2.1 Property restitution

Croatia passed a property restitution law in 1990, and subsequently amended that law in 1991 and again in 1993. Nevertheless, implementation of the law proceeded very slowly. The 1996 the Act on Restitution/Compensation of Property Taken during the Time of the Yugoslav Communist Government[42] prohibited non-Croatian citizens from making claims under this legislation.

However, in a 1999 ruling, the Constitutional Court struck out six clauses which were deemed to discriminate against foreigners. As a result, in 2002 the Act was amended to extend to foreigners the right to claim nationalized property or receive compensation, provided that Croatia and the claimant's home country have concluded a bilateral agreement on the issue. The law initially created a six-month period from July 2002 until January 2003 in which non-Croatian citizens were eligible to file claims. Croatia subsequently waived that deadline after determining that it does not have any appropriate bilateral agreements that would allow non-Croatian citizens to file claims.

[40] Zagreb is the capital and the largest city in the Republic of Croatia. It is the economic, university, political and administrative centre of the Republic with an area of 641,355 km^2 and a population of 790,017 (in 2011), with expensive land and an important number of real estate transactions.
[41] Rijeka is a coastal, university town and industrial centre with 128,624 inhabitants (in 2011)[41] with the area of 44 km^2.
[42] Act on Restitution/Compensation of Property Taken during the Time of the Yugoslav Communist Government, NN No. *92/96,39/99, 42/99, 92/99, 43/00, 131/00, 27/01, 65/01, 118/01, 80/02, 81/02 (*hereinafter: Act on compensation).

In early 2006, the Croatian government proposed amending the 1996 law in order to allow foreigners to file claims under the Act's provisions without the need for a bilateral or international agreement governing the issue. On 14 February 2008, the Administrative Court of the Republic of Croatia rendered the first decision that enabled the return of nationalized property to a foreigner. According to this precedent, the requirement of an international treaty is no longer a pre-requisite.

Specifically, the Administrative Court did not rely on the linguistic interpretation of the legislation, but took account of the fact that the Constitutional Court removed the part of Art. 9 which set the precondition of the applicant's Croatian citizenship. In addition, it concluded that the right to be compensated belongs to all foreign natural persons in respect to which the issue of the taken property has not been resolved by an international treaty.

In relation to the communal property restitution issues, the government has worked separately with the various religious communities to resolve them. Usually agreements between the government and the individual communities govern the communal property restitution process, and agreements have been signed with the Catholic, Serbian Orthodox, Muslim, Jewish and Baptist communities.

The government employs three methods to restore communal property to religious communities: natural restitution, replacement restitution and monetary compensation. It is important to mention that the Act on Ownership and Other Property Rights[43] gives priority to the rules on denationalization in relation to the provisions on conversion from so-called social ownership. This means that ownership or any other property right under the provisions of this Act cannot be acquired if it is contrary to the provisions of the Law on Compensation. The Law on Compensation came into force on the same day as Act on Ownership and Other Property Rights, so this provision that gives priority to the application of the Act on compensation is of even greater significance (Art. 359, para. 2).

2.2 Privatization

The legal framework for privatization in Croatia was based on two main laws: the 1991 Transformation Act and the 1993 Privatization Act, amended in 1996. The privatization process in the 1990s in Croatia was marked by the transformation of socially-owned companies into stock holding companies or limited liability companies. In the economic literature, this process is commonly divided into three (or four) main stages, (as the last stage started recently, it might be called the fourth stage).

The first stage was from 1991 until 1993, when companies transformed into private ownership entities. The privileged buyers in this process of privatization were the companies' employees, former employees and the government itself. The second stage

[43] Act on Ownership and Other Property Rights, Narodne novine, broj 91/96, 68/98, 137/99, 22/00, 73/00, 129/00, 114/01, 79/06, 141/06,146/08, 38/09, 153/09., 143/12.

was between 1994-1997, and consisted of the privatization of the Croatian Privatization Fund portfolio. The portfolios changed constantly, as a result of privatization, changes within the companies themselves and their position in the market.

The third stage which began in 1998 was the voucher privatization. Voucher privatization was aimed at those sectors of the population that had suffered from the consequences of the Patriotic war (1991 - 1995) e.g. families of deceased, imprisoned or missing Croatian soldiers, military and civil war invalids. Vouchers were given to war veterans, refugees and other qualifying individuals. The privatization of large companies, especially infrastructure companies and utility companies, into public enterprises began in 1999 (e.g. Croatian Telecom, Industrija Nafte (INA)[44]). Public enterprises are privatized on the basis of separate laws.[45] In 2009, according to Commission of the European Communities, the privatization process was still progressing slowly. It was highlighted that the privatization of assets held under the State Privatization Fund in particular had made only limited progress.[46]

Recently, in Croatia, a new stage of privatisation has been introduced. The legal basis for the privatisation of companies in Croatia is provided by National Property Management Act.[47] This Act, which was adopted and came into force in 2013, allows for the following methods of privatization: public offer of shares; public auction of shares; public call for offers; public offer of shares on organized markets; acceptance of the offer in the process of takeover; minority shareholders' squeeze-out; public call for capital increase; and direct sale. These methods may be combined with the procedures of restructuring and the capital increase of the companies.

Two additional legal instruments are important in this last stage of the privatisation of companies, namely the Strategy on National Property Management for 2013-2017[48] and the Plan on National Property Management 2015, both adopted by the Croatian Parliament. A Plan on National Property Management must be adopted annually.[49] This legal document provides for the division of companies into groups based on categories, which are designed to show and predict the potential of commencing the process of privatisation. The strategy on national property management standardizes guidelines for the process of selling the companies and the Plan on National Property Management considers the possibility of selling companies. The decision to privatize a specific company must be adopted by a specific decision of the Government in each individual case. Finally, it should be noted that the privatization process is still on-going.

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[44] Oil company in Croatia.
[45] See amplius, Druzic, I., Gel, T. Swot Analysis & privatisation in Croatia. Economic Annals 2006 (168). P. 121-136.
[46] Crnković, B., Požega, Ž., Mijoč, I. Analysis of Croatian Privatisation Fund Portfolio. Interdisciplinary Management Research 6. P.580-590.
[47] National Property Management Act, NN *No. 94/2013.*
[48] NN No.76/2013.1
[49] Plan for 2014 was published in NN no. 53/2014.; Plan for 2015, published in NN No. 142/2014.

2.3 Limitations of land/property ownership

There are several laws governing the real estate ownership issue in Croatia: these include the Act on Ownership and Other Property Rights,[50] the Agricultural Land Act,[51] the Land Register Act,[52] the Tenancy Act,[53] the Zoning and Building Act, [54] and the Illegal Buildings Act.[55] Since Croatia is a civil law country which follows a Roman law system, property law is governed exclusively by statute. In general, rights *in rem*, such as ownership over real estate, must be registered with the land register in order to have any effect on third parties.

Real estate may be acquired by individuals as well as by legal entities. Certain types of real estate: for example, agricultural land and forests, protected areas of nature, protected cultural real estate, can never be acquired by foreign persons, individuals or legal entities. Exceptions are where it is determined otherwise under international treaties. Citizens and legal entities from EU Member States can acquire rights to real property ownership in the Republic of Croatia under the same condition as domestic individuals and legal entities. Alternatively, foreign persons who are not citizens and legal persons of EU Member States can acquire real estate in Croatia only upon prior approval of the Croatian Ministry of Justice. In a case where no reciprocity agreement exists, the approval will be denied. Such approval is not required when real estate is acquired by inheritance, if reciprocity exists.

Under the Act on Expropriation and the Determination of Compensation,[56] an owner may be deprived of ownership over real estate if it is in the interest of the Republic of Croatia and the owner is given appropriate compensation (Art. 9). Compensation must correspond to the market value of the expropriated real estate and be paid to the owner either as a landed equivalent (as an adequate substitute for the real estate acquired), or as monetary compensation (Art. 11). Expropriation may be conducted in favour of a certain individual or legal entity (Art. 3).

In general, all land in Croatia must be registered with the cadastral office and recorded in the land register, and ownership must be registered within the land register as to the manner of acquisition to have any effect on third parties. The land register is operated by the Croatian municipal courts for real estate located in their respective area of competence. There is an ongoing unification of land registers into one national register, electronically operated by the Croatian Ministry of Justice. Real estate in Croatia is also registered with the cadastre, operated by Croatian cadastral offices for real estate located

[50] NN No 91/1996, 68/1998, 137/1999, 22/2000, 73/2000, 114/2001, 79/2006, 141/2006, 146/2008, 38/2009, 153/2009.
[51] NN No. 152/2008, 25/2009, 153/2009, 21/2010, 39/2011, 63/2011.
[52] NN No. 91/1996, 68/1998, 137/1999, 114/2001, 100/2004, 107/2007, 152/2008.
[53] NN No. 91/1996.
[54] NN No. 76/200, 38/2009, 55/2011, 90/2011, 50/2012.
[55] NN No 86/2012.
[56] NN no. 74/2014.

within their area of competence. In addition to the land register and the cadastre, there are other registries for special types of real estate, but most are not publicly available or are still under development. The case is similar with the above mentioned fiscal register.

2.4 Nature of the property market and importance of the financial institutions

Croatia is a country rich with cultural and natural resources and these are protected under three general preservation systems: the protection of the cultural heritage, protected areas of nature, and Natura 2000 (the EU ecological network)[57]. The real estate market in Croatia is not adversely affected by the substantial contribution of these areas to the total land surface (for example, 30.4 % of land in Croatia is under protection as areas of nature and under Natura 2000, while the average of the 27 EU countries is approximately 25 percent, with the highest portions being in Slovenia and Bulgaria with 35.5 % and 34 % respectively).[58]

However, the strict legislative protection should be improved with the aim of providing private ownership and an ecologically and economically sustainable natural resources management of such lands. This kind of so called "active protection" should facilitate real estate transactions within the country and give rise to better utilization of cultural and natural resources which are currently suffering from neglect and dereliction.

Table 11.2: Size of the land by the categories in Croatia (ha)

	1990	2000	2010
Forest land	2.055.000	2.157.000	2.317.000
Cropland	1.623.000	1.592.000	1.548.000
Grassland	1.211.000	1.232.000	1.219.000
Marshland	72.000	74.000	74.000
Inhabited areas	220.000	231.000	259.000
Other	478.000	373.000	242.000

Source: Croation Environment Agency, Overview of the facts about usage of the land in Croatia, available at: http://www.azo.hr/PregledPodatakaO.

Even though forests and grasslands (see Table 11.2) are important for sustainable development to balance the threat of climate change, the extent to which agricultural lands (cropland) and grasslands, which demand some kind of permanent human activity and presence, are in decline, while forestland and inhabited areas are expanding. These facts, when interpreted together, show that rural areas are losing their importance and that the

[57] See: The European Commission, Directorate General for the Environment, Available at: http://ec.europa.eu/environment/nature/natura2000/index_en.htm, 30 March 2015.
[58] Report on the State of the Environment 2008 – 2012, Ministry of Construction and Physical Planning, Available at: http://www.hzpr.hr/default.aspx?id=73, 30 March 2015.

focus of the community is increasingly on urban areas, without proper attention being paid to the maintenance, infrastructure and commercial activities of the land and rural areas. This neglected land, when offered on the market, still commands a price but with questionable results and without any useful volume of relevant transactions.

Table 11.3: Occupied Dwellings by Period of Construction, Type of Building and Number of Households in Dwellings in Croatia 2011

	Total number of dwellings	Constructed in period											Number of households	Number of members in household
		Before 1919	1919 – 1945	1946 – 1960	1961 – 1970	1971 – 1980	1981 – 1990	1991 – 2000	2001 – 2005	2006 and later	Unknown	Unfinished dwelling		
Total dwellings	1.496.558	112.217	84.963	138.858	288.563	325.203	247.084	129.687	70.463	73.072		1.808	1.517.249	4.243.876
Dwellings by type of building:														
in residental building	1.495.187	111.954	84.815	138.671	288.396	325.071	246.980	129.520	70.411	73.013	24.549	1.807	1.515.863	4.240.424
With one dwelling	725.471	56.795	42.206	78.865	132.037	146.811	116.858	73.643	33.898	26.365	16.661	1.332	739.296	2.255.476
With two dwellings	206.284	16.038	9.677	15.943	45.631	51.025	32.817	17.843	7.260	5.017	4.751	282	207.905	584.363
With three and more dwellings	563.432	39.121	32.932	43.863	110.728	127.235	97.305	38.034	29.253	41.631	3.137	193	568.662	1.400.585
Dwellings in non-residental buildings and students' or retirement homes, convents, etc.	1.371	263	148	187	167	132	104	167	52	59	91	1	1.386	3.452
Dwellings by number of households in dwelling:														
With one household	1.477.267	110.881	83.899	137.200	284.523	320.245	243.528	128.266	69.863	72.715	24.357	1.790	1.477.267	4.140.914
With two households	18.038	1.230	987	1.557	3.797	4.657	3.320	1.318	554	338	266	14	36.076	93.479
With three and more households	1.253	106	77	101	243	301	236	103	46	19	17	4	3.906	9.483

Source: Croatian Bureau of Statistics, Census Population, Households and Dwellings 2011, available at: https://www.dzs.hr/default_e.htm.

The majority of houses and flats in Croatia are of relatively old construction (more than 63% of buildings and houses were finished before 1980s, with almost 42% of the total number of dwellings built before 1970; see Table 11.3), and they have not been refurbished or substantially adapted following their first introduction onto market. Furthermore, the construction boom in the 2000s[59] was chaotic and un-systematic, with the often recognizable pattern of hasty low-quality construction and drive for profit.

During this period, from 2001 onwards, for the first time the construction of buildings comprising three and more dwellings exceeded 40 percent of the total number of dwellings built (with 57% built post-2006). Because of a lack of professionalism in the construction industry and the proper planning of projects, and especially due to an absence of consultation with the market experts regarding market demand, these flats are of low quality. As a result, they have not found buyers and now make up the bulk of unsold property on the market. Together with the "old" houses and flats, they form the widespread supply on the Croatian real estate market.

[59] After the war for Croatian independency and the implementation of the open market economy system, the banks started to offer loans, as a result of which the real estate market and the construction industry reached their peak in 2008.

Table 11.4: Basis for the Use of Dwellings in 2011

	Croatia	Zagreb	Rijeka
TOTAL	1.519.038	303.441	52.890
Private ownership or partnership	1.349.283	259.833	43.919
Tenants with market price of the tenure	45.472	15.010	3.336
Relative of the owner	69.949	16.325	2.718
Tenants with the protected price of the tenure	27.312	6.589	1.422
Tenure of the part of the dwelling (subtenant)	15.177	3.478	806
Other	11.630	2.160	670

Source: Croatian Bureau of Statistics, Census Population, Households and Dwellings 2011, available at: https://www.dzs.hr/default_e.htm.

The population of Croatia traditionally strives to own the houses and flats where they live, so the average percentage of the owner-occupiers in Croatia as at 2011 was 88.8 percent. (Specifically, private ownership in Zagreb was 85.6 %, and 83% in Rijeka; refer Table 11.4). It is for this reason that the long-term rental market in Croatia is very small, and is concentrated on short-term holiday and office rentals. In larger cities with universities, the greatest demand is focused on city centres and in the surrounding areas of campuses, as a result of the need for rented accommodation for students coming from other parts of the country. The majority of foreign citizens (mostly Germans, Austrians, British, Hungarians and ex-Yugoslav nationals, namely Slovenians, Bosnians and Serbs) who own a property in Croatia are concentrated on the Adriatic coast.[60]

[60] The right of foreign citizens to buy and own a property in Croatia is based on the reciprocity agreement between Croatia and the country the buyer come from, while EU nationals are treated equally to Croatian citizens regarding the real estate purchase rights.

Table 11.5: Dwellings by Use, Croatia 2011

	Croatia	Zagreb	Rijeka
Dwellings for permanent residence - Occupied	1.496.558	299.977	52.056
Dwellings for permanent residence - Temporarily unoccupied	342.349	69.870	9.271
Dwellings for permanent residence - Abandoned	73.994	3.691	463
Dwellings used occasionally - For vacation and recreation	249.243	4.878	69
Dwellings used occasionally - During seasonal agricultural activities	13.526	234	-
Dwellings used occasionally - For the tourists	60.100	59	16
Dwellings for business activities	11.140	5.624	833
Total dwellings	2.246.910	384.333	62.708

Source: Croatian Bureau of Statistics, Census Population, Households and Dwellings 2011, available at: https://www.dzs.hr/default_e.htm.

As shown in Table 11.5, the Croatian average of occupied dwellings for permanent residence is 66.6 percent, with 3.29 percent being abandoned dwellings, 11 percent used for vacation and recreation, 2.67 percent occasionally used for tourists, and only 0.5 percent used for business activities. These numbers are significantly higher in Zagreb and Rijeka, with percentages for occupied dwellings for permanent residence being 78 % for Zagreb and 83 % for Rijeka, and for business activities -1.5 % for Zagreb and 1.3 % for Rijeka. Reduced percentages are recorded for abandoned dwellings in Zagreb and Rijeka (0.96 % and 0.74 % respectively), and for dwellings for tourists (0.02 and 0.03% respectively). These facts support the general opinion of the importance of the large towns in Croatia and the Adriatic coast locations, which are significant factors in the real estate market.

Within the kaleidoscope of the real estate market, the banking sector is very important. The majority of banks in Croatia are privatized and more than 56 percent are owned by foreign proprietors, covering 90 percent of the total bank assets.[61]

[61] Croatian National Bank, presentation available at: http://www.hnb.hr/publikac/epublikac.htm, 2 February 2015.

Bearing in mind that banks were financing the "boom in the construction industry" until 2008, and that during the subsequent economic crisis and insolvency banks acquired many of these real estate units, it comes as no surprise that banks are no longer interested in financing the real estate market in Croatia. With only two state-owned banks and 5.3 percent of the assets under state ownership in the banking system, it is hard to expect banks to take a move to improve the country's general prosperity without voicing special concerns about their own profits. Therefore, until the banking sector decides to take more risks with the real property market in Croatia and starts giving more and better loan opportunities to potential buyers and investors, the current lack of investment is likely to continue.

In addition to that, the financial institutions that are very conservative in their investment policies at present, and would have to put more effort into the preparation of deals to support transactions that are not "easy" to perform. For example, the financing of projects in the suburbs is favourable because it is easier to acquire the necessary building permit and gain project approval (the cadastre and land registry entry) which would solve the present issues of a surplus in the real property market at many locations which are not attractive for investors: whereas buildings in towns centres (with fundamental problems, such as serious structural defects or a complicated ownership structure and with uncertain registration of real property and its titles) crave to be revitalized and approached proactively, are neglected by the financial institutions.

An additional problem underpinning the unacceptable level of prices of residences and offices on the Croatian market lies in the high price of land, together with the high-cost and time-consuming procedures of the issuance of the necessary real property registration and other documents related to the ownership.

Legal uncertainty regarding the outcome of the procedures gives a reasonable explanation why international investors are deciding to move to other markets where they can have greater certainty in predicting their costs and project outcomes within acceptable risks and achieve anticipated profits.[62]

Uncertainty with regard to tax issues as well as in the general legal field has to be minimized by more transparency and simplicity in legislation, as well as easy-to-understand instructions both for buyers (tax payers) and the local administration.

The role of the public sector in the real estate market must not be underestimated. State authorities should establish a strategy for real estate development and give a simple legal framework for investors and buyers, with the aim of initiating an increase in market activities and regulation to achieve more responsible behaviour.

[62] In accordance with the 2014 Doing Business rankings, Croatia ranks second at the bottom of EU countries (http://www.doingbusiness.org/reports/global-reports/doing-business-2014).

The majority of the dwellings on the market in Croatia, both in number and in size, is found in Zagreb, with an average of 1,229 of dwellings sold from 2011 to 2016 (Table 11.6.). While the average selling price of the dwellings in Croatia has fallen by 14.7 percent in the last six years (15.4 % in Zagreb and 11.7 % in other places), the average size of such dwellings has increased by similar percentages: 14 percent in Croatia (15.3 % in Zagreb and 11.3 % in other places). This rise in average size is the result of the increase in the number of sold dwellings and the considerable advancement in the size of sold dwellings of 46.7 percent for Croatia (from 127,671 m^2 in 2011 to 187,314 m^2 in 2016).

Table 11.6: Average Number, Size and Selling Price (HRK) of the sold New Dwellings (Croatia, Zagreb 2011 - 2016)

Average selling price of the sold dwellings	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**
Croatia	11.764	11.570	10.426	10.524	10.688	10.034
Zagreb	12.348	12.524	11.104	11.958	11.797	10.445
Other places	10.855	10.221	9.486	9.280	9.617	9.582
Number of sold dwellings						
Croatia	2.169	2.357	1.997	2.410	1.672	2.791
Zagreb	1.352	1.397	1.174	1.128	839	1.481
Other places	817	960	823	1.282	833	1.310
Size of sold dwellings (m2)						
Croatia	127.671	145.416	123.441	157.316	115.777	187.314
Zagreb	77.736	85.195	71.704	73.064	56.861	98.183
Other places	49.935	60.221	51.737	84.252	58.918	89.131
Average size of sold dwellings (m2)						
Croatia	59	62	62	65	69	67
Zagreb	57	61	61	65	68	66
Other places	61	63	63	66	71	68

Note: 7.5 HRK = 1 Euro.
Source: Croatian Bureau of Statistics, census Population, Households and Dwellings 2011, available at: https://www.dzs.hr/default_e.htm.

2.4.1 Market maturity

After its transition to a market economy, Croatia achieved an increase in GDP. After a steep decline in economic activity in the early 1990s, the real GDP grew for the first time in 1994 and continued until 1998 at annual rates of between 2.0 to 6.8 percent. After the years of growth, GDP plunged to almost -12 percent in 2009 and remains in negative figures. For example, while the world economy grew by 3.01 percent in 2013 and 3.2 percent in 2012, the Croatian GDP decreased by 1 percent in real terms in 2013, which represents a cumulative fall in economic activity of 12 percent from 2008.

However, a slight increase of 1.6 percent in 2015 and 2.9 percent in 2016 gives some signs of potential recovery. Nevertheless, a prolonged decline in production, in the construction industry and in the resale trade is unlikely to be compensated by an increase in income from tourism,[63] as long as lasting and sustainable development is considered advantageous. Moreover, according to the Croatian National Bank, the GDP figures do not take into consideration the country's "grey economy" which, by some estimates, may cover almost 28 percent of all economic activities.

The decline in GDP in Croatia has had an impact on the real estate market in various ways. In addition to the decrease in the available income, pessimistic expectations of economic development causes a reduction in consumption, thus resulting in serious decreases in the retail sector. Downsizing within companies because of the turbulent times makes it difficult for entrepreneurship to lower demand for offices, both for rent or sale. An increase in unemployment (one of the highest in the EU 28)[64] results in a reduction in the number of residential real estate transactions and their total value.

In spite of the general opinion that the Croatian real estate market is saturated because of the recession and low demand, Croatian experts and researchers have expressed views with regards to the matter.[65] As explained above, many houses and flats are offered for sale without any clear identification of potential purchasers. However, an understanding of the problem needs more rationale on the both sides of the market. First of all, the maturity of the market gives a good introduction to the problem. Potential buyers are waiting for the properties that will meet their expectations.

As the Croatian economy evolves further away from being state-driven to an economy based on market principles and private ownership, the population's requirements pass through distinct stages. In the beginning of the process, the majority of the population had

[63] The share of Croatian tourism in the GDP amounted to 18.9% in 2016 (Croatian Ministry of Tourism, available at: http://www.mint.hr/default.aspx?id=37937, 23 April 2017.
[64] Croatian National Bank, presentation available at: http://www.hnb.hr/publikac/epublikac.htm, 2.2.2015.
[65] Statements in this paragraph mainly represent the opinions of the panelists at the session „Housing" regarding Croatian real estate market, leaded by moderator Dubravko Ranilović, PhD, President of the Real Estate Association of the Croatian Chamber of Commerce (The Eleventh Annual International Conference on Real Estate Development, Zagreb, 2015).

been preoccupied with basic needs. As a middle class emerged,[66] people sought better quality in housing to meet their individual tastes and contemporary life styles. Therefore, houses and flats of an inferior quality to those demanded by the market remain unsold and prices began to fall.

On the other hand, the construction sector is not prepared, neither in terms of finance nor expertise, to act in the professional and sophisticated manner demanded by complex real estate projects. International investors, who in fact could offer additional value to the real estate market, are being discouraged by the bureaucracy, and wait for a better business climate in Croatia. Consequently, it would be more accurate to say that the Croatian residential real estate market is in a classical mismatch position, having a surplus in production with no demand, and a deficit of the products which could readily be sold on the market. Obviously, the problem is on the supply side of the market and cannot be solved solely by the domestic construction sector which is prepared for a market that no longer exists in Croatia.

Even though the Croatian real estate market has many disadvantages, some signs of its recovery might be seen in the Adriatic region with a number of investment opportunities for the construction of hotels and catering facilities. Moreover, the Croatian economic recovery in 2016 and the minimum increase in the economy (with a 0.5 percent growth in 2015), could have positive implications because of the willingness of some investors to be the first into the market.

The favourable geographically strategic position of Croatia, its modern infrastructure and labour competitiveness offer many opportunities for the development of the industrial and logistics sectors thus potentially invigorating economic activities and the associated markets.

Furthermore, Croatia might have some comparative benefits resulting from a recent development in the wider regional real estate market. The fact is that Poland and the Czech Republic, as leading destinations for investments, are affected by the problem of market saturation and investors have turned (back) to other locations such as Hungary, Russia and Slovakia. They have also entered the Romania market and are beginning to take a close look to Croatia. If the inward investment climate improves, especially in terms of a reduction in bureaucracy and corruption, Croatia might finally profit from its geopolitical position, cultural heritage and natural resources, as an important link to other markets in the region.

[66] According to the above mentioned panellists, who are experts from the real estate market in Croatia, there are many potential buyers who have enough money to invest in housing but they want better value for money and do not want to spend their savings on residences that have simply more space or a better location. As support for such a standpoint, the following research may be relevant. In accordance with the International House Price Database 2015, presented by Professor Tica from the Faculty of Economy, Zagreb, prices in Croatia follow the pattern of the fall, such as experienced in the Spanish and Italian markets, while the real private disposable income follows the rising trends of the more enthusiastic markets, such as the UK or the USA.

3 Property data

3.1 Real estate ownership, title registration and IT support

The Ministry of Justice and the State Geodetic Administration, with the support of the World Bank, have been implementing the National Real Property Registration and Cadastre Program, called 'Organized Land'. The main objective of the project is to create a land administration system that will contribute to the development of efficient real property markets by the creation of the Real Property Registration and Cadastre Joint Information System (JIS). Cooperation between the cadastre and land registries is achieved through an exchange of data related to the real property. All digitized data can be easily and freely checked over the Internet (http://www.katastar.hr) where the information from the cadastre and the land registers can be immediately accessed.

Authorities are constantly asking for the support and cooperation of citizens because official records cannot be accurate if owners do not report all changes that had been made to their real property. This involves active control by the citizens and the examination of the official records (proper description and registration of the owner) of all property they own. Unfortunately, Croatian owners of real estate, if not compelled, usually do not report to the authorities changes to their property, and this is a considerable obstacle for the functioning of the real estate market. Internet access to the databases and changes in the new generation of owners who make more regular use of the internet, might be good signs for the improvement of the transparency on the supply side of the market.

Conclusion

Today the taxation of real estate in Croatia has very little impact on the amount of tax revenues at the local budget level, nor for the overall tax system, either. However, it has significant potential to become an important source of financing for local government units. Problems in local governments financing, and the public finances at central level have led to a discussion about possible changes regarding the taxation of real estate. Therefore, the introduction of some kind of general real estate tax has been announced as a step forward in the building a coherent tax system.

It seems that it is sometimes forgotten that, during the 1980s, Croatia (as part of SFRY) had a much more comprehensive real estate tax in operation. At present, there is only one tax that is in the group of real estate taxes – partial type: tax on holiday houses, introduced in 2003. This is a local and an optional tax. By 2007, there were taxes on uncultivated agricultural land, unused land and unused commercial real estate, which, by the decision of the Constitutional Court, were declared unconstitutional. Nevertheless, the importance of real estate taxes in the context of the equality and equity is well recognised, so it is not enough to examine this type of taxation solely in the context of its efficiency and revenue sufficiency. The achieved market maturity and built institutional and legal support should be recognised as prerequisites for the inevitable evolution of the current system of real

estate taxation. The real estate tax was introduced as part of a comprehensive national tax reform, with one year *vacatio legis* so it is expected to come into force from 2018. However, recent legislative amendments deleted the real estate tax provisions for political reasons. This confirms that Croatian real estate taxation is not following the path of other modern tax regimes.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
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The Republic of Serbia

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Abstract The intention of tax policy in the Republic of Serbia is to use the fiscal potential of its local property tax system to raise revenue based on the value of real estate along the same lines as in other modern market economies. Current problems are mostly related to low taxation revenues and the lack of data on property sales, especially for certain categories of real estate. The share of revenues from the property tax compared to total tax revenues is poor (circa 0.7%). Despite all of this, the measures taken against tax evasion and having a more realistic system of appraisal of real estate, along with significantly improved legal solutions, should lead to an increase in the fiscal importance of the property tax. Amendments of the Law on Property Taxes (from 2013) have made major steps forward, both in the field of legislation and in the field of its application by units of local government. Other changes will see further harmonization of the tax base with the market value of real estate, by abolishing the reduction in the value of real estate for depreciation (because the age of a building already is reflected in the sale price), and also, the simplification of the structure of tax rates prescribed for taxpayers that do not keep accounts.

Keywords: • Serbia • property tax • immovable property tax • valuation • tax reform

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1 Property Tax

1.1 History

During the period of the Serbian Medieval state there were numerous levies that were paid in cash/money or in kind, with goods or by undertaking work. During the reign of Emperor Dušan (1331-1345) there was a form of land tax whose base was the size and quality of the allocated land. Its implementation was preceded by an inventory of all properties. After Serbia became a Turkish vassal state (in 1389), the inventory was made in order to introduce a new kind of tax that Serbs had to pay to Turkey i.e. a tax on buildings.[1] In 1458, the Turks occupied the last part of Serbia. All such countries were considered as "Sultan's land", but local people were allowed to continue living on what had formerly been their land and to cultivate it, with the obligation to pay several levies, which were a heavy burden for the Serbian people.

The most important tax reform in the independent Serbian state was implemented in 1884, when the Law on Direct Taxes was introduced, along with a land tax and a tax on residential buildings. In 1928, in the Kingdom of Serbs, Croats and Slovenes, the tax on revenue from land and the tax on revenue from buildings were introduced.[2]

During the period of socialism, it was thought that property taxes would narrow social differences. Then in 1992, a reform was introduced that sought to establish a taxation system modeled on those systems found in countries with developed market economies. In effect this meant the adoption of a new concept of property taxation, i.e. a property tax in an updated format.[3]

For some time in the Republic of Serbia different levies were placed on construction land and buildings. Up until 2013, a charge for the development of land was paid on construction land, and a property tax was paid on the built structures. The charge for land development was a legacy of socialism and had the characteristics of a property tax.

Although the Constitution of the Republic of Serbia (from 1990) allowed the monopoly of the state (public) ownership of city construction land, there was an opportunity to acquire the right to use land and in that regard to become subject to the payment of the charge for land development.[4] From 2006, the Constitution created conditions which allowed for the conversion of the right to use land into the right of ownership, which thus created the need to establish a proper system of taxation of construction land and the buildings thereon. Where there was no private ownership of construction land, the State

[1] See Petrović, M. Finansije i ustanove obnovljene Srbije. Beograd: Državna štamparija Kraljevine Srbije, 1901. pp. 3-5, 14-15.
[2] See Zakon o neposrednim porezima sa potrebnim objašnjenjima, Beograd: G. Kon, 1928. pp. 11-43.
[3] See Milošević, G. Teorija i praksa finansijskog prava. Beograd: Kriminalističko-policijskaakademija, 2011. p. 30; Trklja, M. Finansijsko pravo. Novi Sad: Pravni fakultet u Novom Sadu, 1998. pp. 193, 241.
[4] See Article 60, paragraphs 1, 3 and 6 of the Constitution of the Republic of Serbia, *Official Journal of RS*, no. 1/90.

could simply impose the payment of the charge on the occupiers. However, private ownership of construction land effectively made the charge for land development obsolete. Serbian legislators were aware of this and prescribed that the charge for land development should be paid as long as it was not integrated into any property tax, and imposed no later than 31 December 2013.[5] Therefore, the complexity of proprietary relations was also reflected in the levies that burdened real estate.

Between 2008 and 2012 the share of the charge for land development in the total revenues of the units of local self-government was between 5% and 10.[6] Therefore, the question of compensation for "lost" revenues on this basis was posed. Given the fact that the integration of the charge for land development into a property tax was prescribed, it was clear that there was a need to find an adequate way to compensate municipalities for lost revenues in this field (requiring, for example, a more realistic appraisal of tax base, and dealing with tax evasion). In addition, it might have been necessary to increase transfers from the central authority, or to cede other taxes to the units of local self-government. However, these solutions can call into question the fiscal independence of local government.

1.2 Position of property tax

The property tax in the Republic of Serbia is regulated by the Law on Property Taxes.[7] In addition, this law regulates two other property-related taxes – the inheritance and gift tax and the tax on the transfer of absolute rights.

While the property tax is the original (own) revenue of local government, the tax on the transfer of absolute rights and the inheritance and gift tax are assigned revenues. The units of local government have the right to determine the rates of property tax, subject to legal limits. In addition, they can determine, up to the legal maximum (1% per year), the rate of depreciation[8] and in this way influence the effective rate of the property tax. The property tax is assessed and collected by local government, i.e. by the local tax administration. On the other hand, the basic elements of the other two taxes are prescribed by central government and are assessed and collected by the central Tax Administration,[9] however, the revenues are transferred to local budgets.

The basis of the tax on the transfer of absolute rights and the inheritance and gift tax is contractual, i.e. the market value of real estate, and it is clear that the transactional data

[5] See Article 89, paragraph 1 of the Law on Planning and Construction, *Official Journal of RS*, no. 72/09, 81/09, 64/10, 24/11, 121/12, 42/13, 50/13, 98/13.
[6] See Mijatović, B. Ukidanje naknade za korišćenje građevinskog zemljišta. Beograd: Centar za liberalno-demokratske studije, 2013. p. 27.
[7] See Law on Property Taxes, *Official Journal of RS*, no. 26/01, *Official Journal of FRY*, no. 42/02 – decision of the Federal Constitutional Court, *Official Journal of RS*, no. 80/2002, 80/2002, 135/04, 61/07, 5/09, 101/10, 24/11, 78/11, 57/12, 47/13, 68/14.
[8] Depreciation should be understood as the decrease in value of buildings due to the age.
[9] The Tax Administration is a body within the Ministry of Finance of the Republic of Serbia.

available to the Tax Administration, are extremely important in order to efficiently determine the base of the property tax. Serbian legislators have prescribed that local tax administrations can request from the Tax Administration the data on sales contracts, i.e. market value of the real estate.

1.3 Structural components

Property tax is paid on the following rights, use and possession relating to real estate located within the Republic of Serbia:

1) Ownership rights on real estate, i.e. the ownership right on land whose surface area is greater than 10 acres (approximately 4 hectares);

   Amendments to the Law on Property Tax in 2013 removed the provision that required the property tax to be paid on the difference between the total surface area of the land minus the 10 acres. This means that, according to the legislation for land exceeding the limit of 10 acres, the property tax is to be paid on the entire surface of land. There are fiscal reasons for this situation.

2) Right to lease a dwelling or residential buildings in favor of natural persons, in accordance with laws that affect housing, social housing and refugees, for a period exceeding one year or indefinitely.

   The object of taxation is not the "common" lease, i.e. the contract between a landlord and a tenant, but a lease that stems from a right to occupancy. Specifically, the dominance of public ownership in the period after World War II, influenced the creation of occupancy rights in dwellings and residential buildings that were predominantly in public ownership. The holder of an occupancy right (in contrast to a lessee as a contractual party to a "common" lease contract), has a significantly higher degree of protection (including the indefinite duration of occupation rights, and legal prescription of the upper limit of the rent payable). It was during the 1990s, that the holders of occupancy rights were allowed to purchase the dwellings in public ownership which they occupied and to acquire the ownership rights over them. If they did not do this by 31st December 1995, they continued occupying the property as lessees indefinitely.

   Property tax is also paid on a lease in accordance with the law that provides for social housing and provision for refugees, i.e. for persons who, due to economic, social and other reasons, cannot acquire housing within the market. Thus, refugees who do not have sufficient income that would provide for their housing needs, benefit from the "privileged" contract on leasing with the State.

3) Right to use construction land larger than 10 acres (approx. 4 ha);

Although the Law on Planning and Construction provided for the conversion of the right of use to the right of ownership for construction land, some entities (including socially owned enterprises and citizen associations) still retain the right of use,[10] and as such are taxpayers.

4) Right to use real estate in public ownership (e.g. institutes founded by the Republic of Serbia, autonomous provinces[11] and units of local self-government);

5) Use of real estate in public ownership (state bodies and organizations, bodies and organizations of the autonomous provinces and units of local government which use real estate in order to exercise their functions, public enterprises, and corporations founded by the Republic of Serbia);

6) Possession and use of real estate for which the owner is not known (e.g. in case of "abandoned" land, which was not registered in the real estate cadastre) or is not yet determined (e.g. during probate proceedings. until the determination of an heir);

7) Possession of real estate in public ownership, without any legal basis;

   The point of prescribing the above mentioned rule is to prevent the privileged treatment of public enterprises. For example, it is not uncommon that public enterprises use real estate in public ownership, although there is no legal basis for that use (e.g. leasing contract).[12] Establishing the above mentioned rule became necessary, and since 1st January 2014, public enterprises have also been subjected to the property tax.

8) Possession or use of real estate based on the contract on financial leasing. [13]

   When there is a right exercised over real estate (e.g. rental right), for either use or possession, property tax is paid on that particular right, (that is for its use or possession, but not for property ownership).[14]

The provisions on taxpayers follow the provisions on the taxation subject: thus when it comes to the property tax, taxpayers are legal and natural persons, who are holders of certain rights, possessors or users of real estate in the territory of the Republic of Serbia.[15] Therefore, when it is a question of the taxation of the ownership right, the taxpayer will be the owner. When it is a question of the use of real estate in public ownership, the

[10] See Articles 103-106a of the Law on Planning and Construction (2009).
[11] The Republic of Serbia in its composition also comprises two autonomous provinces: Vojvodina and Kosovo and Metohija. See Article 162 of the Constitution of the Republic of Serbia.
[12] See Holcinger, J. Analiza Zakona o izmenama i dopunama Zakona o porezima na imovinu iz 2013. godine. Beograd: Stalna konferencija gradova i opština, 2013. p. 6.
[13] See Article 2 of the Law on Property Taxes.
[14] See Article 2, paragraph 3 of the Law on Property Taxes.
[15] See Article 3 of the Law on Property Taxes.

taxpayer will be the user of the real estate. Hence, the application of the territorial principle is undisputed, and both residential and non-residential persons may be taxpayers. When there are several taxpayers occupying the same real estate, the tax is assessed based on the proportion of each taxpayer's share in relation to the entire real estate.[16] When the shares the taxpayers hold in the same real estate are not clear, they will be deemed equal for the purpose of property taxation.[17] The above mentioned provision is important in the context of the taxation of real estate on which there is common ownership of two or more persons (such as spouses, and co-heirs until the decision is made on inheritance).

The basis of the property tax is determined in different ways, depending on whether the taxpayers keep accounts.

The basis of the property tax for taxpayers who do not keep accounts is the value of real estate as determined by local government based on the following elements: 1) usable area; and 2) the average price of a square metre of real estate, as classified in the zone where the real estate is located.[18]

In order to calculate the average price of a square metre of real estate in the zone where the real estate is located, it is necessary firstly to classify real estate and determine the zones. The classification of real estate into appropriate groups is made under the Law on Property Taxes (which distinguishes construction land, agricultural and forest land, flats/apartments, residential houses, commercial buildings and other buildings used for performing activities, garages and parking spaces).[19] The zones are determined by the units of local government. For the purpose of property taxation, units of local government are obliged to divide their territories into at least two zones and to determine the average price per square metre for each real estate group within each of the zones.[20] Units of local government can lower the value of buildings for depreciation[21] by applying a proportional method, starting from the year, in which construction was completed, with a maximum depreciation of 40%.[22] Although the decrease for depreciation is not obligatory, units of local government in the Republic of Serbia usually decide to lower the taxable value of buildings for depreciation, in order to protect owners of older buildings from the increased tax burden.

[16] See Article 4, paragraph 2, of the Law on Property Taxes.
[17] See Article 4, paragraph 3, of the Law on Property Taxes.
[18] See Article 5, paragraphs 1-2, Article 6, paragraph 1 of the Law on Property Taxes.
[19] See Article 6a, paragraph 1 of the Law on Property Taxes.
[20] While average prices of real estates in zones are determined and published every year, once they determine zones, units of local governments do not have to do this again.
[21] Depreciation is based on the presumption that value of older buildings is lower than value of new buildings. On this basis, the value of a building is reduced by the amount obtained when the rate of depreciation is multiplied by the age of building. Bearing in mind that units of local government are in the best position to determine whether the average price of a square metre of buildings deviates from the average price of older buildings, they set the rate of depreciation.
[22] See Article 5, paragraph 3 of the Law on Property Taxes.

As previously mentioned, one of the elements on which the tax base is determined is the average price per square metre of real estate in the zone in which it is located. It is calculated based on the data from at least three sales of comparable real estate during the period from 1 January to 20 September of the year prior to the year for which property tax is assessed and paid i.e. the current year. Taking into consideration the fact that all units of local government will not be in possession of data on sales for real estate in each of the zones in their jurisdiction, legislators prescribed that, for the purpose of determining the taxable value of real estate, the relevant factor will be the average price of a square metre of corresponding real estate in border zones, regardless of the local government unit to which they belong. However, if border zones also do not register sales of real estate, the tax base will be equal to the base in a current year, i.e. to the tax base in the previous tax year.[23]

The legislators recognize that the tax base for taxpayers who do not keep accounts is less than market value. Although the base is close to market value, they are not the same, because the values of buildings are subject to depreciation.

The basis of the property tax for taxpayers who keep accounts and whose property value is expressed in the accounts in terms of "fair value" as recognized by the International Financial Reporting Standards (IFRS), is the "fair value" expressed on the last day of the business year.[24]

The basis of property tax for taxpayers who do not apply the IFRS to the value of their real estate is determined by applying the same elements as in the case of taxpayers who do not keep accounts (i.e. the usable area and average price).[25] However, the value of the real estate is not lowered for depreciation. This indicates that lowering the value of real estate for depreciation for taxpayers who do not keep accounts is motivated by social-political reasons. In those cases where there are no data on sales of real estate in border zones, the units of local government are obliged to publish average prices of real estate based on the values determined in the best equipped zone in the current year. Prices determined in this way are multiplied by ratios, where the allowed maximum is prescribed in the Law on Property Taxes.[26]

For certain categories of real estate (facilities for the production of gas, electricity, steam, hot water, cold air, gas, etc.), the basis of property tax is their book value.[27] The legislation provided for this solution because the real estate in question is very rarely sold.

Given the fact that the property tax is a local tax, units of local government can determine their own tax rates subject to the central authority prescribing maximum rates.

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[23] See Article 6, paragraphs 5-9 of the Law on Property Taxes.
[24] See Article 7, paragraph 1 of the Law on Property Taxes.
[25] See Article 7, paragraph 2 of the Law on Property Taxes.
[26] The level of the ratio depends on the location, i.e. the zone in which real estate is located.
[27] See Article 7, paragraphs 4 and 8 of the Law on Property Tax.

Table 12.1: Flat tax rates[28]

Tax rate on buildings for taxpayers who keeps books	up to 0.4 %
Tax rate on land for taxpayers who do not keep books	up to 0.3 %

Table 12.2: Progressive tax rates on buildings for taxpayers who do not keep accounts[29]

Tax base	**Payable tax**
(1) up to 10,000,000 dinars (83,333 €)	up to 0.40 %
(2) 10,000,000 to 25,000,000 dinars (83,333€ to 208,333€)	tax referred to in item (1) + up to 0.6 % on the amount exceeding 10,000,000 dinars
(3) 25,000,000 to 50,000,000 dinars (208,333€ to 416,666€)	tax referred to in item (2) + up to 1.0 % on the amount exceeding 25,000,000 dinars
(4) over 50,000,000 dinars (over 416,666€)	tax referred to in item (3) + up to 2.0 % on the amount exceeding 50,000,000 dinars.

If the local government unit does not determine the tax rate or has set the rate over and above the maximum amount, the property tax is assessed by applying the highest allowable tax rate.[30]

The central authority does not prescribe minimum rates of property tax. The justification for that lies in the fact that the property tax is an own revenue for local government units, so they have no interest in introducing low rates.

The property tax liability runs from the earliest of the following dates: the date of acquiring the real estate rights, the date of commencement of use, the date of enabling the property for use, or the date of the issuance of an occupancy permit, i.e. date of enabling use of the real estate in any other way.[31]

[28] See Article 11 of Law on Property Taxes.
[29] Ibid.
[30] See Article 11 of Law on Property Tax.
[31] See Article 10 of the Law on Property Taxes.

In order to transfer an ownership right under civil law, it is necessary that the transferor is the actual owner, that there is a valid contract (of purchase, exchange or gift), as well as the property's registration in the real estate cadastre. However, because of various problems in the real estate cadastre, the factual condition often varies from the specific legal requirements. Therefore, the onset of tax liability can be the date when the contract is concluded, i.e. the date of acquiring rights. The date of commencement of use of real estate, as the date of onset of tax liability, is relevant in situations when the subject of taxation is the use of real estate in public ownership, possession of real estate for which the owner is unknown or not determined, possession of real estate in the public ownership without any legal basis, the possession and use of real estate based on a contract on financial leasing, as well as in all situations when the commencement of the use of real estate occurred before there were conditions for the acquiring rights that are the subject of the property tax (for example, when a purchaser or heir begins using real estate before the conclusion of the contract, i.e. before the end of probate proceeding).

The onset of tax liability is the date of enabling the real estate for use, the date of issuance of an occupancy permit and the date of enabling the use of real estate in some other way, (for example, in cases of construction or the upgrade of real estate). The choice of the above mentioned dates as valid for the imposition of tax liability shows that in the Republic of Serbia newly-constructed buildings are taxed, regardless of whether they have location and construction permits, as well as any other necessary documentation.

The prescription of tax relief is the responsibility of the central authority. The Law on Property Taxes provides for a wide range of tax reliefs which take one of two form of tax relief i.e. tax exemptions and tax credits.

The rationale for tax relief is based on economic, social, political, fiscal, environmental, cultural and other factors.

1) Property tax will not be payable on the following real estate:
   - State-owned property used by direct and indirect budget users (State bodies and organizations, museums, hospitals, etc.), except public enterprises;
   - Property owned by diplomatic and consular missions of foreign states, under the terms of reciprocity agreements;
   - Property owned by traditional churches and religious communities[32] and other churches and religious communities registered in terms of the law and intended and exclusively used for the performance of religious activities;
   - Property declared by the competent authority as cultural and/or historic monuments;
   - Agricultural and forestry land, which is being used for its original use – five year exemption;
   - Roads, railways and other property in general use and in public ownership, including harbours ports and airport runways;[33]

[32] The traditional churches and religious communities are: Serbian Orthodox Church, Islamic Community, Catholic Church, Jewish Community, Reformatory Christian Church and Evangelical Christian Church a.v.
[33] Other airport property is not eligible for tax relief.

- Water land and water facilities registered in the water cadastres;
- Land under buildings, if the building is subject to the property tax, but not land under storage and warehouse facilities;
- Wartime shelters for people and goods;
- Buildings intended and used for primary agricultural production;
- Buildings or parts of buildings serving public utility purposes;
- Property that is exempt from property tax under an international agreement concluded by The Republic of Serbia (e.g. Vienna Convention on Diplomatic Relations).[34]

2) Property tax will not be payable by a taxpayer if the total base for all property within the jurisdiction of one municipality is not greater than 400,000 dinars (around 3,333 €).[35] This relief affects only owners of small property units, such as garages and small residential buildings.

3) Property tax will not be paid on property that a taxpayer provides rent-free to a displaced person (provided the date of displacement is after 1 August 1995), on condition that the displaced person and members of that person's household do not earn income.

4) Property tax shall not be payable on real property which is entered in the taxpayer's accounts as assets intended for re-sale, in the year in which tax liability arose and in the following year.[36]

All of the above exemptions (except the tax exemption for real estate owned by the state and used by direct and indirect budget users) will not apply to any property rented on an ongoing basis for the purpose of generating income.[37]

The legislation has not had regard to personal, family status or the income of taxpayers when prescribing tax exemptions. Instead, it predominantly refers to the privileged treatment of property used for utilities and agricultural purposes, and those provided to displaced persons.

The Law on Property Taxes provides for two types of tax credits. The first is an "ordinary" tax credit which is available to natural persons in respect of their dwellings. Thus, the tax on a building or an apartment/flat in which taxpayer resides is reduced by 50% up to the maximum of 20,000 dinars (around 166 €).[38] Prescribing the maximum allowable tax credit is justified in order to minimize regressivity because the tax credit is proportional

[34] See Article 12, paragraph 1 of the Law of the Property Taxes.
[35] See Article 12, paragraphs 1- 2 of the Law on Property Tax.
[36] See Article 12, paragraphs 5- 6 of the Law on Property Tax.
[37] See Article 2, paragraphs 3-4 of the Law on Property Taxes.
[38] See Article 13, paragraph 1 of the Law on Property Taxes.

to the value of the property. This tax credit is prescribed in order to accomplish certain social-political goals, although its application *de facto* protects rich households as well.[39]

The second, the "extraordinary" tax credit is higher, but its application requires additional conditions to be satisfied. The tax on buildings and dwelling units up to 60m², which are not located on urban construction land or land in a building area, not leased out and which are occupied solely by persons over 65 years of age, is reduced by 75%.[40] This tax credit seeks to achieve economic and social-political goals, i.e. to provide support for elderly households located in rural areas.

1.4 Administration

An important duty of taxpayers is the filing of a tax return containing accurate information and data. Any taxpayer that acquires property, who commences occupation or ceases using a property during the tax year is obliged to file a tax return at the unit of local government in which the property is situated, within 30 days from the date of such a change.[41]

The frequency of filing tax returns depends on whether taxpayers keep accounts, i.e. whether there are changes that affect the amount of tax liability. Taxpayers that keep accounts are obliged to file tax returns by 31 March of each tax year. Taxpayers who do not keep accounts are required to submit a tax return only once. However, they are obliged to submit a "new" tax return if there are changes which affect their tax liability, and to provide data not included in the originally submitted tax return. They are required to do this by 31 January of the tax year.[42] In those cases where the taxpayer fails to file the tax return or files the tax return containing incorrect data, the property tax will be assessed on the basis of the accounts or other facts and evidence established during any control procedure (for example, on the basis facts established during tax inspection). The tax return must be filed for the real property which is eligible for any tax exemption.[43]

Property tax is assessed in different ways, depending on whether the taxpayers keep accounts or not. For those taxpayers who do not keep accounts the property tax is assessed by the unit of local government, and is paid every three months – within 45 days of the beginning of a three-month period. While any decision is pending the tax is paid in advance in the amount of the liability for last three-month period of the previous tax year.[44] Any tax ruling on the assessment of the property tax is delivered in a manner which

[39] See Begović, B., Bisić, M., Ilić-Popov, G., Popović, D. Reforma poreskog sistema. Beograd: Centar za liberalno-demokratske studije, 2003. p. 129.
[40] See Article 12, paragraph 3 of the Law on Property Taxes.
[41] See Article 34, paragraph 1 of the Law on Property Taxes.
[42] See Article 34, paragraphs 2-3 of the Law on Property Taxes.
[43] See Article 34, paragraph 7 of the Law on Property Taxes.
[44] In case of default, interest is calculated on the amount of unpaid advance payment (not including the interest). See: Article 39, paragraphs 1-3 of the Law on Property Taxes; Article 75, paragraphs 1-2 of the Law on Tax

is prescribed by the tax administrative legislation, usually by post. The above mentioned situation represents a compromise between the efforts of the tax authorities to make tax collection more efficient, and the protection of taxpayer's rights. In certain countries (e.g. in Germany) tax rulings on the assessment of property tax are not delivered in a physical form for each year, but taxpayers are notified via e-mail or are able to access the websites of local tax administrations. Assessments are delivered in physical form only if there is a change in ownership or in the physical structure of the property.[45] Bearing in mind the level of information technology (IT) literacy and the availability of the internet within the Republic of Serbia, it may not be possible to have the delivery of assessments to taxpayers solely via e-mail. Serbian legislation prescribes that tax assessment can be delivered via e-mail, provided there is taxpayer agreement.[46]

Taxpayers who keep accounts assess the property tax themselves, applying the tax rate on the tax basis, no later than 31 March of the tax year.[47] They pay the tax every three months, within 45 days from the beginning of a three-month period.

1.5 Valuation

One of the most important procedural steps is the determination of the value of real property. This entails finding data on the sales of real property in each of the zones within the units of local government.

The Law on Property Taxes does not contain provisions on the manner of obtaining the necessary data on the sales of real property, nor which sales should have priority. This provides the local government with substantial freedom in terms of which data sources to choose. Certainly, the sales data of the highest quality is that of realistic market prices held by the Tax Administration. There is also the possibility of relying on the data held by the Republic's Statistical Office. In addition, real estate agencies and the real estate cadastre are also relevant data sources. This shows that for successful taxation, it is essential for local tax administrations to rely on information held by other sources.

1.6 Revenue performance

The property tax is predominantly a fiscal instrument. Its non-fiscal benefits are overshadowed by the need for revenue.

Revenue from the property tax in the Republic of Serbia is not significant. According to the data of the Ministry of Finance, the share of revenues generated from property tax in

Procedure and Tax Administration, *Official Journal of RS* no. 80/02, 84/2002, 23/03, 70/03, 55/04, 61/05, 85/05, 62/06, 63/06, 61/07, 20/09, 72/09, 53/10, 101/11, 2/12, 93/12, 47/13, 108/13 and 68/14.

[45] See Levitas, T., Vasiljević, D., Bućić, A. Porez na imovinu: analiza stanja i perspektive reformi. In Poreska politika u Srbiji – pogled unapred. Beograd: USAID, Sega projekat, 2010. pp. 111-112.

[46] See Article 36, paragraph 11 of the Law on Tax Procedure and Tax Administration.

[47] See Article 39v, paragraph 1 of the Law on Property Taxes.

the total revenues in 2008 was 0.57 % (of which 38.8 % was collected from natural persons, and 61.2 % from legal persons); in 2009, it was 0.65% (of which 47.8 % was collected from natural persons, and 52.2% from legal persons); in 2010, it was 0.8 % (of which 50.2% was collected from natural persons, and 49.8% from legal persons); in 2011, it was 0.71% (of which 54.1% was collected from natural persons, and 45.9% from legal persons); in 2012, it was 0.73% (of which 52.2% was collected from natural persons, and 47.8% from legal persons); and in 2013, it was 0.78% (of which 56.7% was collected from natural, and 43.5% from legal persons).[48]

From the data, it is clear that the revenue from property tax, from 2009, has only slightly increased, with the exception of 2011.[49] Furthermore, it can be seen that the share of revenues collected from natural persons, in the total revenues from property tax, has been constantly growing since 2009.

Factors that affect the relative increases of fiscal importance of the property tax include the increase in the number of taxpayers, a more realistic valuation of real estate, use of the maximum allowed tax rates, an improvement in collection efficiency (promptness when sending warnings and initiation of forced collection procedure), and the recruitment of qualified additional staff in the registration of units of real estate to include them within the taxation system.[50] It is also important to recognize that the property tax became an own source revenue of local government in 2007, thus they became more motivated to take measures in order to increase the yield from this tax. In addition, the role of the central authority, which created the appropriate legal framework (e.g. the reduction in the maximum amount of tax credit), should not be disregarded.

Although the implementation of tax controls and cooperation with other bodies and public enterprises has somewhat increased the fiscal importance of the property tax, there is still room for improvement. According to unofficial estimates, a significant number of real properties remain outside the taxation system – approximately 14 % of flats, 15 % of commercial property and 22 % of residential houses,[51] mainly due to the high level of illegal construction.

In the financial literature, views have been expressed that the property tax creates certain non-fiscal benefits.[52] Reflecting on the fact that the property tax in the Republic of Serbia is a visible local tax (as in most other countries), this tax increases the responsibility of local authorities for the expenditure of funds, as well as the level of democracy.

[48] The share of property tax in total current local public revenue in this period has also steadily grown. In 2006 it was 4.8 %, and in 2011 it was 7.4 %. See Arsić, M., Ranđelović, S., Bućić, A., Vasiljević, D. Reforme poreza na imovinu u Srbiji: rezultati i perspektive. Beograd: Fondacija za razvoj ekonomske nauke, 2012. p. 26.
[49] This can be explained by the pre-election period, as well as by the policy of lowering rates of property tax by the units of local self-government. Ibid., 38.
[50] Ibid.,36-42.
[51] Ibid., 34-35.
[52] Paugam, A. Ad Valorem Property Taxation and Transition Economies. Washington D.C.: ECSIN, Infrastructure Unit Europe and Central Asia Region of the World Bank, 1999. pp. 1, 12-13.

Considering that the central authority prescribes only the highest allowable rates and that revenues from property tax belong to local authorities, this tax has an important role in the process of fiscal decentralization. In addition, certain provisions of the Law on Property Taxes increase the efficiency of the use of real estate; namely, more realistic valuations of real estate, especially of agricultural and forestry land can increase their productivity. Also, a temporary tax exemption for agricultural and forest land which is being put to its original use has a positive influence on the efficiency of land use.

1.7 Possible reforms

In recent years, legislation related to the property tax has been changed many times in order to make the property tax fairer, simpler and more efficient. In 2013, legislation was altered in relation to the prescribing of the tax base for agricultural and forestry land. The tax base is no longer five times the annual cadastral income derived from that land, but its value is determined on the basis of the usable surface area and the average price per square metre of land in the zone in which it is located. Until these amendments to the Law on Property Tax in 2013, the tax liability was absurdly small because the revaluation of cadastral income had not been done since the middle of the 1990s in order to appease the farmers.[53] Amendments made to the Law on Property Tax in 2013 also removed the provision that prescribed a tax exemption for public enterprises. This change was an important step in providing equality between the treatment of the private and public sectors within the property tax.

However, the Law on Property Taxes requires further amendments to better reflect horizontal equity (which demands equal treatment of the equals).[54] Situations that will require attention include, for example, where the property tax is paid on the entire surface of the land which exceeds 10 acres (approx. 4 ha). Under current legislation, an owner whose land is 9.9 acres does not pay property tax at all, while an owner whose land is 10.1 acres pays property tax on the entire surface. The reduction in the value of buildings for depreciation (two flats of the same value are treated differently in terms of taxation just because they are of different ages), does not reflect horizontal equity. In addition, in the Republic of Serbia a large amount of real estate remains outside the taxation system, therefore, additional measures are required in order to subject them to the property tax.

Progressive tax rates imposed on the buildings of taxpayers who do not keep accounts are not properly established, primarily because the difference between the rates prescribed for the first and second tranches (0.4% and 0.6%)[55] is too small. Also, the rate prescribed for the fourth tranche is high, giving taxpayers an incentive to transfer parts of their real

[53] See Popović, D. Poresko pravo. Beograd: Pravnifakultet Univerziteta u Beogradu, 2013. p. 298.
[54] In financial theory the terms “equity” and “fairness” are often used synonymously, although there are view that, from the perspective of property taxation, a distinction should be made. In general terms, “fairness” should be related to the legislation, while “equity” is a measure how well the property tax system is administered. See: Plimmer, F., McCluskey, W., Connellan, O. Equity and Fairness within Ad Valorem Real Property Taxes. Cambridge, Massachusetts: Lincoln Institute of Land Policy, 2000. p. 7.
[55] See Table 12.2.

estate to their closest relatives in order to minimize their tax liability. Therefore, a change in the structure of tax rates for the real estate (except land) of taxpayers who do not keep accounts would be desirable.

1.8 Enforcement and challenges

Following the 2013 amendments to the Law on Property Tax, local government acquired new responsibilities, which consist of adopting and publishing certain acts. This is an important step towards strengthening their independence and responsibility in the process of assessing and collecting property tax. In contrast to the previous period (prior to 2013), when they were only obliged to determine the tax rates for the property tax, now they are obliged to adopt other acts, as well as to publish them within legally prescribed time frames and in the manner laid down by the law. In this respect, the units of local self-government adopt and publish the following:[56]

- Act on establishing average prices per square metre of corresponding real estate according to zones;
- Decision on establishing zones, delineating the best equipped one;
- Decision on tax rates for property tax;
- Decision on the rate of depreciation;
- Act on ratios for real estate in zones;
- Act on average prices of real estate for taxpayers who do not keep accounts in the best zone;
- Decision which requires taxpayers who do not keep accounts to file tax returns for all their real estate.

Common for all of the above is that they are required to be published in the local authority publications,[57] and while they are valid, they must be published on the official websites of the local government unit. The above mentioned reforms ensure a relative degree of public accessibility to all local authority acts and decisions made affecting the property tax, and therefore taxpayers are able to familiarize themselves with their content. This is very important when it comes to taxpayers that keep accounts, because they are required to determine the tax themselves. Although it is not onerous duty, clear and available legislative facilitate its fulfillment.

The differences between the above mentioned acts and decisions exist in terms of the frequency and the obligation of their adoption. When it comes to the decision on the rate of depreciation, as well as a decision which requires taxpayers that do not keep accounts to file tax returns for all their real estate, individual local governments have complete freedom to choose whether they will adopt and publish them.[58] Adopting certain acts is obligatory but only in situations provided for by the Law. For example, the act on average

[56] See Article 36, paragraph 1 (independent article) of the Law on Property Taxes.
[57] See Article 5, paragraph 3, Article 7a, paragraph 6-7 of the Law on Property Taxes.
[58] See Article 5, paragraphs 3-4 of the Law on Property Taxes; Article 36, paragraph (independent Article) of the Law on Property Taxes.

prices of real estate for the current year for taxpayers who do not keep accounts in the best equipped zone is adopted only if, in the current year, there were no sales of properties in border zones.[59] Adopting and publishing other acts is obligatory.[60]

When it comes to the frequency of their adoption, only the act on establishing average prices per square metre of real estate according to zones must be adopted and published by 30 November of each current year.[61] This is reasonable given the fact that prices on the real estate market are susceptible to constant changes.

Research results[62] show that more developed and larger units of local government manage far better in the implementation of provisions of the Law on Property Taxes. However, both developed and underdeveloped local government units have some issues in common, such as the lack of data on transactions for certain categories of real estate (e.g. agricultural and forestry land, as well as garages and parking spaces). This represents the most significant challenge for local tax administrations.

Apart from this there are numerous opportunities for revenue loss that are generally associated with out-of-date data in the real estate cadastre and with illegal constructions. This means that local tax administrations cannot rely solely on data held by the real estate cadastre. In addition, there are large number of buildings, especially residential houses and holiday houses, which are built without necessary permissions. This represents a significant number of real properties being outside the taxation system.

2 Evolution of real estate market

2.1 Property restitution

After World War II, a considerable number of properties were confiscated and nationalised. One of the conditions that Serbia was required to fulfill as a part of its EU accession was to return these properties to their former owners or their legal inheritors: therefore the question of property restitution is a matter of prime importance.

During the first phase of restitution, property was returned to the churches, religious communities and their endowments.[63] Bearing in mind that the ultimate goal was a general restitution, the injustice done to the other citizens was corrected in 2011 by the

[59] See Article 7a, paragraph 2 of the Law on Property Taxes.
[60] Although their adoption and publication is obligatory, the Law on Property Taxes prescribes the rules that are applied in case of units of local government which do not do so. See: Article 6, paragraph 9, Article 7a, paragraph 5-6, Article 11, paragraph 2 of the Law on Property Taxes.
[61] See Article 7a, paragraph 1 of the Law on Property Taxes.
[62] The research included 20 developed and 20 underdeveloped units of local government, i.e. 20 units of local government in which revenues from property tax were proportionally the highest in 2011, and 20 units of local government in which revenues from property tax were the proportionally the lowest in 2011.
[63] Law on Restitution to the Churches and Religious Communities, *Official Journal of RS*, no. 46/06.

adoption of the Law on Property Restitution and Compensation[64] which regulates the terms and procedures for the restitution of and compensation for property which was confiscated after 9 March 1945[65] from natural persons and legal entities and transferred into national, state, social or as cooperative ownership.

Restitution in kind has priority over monetary compensation. If restitution in kind is not possible, the former owner of the confiscated property[66] is entitled to compensation in the form of government bonds or cash.[67] It is important to emphasize that the transfer of the property to the former owner is not subject to the transfer tax on absolute rights.
In 2016 the Law on Remedying the Consequences of Seizure of Assets of Holocaust Victims with no Living Legal Heir[68] was adopted. This Law regulates the terms and procedures for the restitution of property seized from Jewish organizations and members of Jewish community who were holocaust victims with no living legal heir, as well as the financial support of the Republic of Serbia for the Union of Jewish Municipalities, for the period of 25 years, from 1 January 2017.

2.2 Privatization

The privatization process in the Republic of Serbia may be divided into several phases. The first phase (1990-1991) was very liberal because the role of state was minimized. The second phase (1991-1994) was characterized by the slowdown of the privatization process because of the greater degree of control and prohibition of its implementation in sectors of strategic importance to the economy (energy sector, railways traffic, etc.). Because of inflation, in many cases, privatizations resulted in the sales of state-owned and socially-owned enterprises at very low prices, so that the third stage (1994-1997) was characterized by the review of earlier privatizations, in order to annul inflationary gains that employees obtained by buying company shares during the period of hyperinflation. In the fourth phase (1997-2001), for the first time, it was possible to distribute a major portion of the enterprise's equity (60%) free of charge. The fifth phase (2001-2014) was characterized by the enactment of the Law on Privatization, which provided two models of privatization: the sale of capital and the transfer of capital free of charge.[69] The sixth phase (2014 to present) is characterized by the enactment of the new Law on Privatization,[70] which provides for the sale of assets and strategic partnerships between

[64] Law on Property Restitution and Compensation, *Official Journal of RS*, no.72/11, 108/13, 142/14.
[65] And after that period provided that rights of the former owner are restored by the date of coming into force of the Law on Property Restitution and Compensation, i.e. will be restored on the basis of the individual's request for restitution.
[66] Specifically, the legal inheritor if the former owner is a natural person and the legal successor, if the former owner is a legal entity.
[67] See Articles 1, 4, 6 of the Law on Property Restitution and Compensation.
[68] Law on Remedying the Consequences of Seizure of Assets of Holocaust Victims with no Living Legal Heirs, *Official Journal of RS*, no. 13/16.
[69] See Mali, S. Privatization through the Sale of Equity - Conceptual Framework and Achieved Results in Serbia. Ekonomika preduzeća. 2013 (1-2), 150; Socijalno-ekonomski savet RS. Efekti privatizacije u Srbiji. Beograd, 2011. pp. 9-13.
[70] Law on Privatization, *Official Journal of RS*, no. 83/14.

legal entities and the subject of privatization, or the Republic of Serbia. The purpose is to allow the subject of privatization to continue with its business activity. Therefore, the Law on Privatization from 2014 provides for more flexible models of privatization that will help to "unlock" privatization of some 584 state-owned enterprises and presumably provide a more stable financial position for the enterprises.[71]

In this context, one issue deserves special attention, that is the privatization of construction land. From 2006 the Constitution of the Republic of Serbia has abolished the monopoly of state/socially ownership of construction land. The Law on Planning and Construction has, from 2009, prescribed that construction land can be held in all forms of ownership. At the same time the Law on Planning and Construction provided for the conversion from the right of use to the right of ownership on construction land both with and without compensation.[72] The largest number of users of construction land have acquired their rights of ownership free of charge.

2.3 Limitations of land/property ownership

A foreign natural person and legal entity conducting activities in the Republic of Serbia may, under terms of reciprocity, acquire ownership rights in real estate. A foreign natural person not conducting activities in the Republic of Serbia may, under terms of reciprocity, acquire an ownership right to a flat/apartment building, as may any citizen of the Republic of Serbia.[73] The acquisition of agricultural land is subject to different rules. Specifically, a foreign natural person and legal entity cannot acquire ownership rights to agricultural land.[74] However, this can be addressed by the establishment of a legal entity under the regulation of the Republic of Serbia, i.e. legal entity which is a resident of the Republic of Serbia.

However, the Stabilization and Association Agreement between the European Community (EC) and the Republic of Serbia prescribes that[75] subsidiaries of EC companies have the right to acquire and enjoy ownership rights in real estate on a similar basis to Serbian companies, and that the Republic of Serbia will progressively (within four years from the date of this Agreement) amend legislation concerning the acquisition of real estate in its territory by nationals of the Member States of the EU, in order to ensure that the their treatment is comparable to that of its own nationals.[76]

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[71] See Vujović: Zakon će otkočiti privatizaciju, http://www.politika.rs/rubrike/Politika/Vujovic-Zakon-ce-otkociti-privatizaciju.lt.html, 28.3.2015.
[72] See Articles 84, 100-108 of the Law on Planning and Construction.
[73] See Article 82 of the Law on the Basis of Ownership and Proprietary Relations, *Official Journal of SFRY*, no. 6/80, 36/90,*Official Journal of FRY*, no. 29/96.
[74] See Article 1, paragraph 3 of the Law on the Agricultural Land *Official Journal of RS*, no. 62/06, 65/08, 41/09.
[75] Stabilization and Association Agreement between the European Communities and the Republic of Serbia came into force on 1 September 2013.
[76] See Article 63, paragraph 2, and article 53, paragraph 5 of the Law on Ratification of Stabilization and Association Agreement between the European Communities and the Republic of Serbia, *Official Journal of RS*, no. 83/08.

2.4 Nature of the property market

For a long time the real estate market in the Republic of Serbia was characterized by the lack of transparency, an inadequate legal framework and increased sensitivity to various influences.[77] In recent years, however, there have been numerous attempts to increase transparency (for example, by the creation of sales registers), and improvements to the legal framework. Numerous laws have been passed in different areas (including spatial planning, taxation, survey, cadastre, transfer of real estate, and the issuance of building permits), in order to improve the efficiency of the real estate market.[78] One of the latest is the Law on Mediation in Real Estate and Leasing[79] which ensures the legal certainty of persons who use the mediation services in the purchase, sale, exchange or leasing of real property, by prescribing the rights, duties and responsibilities of the mediators. Although, the central authority has created an appropriate legal framework, the role of other entities in developing the real estate market cannot be ignored (such as real estate appraisers, banks through their business policy, and real estate agencies).

The 2007 - 2008 economic crises has had some influence on the real estate market. A slight decline in demand for real estate in 2013 led to a slight fall in the prices of real estate, while in 2014 the prices were more or less at the same level. The real estate market is most active in the large cities, especially Belgrade.[80] Since large areas of agricultural land, especially those publicly owned, are primarily held under lease agreements, (according to data from 2012, of 2,480 million hectares of agricultural land listed in the Register of Agricultural Holdings, some 773,603 hectares is leased, and of which 40% is publicly owned), it is clear that the market in leasing agricultural land is quite active.[81]

3 Property data

3.1 Registers

Inherent to the Republic of Serbia is the fact that property data are held by different government institutions. From 2014, only a public notary is authorized to conclude a contract on real estate sales. This duty requires the submission of the verified transcript of the contract to the court authorized for keeping the register of contracts on real estate transactions.[82] Since the basic purpose of this register is to prevent multiple sales of the same property by the same seller, it does not contain data on the contract price of real

[77] See Rašković, M. Tržište nepokretnosti u Republici Srbiji na putu ka transparentnosti. Geodetska služba. 2014 (117). p.12.
[78] See Vasović, O., Gospavić, Z., Ćirović, G. Institutional Framework for Development of Real Estate Market in the Republic of Serbia. Paper Presented at FIG Working Week. Rome, 2012. p. 9.
[79] Law on Mediation in Real Estate and Leasing, *Official Jornal of RS*, no. 95/13.
[80] U 2014. više agencijske provizije i niže cene nekretnina, http://www.halooglasi.com/nekretnine/vesti/u-2014-vise-agencijske-provizije-i-nize-cene-nekretnina.v-959.160.html?cat=11, 8. 2.2015.
[81] Ministarstvo poljoprivrede, šumarstva i vodoprivrede Strategija poljoprivrede i ruralnog razvoja Republike Srbije(2014-2024.). Beograd 2013. p. 18.
[82] Articles 4 and 4g of the Law on Real Estate Turnover, *Official Journal of RS*, no. 93/14, 121/14, 6/15.

estate. Data on the market values of real estate are kept by bodies authorized for the assessment of the inheritance and gift tax and the tax on the transfer of absolute rights (being branches of the State's Tax Administration). However, citizens, the banking sector and real estate agents cannot access this data base. In order to rectify this, another database, the Register of Real Estate Turnover has been established within the Republic Geodetic Institute.

The main purpose of the Register of Real Estate Turnover is to collect data[83] from the real estate market in order to systematically track prices of real estate and leases traded in the market. Its existence creates conditions for achieving the appropriate level of transparency within the real estate market. As a result of cooperation with the Ministry of Justice, public notaries submit to the Republic Geodetic Institute copies of verified contracts on real estate sales and leasing contracts on a frequent basis for inclusion in the Register of Real Estate Turnover. The process of submission started in March 2012,[84] and the Republic Geodetic Institute has begun issuing data from the Registry of Real Estate Turnover. The service is intended for banks, appraisers, court experts, real estate agencies, as well as individuals if they have legal interest in obtaining data on the market value of real estate. In order to get data, users have to fill out an electronic form and pay a fee. After payment, the data is sent by mail or e-mail.[85] In addition, data from the Registry of Real Estate Turnover are published on the website free of charge. Publication of data is not intended for professional purposes but for achieving market transparency through informing the public.[86] By the end of April 2014, it contained data on more than 41,000 transactions in the territory of the Republic of Serbia.[87] Based on the above, it is clear that there are no common and comprehensive databases on the real estate market, because those that exist are not integrated nor connected.[88]

The role of IT has contributed to the development of a computer assisted mass appraisal (CAMA) system for the purpose of real estate taxation. It is important when establishing a CAMA system in the Republic of Serbia that those tax bodies authorized to assess and collect inheritance and gift tax and the tax on the transfer of absolute rights keep electronic registers on the sales and declared market values of real property, while the Central Office of the Tax Administration is obliged to provide an electronic database of consolidated data for the territory of the Republic of Serbia.[89] This database is separate from the

[83] The Register of Real Estate Turnover is not connected to the database of Tax Administration.
[84] Nova usluga RGZ-a, http://katastar.rgz.gov.rs/masovna-procena/Files/Uvodne %20napomene %20o %20RPN %20i %20pracenju %20trzista %20nepokretnosti.pdf, 1.3.2015.
[85] See Articles 17-18 of the Rule on Real Estate Assessment *Official Journal of RS*, no.113/14.
[86] http://www.rgz.gov.rs/usluge/masovna-procena/registar-cena-nepokretnosti, 7.3.2015.
[87] Održane obuke za aplikaciju Registra prometa, http://www.rgz.gov.rs/template1a.asp?PageName=2014_04_24_01&LanguageID=2, 1.3. 2015.
[88] See Rašković, M. Tržište nepokretnosti u Republici Srbiji na putu ka transparentnosti. Geodetska služba. 2014 (117). p. 12.
[89] See Article 40 of Law on Property Taxes.

Register of Real Estate Turnover that is kept within the Republic Geodetic Institute,[90] and it contains not only data on the value of real estate, but also data on taxpayers, collected tax, etc. The existence of an electronic database of comprehensive data could significantly contribute to the development of a CAMA system for the entire country and "this could facilitate establishment of an unique model for all real property in Serbia, where location within a local community would be just one of the characteristics of each property that would be entered into the model."[91] Keeping similar registers within two authorities is the duplication of administrative efforts and costs, although the benefits of cross-checking data cannot be ignored. In order to fulfill the legal obligation for mass appraisal, a special organization was formed within the Republic Geodetic Institute.[92]

Based on the above it is clear that certain steps have been made in order to implement the CAMA system for real estate appraisal in the Republic of Serbia. The central authority has a crucial role in providing material and human resources, but it remains uncertain as to how much time will be needed to achieve its implementation.

3.2 Title registration

One of the functions of the Serbian Geodetic Institute is the establishment and maintenance of the Real Estate Cadastre, which contains data on: real estate, holders of rights in real estate and restrictions to rights on real estate (encumbrances such as mortgages, or an annotation that a building has been erected without a building permit).

One of the most important activities of the Real Estate Cadastre is title registration. The basic rule is that the ownership rights (ownership, mortgage right, right of use, easements) are acquired, transferred, restricted and deleted by entry into the Real Estate Cadastre, i.e. the entries in the Cadastre are prima facie evidence of legal entitlement.[93]

In 2012 the Serbian tax law contained a provision which required that paid tax on the transfer of absolute rights (transfer tax) is a precondition for title registration. The Constitutional Court determined that provisions of tax law cannot impose additional conditions on the acquisition of an ownership right, beyond those set by the law which regulates proprietary relations, so the provision was annulled.

[90] The Law on State Surveying and Cadastre also lays down that the Republic Geodetic Institute is in charge of estimating and maintaining the value of real property by using mass appraisal techniques as well as the keeping a register on the market price of real estate. See Articles 10 and 147 of the Law on State Surveying and Cadastre.
[91] See Begović, B., Bisić, M., Ilić-Popov, G., Popović, D. Reforma poreskog sistema. Beograd: Centar za liberalno-demokratske studije, 2003. p. 136.
[92] See Božić, B., Mihajlović, R. Unapređenje upravljanja zemljištem na nivou jedinica lokalne samouprave. Beograd: Građevinski fakultet Univerziteta u Beogradu, 2014. p. 34.
[93] See Articles 4, 60-66 of the Law on State Surveying and Cadastre of Immovable Property, *Official Journal of RS*, no. 72/09, 18/10, 65/13, 15/15.

Conclusion

The intention of tax policy in the Republic of Serbia is to use the fiscal potential of its local property tax system to raise revenue based on the value of real estate along the same lines as in other modern market economies.

Current problems are mostly related to low taxation revenues and the lack of data on property sales, especially for certain categories of real estate. The share of revenues from the property tax compared to total tax revenues is poor (circa 0.7%). Despite all of this, the measures taken against tax evasion and having a more realistic system of appraisal of real estate, along with significantly improved legal solutions, should lead to an increase in the fiscal importance of the property tax.

Amendments of the Law on Property Taxes (from 2013) have made major steps forward, both in the field of legislation and in the field of its application by units of local government. Other changes will see further harmonization of the tax base with the market value of real estate, by abolishing the reduction in the value of real estate for depreciation (because the age of a building already is reflected in the sale price), and also, the simplification of the structure of tax rates prescribed for taxpayers that do not keep accounts.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
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Federation of Bosni and Herzegovina

ANA DUJMOVIĆ

Abstract The current legal and administrative framework in the Federation B&H, based on ten very modest and outdated legislations, needs to be change in order to make the immovable property tax efficient and effective. Without questioning and jeopardizing the cantons' competences over immovable property taxation, certain integrated approaches are necessary. In the absence of a General Tax Law, some form of framework law that will define the basic elements and principles of immovable property taxation could bring needed stability and harmonization, leaving the individual cantons to decide on tax rates and objects. Another important element necessary to properly define and administrate immovable property taxes, is to have accurate, up-to-date and valid immovable property registers. With the help of foreign partners and the efforts of the international community, a lot has been achieved in B&H, over the last 15 years, in terms of the reform of the property law system, including land registry law. But because of a recent lack of political consensus about the future form of the immovable property register (a new single register or the old separate concept), it is not clear how that reform will end and how effective its results will be.

Keywords: • Bosnia and Herzegovina • property tax • immovable property tax • valuation • tax reform

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Introduction

Although the property tax is one of the oldest form of taxation, its application in modern tax systems is often neglected and minimized. Bosnia and Herzegovina (hereinafter B&H) is no exception. Moreover, as in many other issues, the property taxation only adds to the complexity of the B&H's legal and political organisation, as well as to the inconsistency of its legal system.

The taxation of certain forms of property as well as income from it, in the Federation of B&H (hereinafter FB&H)[1], is governed by canton[2] laws, and, given the nature of the taxable property (movable or immovable), 20 different regulations are currently being applied.[3] Accordingly, when it comes to immovable property as one of the main forms of property, the object of taxation is only immovable property let out by the taxpayer under leases (being buildings, apartments, business premises or garages (generally understood to be associated with residential accommodation)) and houses used for recreational purposes and holiday homes. Properties used as the residential accommodation of the taxpayer, as well as associated land, are not the object of any of the aforementioned regulations and therefore not taxable.

Furthermore, unlike the integrated legal solution that exits in the other entity of B&H, (the Republic of Srpska (hereinafter RS)), in FB&H the regulations that set at least the basic common elements of an immovable property taxation do not exist. Moreover, as a result of the financial autonomy that cantons have, they are completely free to determine tax rates and specific features of the immovable property taxation. Although such a division of competencies is in the line with the cantons' constitutional powers, in practice only slightly differences exist between the more than 10 separate regulations of the different cantons. Each has adopted several provisions and imposed a flat-rate immovable property tax on their citizens.

While current global trends advocate the re-introduction and re-taxation of property tax in the countries of the former Soviet Union and its satellite states, to deal with the problems of the sustainable financing of local government units, and also to emphasize the need to provide additional public sources of revenues, for political, social and technical reasons, in FB&H such a solution is still pending, despite a number of arguments pointing to the unimaginable potential of this revenue source,

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[1] Federation of Bosnia and Herzegovina is one of the two entities composing the State of Bosnia and Herzegovina and it has all powers, competences and responsibilities, which to do not, according to the Constitution of Bosnia and Herzegovina, fall within the exclusive competences of the institution of Bosnia and Herzegovina. See: Art. 1. Constitution of Federation of Bosnia and Herzegovina, Sl.gl. FB&H, 1/94, 13/97, 16/02,22/02, 52/02, 60/02, 18/03, 63/03. (hereinafter: Constitution of FB&H).

[2] The Federation of B&H consists of federal units (cantons). The method and procedures for physically demarking the boundaries between cantons is established by Federal legislation. See: Art. 2. Constitution of FB&H.

[3] In addition to the taxation of property, immovable property transactions and the taxation of inheritance and gifts are also regulated by cantons' laws in the Federation of B&H.

The aim of this Chapter is to show the position of the immovable property taxation within the complex tax system of Bosnia and Herzegovina and its entity of the Federation. By analyzing the structural components of this tax, in particular the tax object, the tax calculation methods and available reliefs, the shortcomings of the existing system are examined and certain suggestions for improvement offered.

The paper presents the legal framework of the immovable property tax in the Federation of Bosnia and Herzegovina. By analysing the more than 10 different laws that regulate this matter, it is clear that, unlike for some other tax forms, the FB&H does not have a unique property tax system; the taxation of immovable property is neither single nor integrated.

While the absence of a single system of immovable property taxation, at the level of the Federation reflects the facts that fiscal sovereignty is in the hands of cantons and that they are not obliged to harmonise their activities, the absence of a comprehensive and integrated property taxation can also be explained by several legal, political, social and administrative reasons. As a result of all this, the fiscal impact of the immovable property taxation is minimal, and reform, in line with current global trends and citizens' aspirations, is difficult to implement.

1 Property tax

1.1 General remarks

Property taxes represent a wide and heterogeneous group of taxes. The consequence is that the concept of "property" encompasses a broad range of potential objects, such as real estate (dwellings, cottages, buildings and land), or movable property (cash and securities etc.)[4] With regard to immovable property in taxation, it is possible to differentiate property taxes in both the narrow and wider senses. If the property itself is the taxable object, and where the value of real estate comprises the tax base, it is "property taxes" in the narrow sense.[5] This group includes real estate tax and a net wealth tax.

Property taxes, in the broader sense, include taxes on the sale price of property, most often real estate, but also include the tax on the income that property generates. In the first case, the forms include the inheritance and gift taxes and the taxes on the sale of real estate. With regard to the taxation of income generated from property, it is possible to distinguish several tax forms: a tax on income or rent from immovable property, or a tax on the income (capital gain) realized through the sale of immovable property.[6]

[4] OECD (2017), Tax on Property (indicator) doi: 10.1787/213673fa-en (Accessed on 14 September 2017).
[5] Jelčič, B., Lončarić-Horvat, O., Šimović, J., Arbutina, H., Mijatović, N., *Financijsko pravo i financijska znanost (Financial law and financial science)*, Narodne novine, Zagreb, 2008., p.427.-428. (hereinafter: Jelčić, B., et al., Financijsko ….).
[6] Kesner – Škreb, M., *Mnogo vike nizašto – tri pitanja o porezima na nekretnine (A lots of noise for nothing – three question about immovable property taxation)*, Newsletter – Institut za javne financije Zagreb, Br.66.,1/2012. (hereinafter: Kesner – Škreb, M., Mnogo vike ….).

Since the term "property", in the European Union (EU) countries, usually implies immovable property, the immovable property tax is the major representative of this group of taxes. The tax on immovable property often called simply "property" tax or real estate tax, and comprises levies on land and / or buildings and generally includes other physical capital machinery.[7] This is a so called "income neutral" tax, since a tax liability can arise even when taxpayer does not realize any kind of income or when a loss of income results. Since these are not linked directly to the ability to pay principle, but to the size and value of property, these taxes are often considered to be social unfair and hard to bear. On the other hand, some considered it a key component of a balanced and equitable tax system.[8] It provides relatively reliable sources of revenues for local budgets. The tax base is stable and, since they are not normally subject to economic cycles, the amount of revenues collected through this tax can be forecast more easily.[9]

Even though there is some form of immovable property tax in almost every EU member states,[10] there is a variation of issue that determine its position within the different tax regimes. The question of a proper and valid determination of the tax base is one of most important and demanding issues. The special nature of immovable property is also relevant since it indicates different policy approaches: for land and buildings, for residential and business property, and for owner-occupied and rented houses.[11] The range of issues that are related to property taxation, translate into the variety of tax regimes that exist. While some countries have a single integrated property tax, others choose to separate land from other real-estate, or completely separate the taxation of land, buildings (houses) and others capital assets. The chosen design of the tax regime is crucial in determining how efficient the property tax will be.

1.2 History of property taxation in Bosnia and Herzegovina

Ancient civilizations have taxed lands and property for thousands of years – long before income, business or consumption taxes were discovered.[12] B&H is no exception to that. Although the position of the property tax in the present tax system is modest and ambiguous, history shows that property taxes, where the object was some form of house or land, were an important sector of the former State tax system. Furthermore, the structure of many taxes relied on the "real value" of the land or other property in terms of

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[7] OECD (2016), *"Reforming the tax on immovable property"*, in *Fiscal Federalism 2016: Making Decentralisation Work*, OECD Publishing, Paris, p. 64. (hereinafter: OECD (2016), Reforming …).
[8] IAAO, Standards of Property Tax Policy, 2010., p.16.
[9] For more on other social and economic characteristics of immovable property tax see in: Slack, E., *The Politics of the Property Tax*, p.69 – 88., in: McCluskey, W., Cornia, G. C., Walter, L. C., *A Primer on Property Tax: Administration and Policy*, First Edition, Blackwell Publishing, 2013.
[10] Exceptions are Belgium and Malta. For more see: Andrlík, B., Formanová, L., *Importance of the recurrent tax on immovable property in the tax systems of EU countries*, ACTA UNIVERSITATIS AGRICULTURAE ET SILVICULTUR AE MENDELIANAE BRUNENSIS, Volume 62, Number 6, 2014., p.1213-1220.
[11] *Ibidem.*
[12] OECD (2016), Reforming …, p.63.

its production, which is similar to the forms of taxes that exist in well-regulated and coherent tax systems today.

Historically, property taxation in Bosnia and Herzegovina was based on a special tax system created by the combination of the influence of the Turkish and Austrian legal and tax traditions. Until the establishment of the Austro-Hungarian mandate over Bosnia and Herzegovina in 1878,[13] the Turkish tax system was applied.[14] By expanding the influence of the Austrian legal solutions on existing types of the B&H tax system,[15] a modified Turkish tax system was created in B&H. It was characterized by the temporary retention of the Ottoman system of direct taxes as well as the rapid transition to Austrian solutions when it comes to indirect taxes.

At the beginning of the 18th century, there were several forms of direct taxation in the territory of the B&H, which had various forms of real estate as their object. This primarily concerned the taxation of land and other types real estates, in particular houses, forests, and buildings. Moreover, in Bosnia and Herzegovina, unlike the neighboring countries (of Serbia and Montenegro), there was a land cadastre[16] as well as a public register in which all the data that were necessary to determine the level of this real estate tax liability were clearly presented.[17] Among the more significant forms of tax of this period are: the tenth (*desetina*) or later the tenth flat tax (*desetinski paušal*), the land value tax (*zemljarina*), and the forest land tax (*šumarina*).

The *tenth (desetina)* is the most significant and the oldest form of real estate taxation in B&H. It comprises elements of the former Ottoman "tenth" and a modern land tax. The subject of taxation was any land that could be used for agricultural purposes, regardless of whether it was in fact used. The tax was considered to be a mechanism by which State

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[13] For more on the Austrian-Hungarian mandate over B&H see: Juzbašić, Dž., *Politika i privreda u Bosni i Hercegovini pod Austrougarskom upravom (Politics and Economy in B&H under Austrian-Hungerian Goverment)*, Akademija nauka i umjetnosti BiH, Sarajevo, 2002. or Kraljačić,T., *Kalajev režim u Bosni i Hercegovni (1882 – 1903) (Kalay's regime in Bosnia and Herzegovina)*, Biblioteka „Kulturno naslijeđe“, Veselin Masleša Saraejvo, 1987.

[14] The B&H's system of direct taxation, applied until the unification of direct taxes in Kingdom of Serbs, Croats and Slovenes (1929), which differed significantly from the tax system used in the Austrian and Hungarian part of the Danubian monarchy. This system was much more akin to the reformed Turkish tax system than the Austrian-Hungarian system found in B&H in 1878, and that is why it is called a modified Turkish system. For more see: Mihalj, P., *Sistem oporezivanja u poljoprivredi Jugoslavije između dva svjetska rata* (*System of agricultural taxation in Yugoslavia between two wars*), Politička misao, br.4., Zagreb, 1973., p.450. (hereinafter Mihalj, P., Sistem ….).

[15] Jelčić, B., Bejaković, P., *Razvoj i perspektive oporezivanja u Hrvatskoj (Development and perspectives of taxation in Croatia),* Hrvatska akademija znanosti i umjetnosti, Svezak 39., Zagreb, 2012., p. 33. (hereinafter: Jelčić, B., Bejaković, P., Razvoj …).

[16] See: Šijan, D., Letica, D., *Izravni porezi i nameti, biljezi i pristojbe u Bosni i Hercegovini (Direct taxes, stamps and fees in Bosnia and Herzegovina),* Mitrovica, 1910., taken from: Jelčić, B., Bejaković, P., Razvoj … p. 33.

[17] Mihalj, P., Sistem …, p. 447-462. More on development of cadastre system in B&H see: Begić, M., *110 godina Katastra u Bosni i Herecegovini (110 years of cadastre system in B&H)*, Geodetski glasnik, No.32. Sarajevo, 1998., pp.10-21. (Hereinafter: Begić, M., 110 godina ….).

ownership over land was recognised. Until the Austria-Hungarian administration over B&H, the tax was neutral and amounted to 10% of all harvested products from taxed land. Following the reform in 1907, the tax was paid in a lump sum, calculated for ten years in advance, and determined on the basis of the cadastral gross income from the land that could be used for agriculture. It was irrelevant whether the land was actually exploited or not.[18]

In comparison to the tenth flat tax (*desetinski paušal*), the land value tax *(zemljarina*) had the value of land as it tax base. The taxpayer was the real possessor of the land and the tax base was based on the estimated value of the land that was registered in the cadastre[19] The tax rate was defined by the position of the land and certain investments and improvements made to the quality of the land. Permanent and temporary tax exemptions were also possible.[20]

On land that was covered with forests and could be used for industrial purposes, the forestry land tax *(šumarina)* was paid. The taxpayer, unlike for the land tax, was the real owner of the land (forest), and the tax base, as with the tenth flat tax, was calculated based on the cadastral income from every plot of forest land. The land covered by forests which were owned by the State, as well as forest land of the Franciscan villages, recorded in the land registry and which the Franciscans owned before the occupation of B&H, were exempt from the forestry land tax.

With the formation of the State of Slovenes Croats and Serbs (hereinafter State of SCS) in 1918, and then the Kingdom of Serbs, Croats and Slovenes (hereinafter Kingdom of SCS), at the beginning of the 20th century, Bosnia and Herzegovina entered into a new State union.[21] Until 1929, the fiscal system of the new Kingdom was heterogeneous,

[18] The value of the tax base depended on the land value as security for a loan, the manner of its use, and the costs of production which were not deductible from the tax amount. From: Bejaković, P., Jelčić, B., Razvoj…., p. 33.

[19] Cadastre income was calculated based on type of sowed crops, soil type and its fertility. Froma: Bejaković, P., Jelčić, B., Razvoj … , p.26.

[20] The land value tax was not paid if the land was of poor quality and had minimal agricultural value, despite investments and other actions, According to: Mihalj, P., Sistem …., p.449.

[21] On 19th of October 1918, Bosnia and Herzegovina become part of a new State union, the State of Slovenes, Croats and Serbs, formed from the former Austrian – Hungarian countries, and inhabited by the south Slavic nations. On 1st of December 1918, the State of SCS had united with the Kingdom of Serbia and Montenegro, and a new State called the Kingdom of SCS, led by the regent Alexander Karadjordjevic, was formed. By the announcement of the Law on the Name and Division of the Kingdom in Administrative Areas, on 3rd October, 1929, the State changes its official name to the Kingdom of Yugoslavia. For more see: Boban, Lj., *Kako i kada je nastala Država Slovena, Hrvata i Srba (When and how the State of Slovenians, Croats and Serbs is created*), Zavod za hrvatsku povijest Filozofskog fakulteta Sveučilišta u Zagrebu, Vol. 26., No.1., 10/1993., str. 187-198 or: Matković, H., *Povijest Jugoslavije 1918-1991-2003 (History of Yugoslavia 1918-1991-2003)*, Naklada P.I.P. Pavičić, Zagreb, 2003.

vast,[22] unconnected and unequal.[23] The existence and the functioning of many of the various fiscal systems led to the creation of problems of an economic, legal, sociological and political character.[24] Various fiscal burdens and the uncertainty in applying the regulations underlined the need for the unification of tax burdens across whole Kingdom. Unification has been carried out gradually since 1921, and it was completed in 1928, by the adoption of the Direct Taxes Act (hereinafter Act). This Act abolished the previous tax structure with regard to direct taxes and introduced some new tax forms, in addition to retaining the existing levies (tenth flat tax, etc.). With the establishment of a new community, the land tax, as a base tax, (calculated on the basis of the estimated value of the land which had existed earlier), had been increased several times. In addition, new tax forms also covered other types of real estate. This primarily concerned rented buildings and houses that were taxed based on the income realised, but also those based on the value of the real estate itself.

A house tax *(kućarina*) was tax paid on the ownership of houses, but also on the ownership of buildings with fenced gardens which do not exceed 1,000 m^2, as well as on the construction land in cities, or lands that were part of industrial enterprises, provided that they were taxed based on the value of the land. The tax base was the value of the building as well as the value of the land on which the building was located. Special registries for immovable properties were compiled and held at tax offices, and the value of buildings and land was assessed by estimation.

The taxpayer was the owner of the building, the house or yard associated with it. Unlike some of the aforementioned tax forms, the house tax represents a "real form" of property tax in which the tax liability is estimated on the basis of the value of the property itself rather than "on the wider economic power of its owner".[25]

In cases where a certain house or building was leased, a special form of tax called tax on renting income (*porez na kiriju zgrada*) was paid. The owner or natural person, who had some financial interests from renting, was the taxpayer. The income realised under the rental agreement was the tax base. This form of tax is one of the rare forms that remained in the tax system of (then) future socialist state that B&H entered into in 1945.

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[22] It was often uncleared which regulations should be apply in certain matters, which led to many legal and financial disputes.

[23] Until 1929, on the territory of the former (old) Yugoslavia, five different tax systems were applied. More see: Konjhodžić, H. Šantić, Ž., *Fiskalna financije (Fiscal Finance)*, Split, 2003., p. 178. or in: Bejaković, P., Jelčić, B., Razvoj …, p.26.

[24] The current state of the tax system is contrary to what is considerd to be national and State unity. It is not made according to the social and ethical concepts of our time and because of that, it is impossible to have a fair fiscal burden allocation and the rational collection of fiscal revenues. From: Letica, D., Uoči naše poreske reforme (Ahead of our tax reform), Zagreb, 1922., p.3.

[25] Bukovac Puvača, M., Žunić Kovačević N., *Tretman nekretnina prema odredbama novog Zakona o lokalnim porezima (Treatmant of real estate according to new Law on Local Taxes)* 15 Zbornik radova „Aktualnosti građanskog i trgovačkog zakonodavstva i pravne prakse“ Neum, 2017., str. 344. (hereinafter: Bukovac, M., Žunić-Kovačević, N., Tretman …

The turbulent and dynamic socio-economic development of Yugoslavia[26] in the first 20 years of it existence (1945 - 1970), reflected, no doubt, the frequent and inconsistent changes in its fiscal system. Changes in the character of the government as well as its socio-economic relations in a range of production, demanded the establishment of a new tax system. Its full establishment, at the level of the Federation of Yugoslavia as well as at the level of republics, was accomplished at the beginning of 1960s after a series of constitutional, socio-political and economic changes.[27] The General Law on Contributions and Citizens' Taxes (The General Law) enacted in 1964 extended the tax rights of the smaller social-political communities. In addition to the six types of contributions paid by citizens, the General Law introduced five types of taxes, including three forms of property taxes: an inheritance and gift tax; a building income tax; and a property income and property rights tax. Although the types and sources of income were still determined by the federal government,[28] republics including Bosnia and Herzegovina, could define certain aspects of tax policy. Their powers were further strengthened by the adoption of the new 1974 SFRY Constitution,[29] Art.264. of which stipulated that, apart from the Federal taxes, tax regulations of all kinds may also be enacted by the republics and the autonomous provinces. It was the obligation of the Federation, to take all necessary steps to harmonise those regulations.

Based on the new constitutional powers, B&H adopted a number of new regulations, including The Citizens' Taxation Law that defined all forms of direct taxes, including property taxes. [30] In such a system, the only representative of a real estate tax, which had the value of property as its tax base, (and not the revenue generated through sale), was the tax on buildings. The subject of this tax were the various real estate types: residential and commercial buildings, as well as their special parts.[31] The tax also covered houses used for recreation and holidays, which were taxed no matter where they were located, unlike residential and business premises.[32] The Law itself defined the "building" as any citizen-owned building that is being used for housing or occasionally for rest and recreation. The taxpayer was either the owner of the property or its immediate beneficial owner. The building tax was calculated based on the unit's useable area, depending on the value of the building and the application of progressive tax rates. Local government bodies kept records of all real estate considered to be "buildings". The tax liability was incurred on the first day of the month following the issuance of a usage permit for a

[26] The new State was given a new federal structure, with the prominent role of the State and the Communist Party in all spheres of social life, and particularly in the two process of nationalisations (in 1946 and 1948), agrarian reform and confiscation.
[27] For more on changes in fiscal system of Yugoslavia see: Jurković, P., *Fiskalna politika u ekonomskoj teoriji i praksi (Fiscal policy in economic theory and practice*), Informator, Zagreb. 1993 or in: Konjhodžić, H. (ed), *Fiskalna znanost (Fiscal Science),* Pravni fakultet Sveučilišta Mostar, 2009, Mostar.
[28] Art. 125, Constitution of Socialist Federal Republic of Yugoslavia, 7.4. 1963. (Constitution of SFRY 1963).
[29] Art. 264. and Art. 265. Constitution SFRY, 21.2.1974.
[30] Like other SRFY's republics, B&H adopted *Zakon o porezima građana (The Citizens' Taxation Law),* Sl.list SRBiH 37/72, 10/73, 40/73, 3/74, 30/74, 22/75, 35/77, 7/79. (The Citizens' Taxation Law).
[31] Art. 146 – 158 The Citizens' Taxation Law.
[32] Residential buildings were taxed only if they were situated within urban settlements or near touristic resorts, such as beaches and spas.

particular property.[33] Because of the number of problems that emerged in the administration of this tax and its collection, changes were made at the beginning of the 1980s. As a result, only certain types of real estates, like holiday homes used for rest and recreation, remained as real estate tax objects. This kind of tax system, which included the property tax system, remained in force until the independence of B&H in 1992.

1.3 Property taxation in Federation B&H's tax system

A comprehensive review of the historical development of the B&H's tax system until its independence in 1992 was necessary in order to understand the tax situations that prevail in it today. As a young State,[34] in the first years of its existence, Bosnia and Herzegovina, took over all those tax forms that were not related to the earlier socio-political and economic arrangements. While in the next 20 years a number of tax systems have been revised and reformed, in line with modern fiscal and political requirements, some, such as the real estate taxes have remained relatively unchanged.

B&H is today, in the political and fiscal sense, a multilevel State.[35] The characteristics of its political system are reflected in the fact that it consists of two entities, together with the Brcko District as an administrative unit with special status. While the Federation of Bosnia and Herzegovina is a highly decentralised entity with three levels of government, the Republic of Srpska is centralised entity.[36] Apart from at the city and municipal level, and unlike the RS, the Federation of B&H has a middle level of self-government, being the canton which is the holder of a wide range of powers, including in relation to certain aspects of tax policy and its implementation.[37] According to the original provisions of the Dayton Peace Agreement and of the Constitution of B&H, (which is an integral part of it), only the customs policy and the determination of international trade tariffs, were the exclusive competence of the central State. The tax policy, and in particular, the related law-making, administration and the distribution of revenues, is the competence of entities and cantons (within the Federation of B&H).[38]

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[33] When transferring the ownership of the building, the body responsible for the transfer was obliged to inform the revenue authority in whose jurisdiction the building was located.

[34] B&H declared its independence on 1 March 1992, and became a member of the United Nations (UN) on 22 May 1992.

[35] The political structure of B&H is based on the Framework Agreement for Peace (the so-called Dayton Peace Agreement) and its Annex IV, which stands as the Constitution of Bosnia and Herzegovina. See more on the B&H Dayton Constitution in: Bakšić-Muftić, J., *Razumijevanje Dejtonskog ustava 10 godina kasnije (Understanding the Dayton Constitution 10 Years Later)*, Collection of Proceedings of the Faculty of Law, University of Split, God.42, 2005, pp. 67-92.

[36] The Federation of B&H is divided into 10 cantons and 80 local government units, while RS is divided into only 64 cities and municipalities.

[37] For more on current local self-government development in FB&H see: Mujkić, M I., *Lokalna samouprava u Federaciji BiH (Local Self-government in Federation of B&H)*, Hrvatska javna uprava, God.10 (2010), br.4., str.1045.-1058. ilil Hušić, J., *Lokalna samouprava u BiH (Local self-government in B&H)*, Pravni vjesnik, God.33., br.1., 2017., str. 105-121.

[38] The Constitution of the Federation of Bosnia and Herzegovina in separate articles states which policies are in the exclusive jurisdiction of the entities or cantons as well as those over which there are shared competencies. See: Chapter III, art. 1-4. FB&H Constitution.

Even though all tax powers were primarily (according to the B&H Constitution)[39] in the hands of entities and cantons, in 2006 the reorganisation of tax powers took place, as a result of which the indirect tax policies of entities (Federation of B&H and Republic of Srpska) have been harmonised and transferred to the central State level of government (i.e. the B&H level).[40] Direct taxes (taxes on income, profits and partly on property) as well as social contributions remained in the exclusive competence of the entities and cantons.

The FB&H's cantons have a certain fiscal autonomy and accordingly determine their annual budget and collect revenues levied on different bases.[41] When it comes to property taxes, the jurisdiction of cantons includes property taxes in the narrow sense: i.e. the real estate tax, and the inheritance and gifts tax. The taxation of real estate transactions is also regulated, by separate regulation, at the canton level.

1.4 Structural components

Property taxation, in FB&H, is regulated by cantonal laws. Since the Federation comprises 10 cantons,[42] 10 different tax regimes are applied.[43] Beside the taxation of different kinds of immovable property, the legislations also cover inheritance and gifts taxation. Most of the Acts were enacted during 2009 or 2010. The reason for that can be found in the introduction of a comprehensive and integrated personal income tax into Federation B&H's tax system in 2009. Until then, the cantons had jurisdiction over the taxation of different types of incomes and, along with property, and the taxation of income

[39] "*Bosnia and Herzegovina shall assume responsibility for such other matters as are agreed by the Entities; are provided for in Annexes 5 through 8 to the General Framework Agreement; or are necessary to preserve the sovereignty, territorial integrity, political independence, and international personality of Bosnia and Herzegovina, in accordance with the division of responsibilities between the institutions of Bosnia and Herzegovina. Additional institutions may be established as necessary to carry out such responsibilities.*" (Art.3. p.5.e B&H Constitution).

[40] For more, see: Antić., D., *Deset godina reforme indirektnog oporezivanja u BiH (Ten Years of Indirect Tax Reform in B&H), Bulletin of the Macroeconomic Analysis Department of the Indirect Taxation Authority of* BiH, no. 102, 10, 1/2014, pp. 2-10.

[41] Arts.9-11 *Zakon o pripadnosti javnih prihoda u FBiH (Law of Public Revenues Allocation in FB&H),* Sl. nov. FBIH, 2/06, 43/08, 22/09, 94/15.

[42] Federation of B&H consists of 10 cantons: (1) Una Sana C., (2) Posavina C., (3) Tuzla C., (4) Zenica C., (5) Bosnian Podrinje Canton Gorazde, (6) Central Bosnia C., (7) Herzegovina-Neretva C., (8) West Herzegovina C., (9) Sarajevo C., (10), Canton 10.

[43] Law on Property Tax of Sarajevo Canton (Official Gazette of Sarajevo Canton No. 07/09); Law on Taxes in the Herzegovina-Neretva Canton (Official Gazette of the Herzegovina-Neretva Canton - Canton No. 02/09); Law on Taxes Herzeg Bosnian Canton (Official Gazette of Herzeg Bosnian Canton No. 10/09) Law on Property Tax, Inheritance and Gift of the Posavina Canton (Official Gazette of the Posavina Canton No. 9/08, 04/09); Law on Property Tax, Inheritance and Gift Bosnia - Podrinje (Official Gazette of Bosnia - Podrinje No.9/09); Law on Property Tax, Inheritance and Gift Tuzla Canton (Official Gazette of Tuzla Canton No. 14/09, 3/10); Law on Property Tax, Inheritance and Gift Zenica-Doboj Canton (Official Gazette of the Zenica-Doboj Canton No. 09/09); Law on Property Tax, Inheritance and Gift Unsko-Sansko Canton (Official Gazette of Unsko-Sanski Canton No. 4/09), Law on Property Tax, Inheritance and Gift West Herezgovina Canton (Official Gazette of West Herzegovina Canton, No. 12/09, 15/09.

was regulated by Cantonal Tax Act. With the new Federal Income Tax Act (FITA),[44] only the taxation of property (immovable and some movable items like cars, boats, gambling machines), and the taxation of inheritance and gifts were left within the cantonal jurisdictions.

Even though there are 10 cantonal laws (acts), they all define the subject of taxation, the tax rate and the means of payment in very similar ways, with not more than five to ten provisions. None of the regulations give a definition of immovable property or any of its forms.[45] However, properties[46] that are subject to immovable property taxes are:

(1) Leased business properties;
(2) Leased apartments, houses and buildings;
(3) Holiday or recreational apartments or houses; and
(4) Garages and parking places not used in conjunction with residential accommodation.[47]

Owner-occupied residential accommodation, as well as undeveloped land is not subject to taxation in any canton. This clearly demonstrations the social aspect of this real estate tax, according to which, taxation only falls on additional housing units, and those used for business purposes, with the exception of dwellings used for cottage industries. What is more interesting, is that the income generated by leasing or renting these properties, is taxed additionally, in accordance with the federal FITA requirements.[48]

Immovable property taxpayers as well as those who are exempt, are uniformly defined in all cantons. The taxpayers are the physical and legal entities that own the property, and, where the property is rented out, it is the person in receipt of the rental income who is defined as the owner and therefore the taxpayer. Since it is a tax on the ownership of property, not on the property itself, such determination of the taxpayer's is correct. If the real estate is in co-ownership, each of the co-owners pays tax proportional to their share of the property. None of the cantonal laws makes a distinction between the actual owner and any real estate owner, which means that where it is impossible to determine the owner or the nature of the ownership, the real estate remains untaxed.[49] Exceptionally, in Zenica-

[44] *Zakon o porezu na dohodak (Income Tax Act*), Sl.gl. FBIH, 10/08, 9/10, 44/11, 7/13 i 65/13 (FITA).
[45] Besides the definition given in the Law on Property Rights in FB&H, "real estate" is also defined in FITA where it states that "real estate" are lands, houses and apartments. See in: Art. 20. p. 9. FITA.
[46] In addition to real estate, the same Articles also include "movables" that are subject to the same tax, namely: passenger vehicles, aircraft, boats as well as slot machines and casino tables. These movables are listed as "taxable" in all cantonal property tax laws.
[47] Out of the 10 cantons, only in the Herzegovina-Neretva and Central Bosnia Canton is a non-rentable garage not taxable; in addition to these, two parking places are not taxed in West Herzegovina Canton.
[48] Although the FITA uses the "renting", and not lease formulation, it has the same legal affairs. Art. 20 p 1.and p.7 FITA.
[49] The Republika Srpska's Immovable Property Tax Act states that if the owner of a property cannot be identified or found, the taxpayer will be considered to be the person who uses real property on any ground (Art. 5, Par. 3 of the RS Immovable Property Tax Act). A more detailed solution is also contained in the Law on Local Taxes of the Republic of Croatia, where a distinction is made between the independent owner (usually the owner) and

Doboj Canton, apart from the real estate owners, users are defined as taxpayers. Since term "user" is not defined and the Law on Property Taxation in this canton, it is the only one that does not list gambling machines and tables[50] as taxable objects, and the term "user" usually refers to the taxpayer of such items: it is probably a drafting mistake.

The experience of countries applying an immovable property tax shows that exemptions and tax reliefs are common elements of this tax, and usually can be justified in order to achieve the goals of social or some other policies.[51] Tax relief is usually universal.

Similar to the exemptions and reliefs applied in other tax jurisdictions, entities, cantons and their organs, local self-government units, foreign diplomats with the condition of reciprocity, are generally tax exempt. When it comes to other tax subjects, religious communities also have some special status. Churches and religious communities are institutions or organisations of believers established in accordance to the their own regulations, teachings, beliefs, traditions and practices, which are recognised as legal entities and are registered in the Registry of Churches and Religious Communities in Bosnia and Herzegovina.[52] Enrollment into the Register of Churches and Religious Communities is done in accordance with the Law on the Freedom of Religion and Legal Status of Churches and Religious Communities in Bosnia and Herzegovina and the Ordinance on the Establishment and Management of a Single Register for the Admission of Churches and Religious Communities, their Alliances and Organizational Forms in Bosnia and Herzegovina.[53]

Apart from the four largest religious communities in the country (Catholic, Islamic, Orthodox (Christianity) and Jewish), there are more than 30 different religious groups of varying size in B&H.[54] In accordance with the laws on property taxation, in each canton, religious communities are exempt from paying real estate taxes. While most cantons explicitly state that relief relates only to those premises used for religious purposes, in some cantons (Sarajevo and Srednjobosanski) such a specific use has not been stated in the legislation, with the result that the entire immovable property of the religious community is tax exempt.

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the fiduciary possessor. More in: Bukovac Puvača, M., Žunić Kovačević, N., Property Treatment ..., p. 353-354.

[50] Art. 4. Law on Property Tax, Inheritance and Gift Zenica-Doboj Canton (hereinafter: ZE-DO PTL).

[51] In the case of property tax, exemptions and reliefs should be reduced to a minimum because otherwise the positive features and effects of this tax is lost (Bukovac Puvača, M., Žunić Kovačević, N., Real Estate Treatment ..., p. 355).

[52] Art.2.p.3. *Zakon o slobodi vjere i pravnom položaju crkava i vjerskih zajednica u BiH (The Law on Freedom of Religion and the Legal Position of Churches and Religious' Communities in B&H)*, Sl. glasnik BiH 5/04 (ZSVPPCVZ).

[53] *Pravilnikom o uspostavi i vođenju jedinstvenog registra za upis crkava i vjerskih zajednica, njihovih saveza i organizacionih oblika u Bosni i Hercegovini (Ordinance on the Establishment and Management of a Single Register for the Admission of Churches, Religious Communities, their Alliances and Organisational Forms in Bosnia and Herzegovina)*, Sl. Gl. BiH 46/04. (Ordinance on the Establishment …).

[54] Until 2004, when the ZSVPPCVZ has been adopted, churches and religious communities had the status of an association and not the status of a taxpayer.

The very essence of "religious purpose" has remained obscure. The ZSVPPCVZ also fails to provide answers as to what is a "religious purpose". The term "property" is mentioned in the aforementioned law only in the context of performing religious ceremonies, which none of the above mentioned laws define.[55] It is therefore uncertain as to whether the notion of "religious purpose" covers only religious ceremonies or whether it can encompass all other activities of religious communities, such as administration, health, humanitarian and other purposes.[56] Since the religious communities led by the four largest churches in B&H for almost 25 years, have asked for the adoption of the law on the restitution and repartition of their property nationalised during World War II, it can be expected that the issue of the taxing the immovable property of religious communities should be more clearly defined in the future.

In addition to religious communities, in certain cantons, business premises of not-for-profit foundations, humanitarian organisations established for social security,[57] education, health, cultural purposes, or citizens' association, used for performing registered activities, are also tax exempt. An interesting example of tax relief can be found in Tuzla canton, where the international organisation of the Red Cross is tax exempt on all of the immovable property that it owns in Tuzla and the surrounding areas.[58] Along with the Herzeg Bosnian Canton, Tuzla Canton has another peculiarity when it comes to tax relief. Owners of holiday houses used for their own secondary residential purposes or for the placement of refugees and displaced person, as well as the owners of houses that has been damaged by more than 70% during the war in B&H at the beginning of the 1990s, are tax exempt. A detailed survey of tax reliefs in all of the cantons shows that they are mostly harmonised. Certain exemptions that exist in some cantons can be explained by special local circumstances but they also can be the result of a technical omission or an insufficiently detailed approach in the defining of some issues.

The property tax rate is determined at a flat rate per square metre, based on the decision of an authorised municipal office, and for every municipality separately. While some cantons prescribed minimum amounts (Sarajevo Canton), in others the law clearly specifies the single tax rate per square metre. The amount of the tax liability is determined not only by the size (area) of the property and by the prescribed lump sum, but also by the purpose of immovable property itself.[59]

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[55] To carry out religious ceremonies in their own or rent buildings or premises that, according to special regulations, meet the conditions for gathering groups of people, in open spaces associated with religious buildings, cemeteries, and homes and other property of their believers. See: Art. 7 p. 2 ZSVPPCVZ.

[56] Establish, maintain, and manage religious institutions, including institutions established to meet humanitarian and educational goals in accordance with the law (Article 7. p. 4 ZSVPPCVZ).

[57] Art. 6.p.a. Law on Property Tax, Inheritance and Gift West Herzegovina Canton.

[58] Art. 6. p.6. Law on Property Tax, Inheritance and Gift, Tuzla Canton.

[59] Taxation of immovable property, based on its purpose, existed in the former Yugoslavian tax system during the 1980s. However, in practice, this resulted in a number of problems concerning the validity of the tax liability such as: in differentiating between immovable property used for housing and that used for business purposes. Such a system required a series of controls to determine the actual state of affairs. See more in: *Šimović, J., Porezni sustav i politika općina u Jugoslaviji (Tax System and Tax Policy of Municipalities in Yugoslavia)*, Institute of Public Finance Zagreb, 1989.

In only two cantons (Sarajevo and Zenica-Doboj), are all four forms of immovable property taxed, with the tax rate in Sarajevo Canton being slightly higher than the other cantons. On the other hands, in Herzegovina-Neretva Canton, only holiday homes and recreational houses are taxed, while they are completely omitted in Posavina canton. Although the levels of the flat rate are relatively homogeneous, a cross-section also shows how the fiscal autonomy that cantons have has influenced all aspects of defining immovable property taxes.

Table 13.1: Immovable Property Tax Rate Overview in FB&H

Canton	Holiday and recreational houses, apartment, buildings	Leased buildings and flats	Leased Garages	Leased Parking places	Leased business properties
(1) Una Sana	≤ 2 KM /1 m^2	≤ 2 KM /1 m^2	≤ 1 KM /m^2	/	≤ 2 KM / m^2
(2) Posavina	/	≤ 1 KM /m^2	≤ 1 KM /m^2		≤ 1 KM /m^2
(3) Tuzla	≤ 1 KM /m^2	≤ 2,5 KM/m^2 ≤ 1 KM/m^2	≤ 2,5 KM/m^2 ≤ 1 KM/m^2	/	≤ 2,5 KM/m^2 ≤ 1 KM/m^{2***}
(4) Zenica – Doboj	≤ 1 KM /m^2	≤ 0,75 KM/m^2	≤ 1 KM /m^2	≤ 1 KM /m^2	≤ 0,75 KM/m^2
(5) Bosnian Podrinje Gorazde	≤ 2 KM /1 m^2	≤ 3KM/ 1m^2	≤ 2 KM /1 m^2	/	≤ 3KM/ 1m^{2*}
(6) Central Bosnia	≤ 1 KM /m^2	≤ 0,5 KM/m^2	/	/	≤ 0,5 KM/m^2
(7) Herzegovina -Neretva	≤ 1.5 KM/m^2				
(8) West Herzegovina	≤ 2 KM /1 m^2	≤ 3KM/ 1m^{2*}	≤ 2 KM / m^2	/	≤ 3KM/ m^{2*}
(9) Sarajevo	≤ 3KM/ m^{2**} ≤ 5 KM /m^2	≤ 4KM/1m^2	3KM/ m^2	≤ 3KM/ m2	≤ 4KM/m2
(10) Canton 10	≤ 2 KM /1 m^2	≤ 2,5 KM /1 m^2	2,5 KM /1 m^2		≤ 1 KM /m^{2****}

* Business properties that are not used/leased.
** Tax rate for properties smaller than 150 m^2.
*** Lower tax rate is applied if business property, apartment or garage is situated within a family house or if it used for production.
**** Only if business properties are used for production.
Source: Author's own based on data compiled from all cantonal laws on immovable property taxation in Federation B&H.

1.4.1 Administration

The administration of the immovable property tax is defined by cantonal laws on property taxation, as well by the Federal Tax Authority Law (hereinafter FTA Law).[60] While cantonal laws deal with the structural components of the tax, the administration is completely managed by the cantonal office of the Federal Tax Authority.[61]

The immovable property tax is assessed in advance, as a yearly amount for the properties identified in the ownership of the tax-payer, according to the situation as on 1 January of the calendar year of which it is assessed.[62] The calculation of the tax is done by the taxpayer, who is obliged to file an annual tax return and record all relevant data: including the location of the property as well as the taxpayer's current address and identification number, used measurement unit (m^2) and their exact number, the tax rate and the tax liability.[63] The deadline for filing the tax return is 31 January of the taxable period, (except in Tuzla Canton where it is set at end of February). The amount of the tax liability is calculated by multiplying the amount of money prescribed for a particular unit of a taxable object with the numbers of measurement units (e.g. square meters). The tax has to be paid within 30 days of the filing of the tax return or 30 days from the issuance of a tax order.

If a taxpayer fails to file a tax return within the statutory deadline, the regional branch of FTA is obliged to send a notice to the taxpayer that the FTA will submit a tax return on the taxpayer's behalf.[64] [65] Within the set deadline, the taxpayer can file a complaint against the submitted notification and submit new or different information. The FTA can fully or partially accept the new information and file a revised tax return in accordance with it.

If the tax authority finds that the data submitted by the taxpayer are not correct or do not correspond to the actual conditions, it will determine the tax liability in accordance with its findings. In that process, in addition to the information provided by the taxpayer, the FTA can request data from other institutions. The competent municipality authority, that keeps records of the immovable property situated in its jurisdiction and issues building construction and adaptation permits, is obliged to submit all relevant data about new immovable properties in the area to the cantonal branch of the FTA. This information is then compared with information obtained from the tax payer but also with information

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[60] *Zakon o poreznoj upravi FB&H (Law on Tax Authority FB&H*), Sl. gl. FB&H, No. 33/02, 28/04, 57/09, 40/10, 27/12, 7/13, 71/14, 91/15 (FTA Law).
[61] The FTA is organised on two levels: the level of the Central Office situated in Sarajevo, and the level of the cantonal offices in every canton (Art. 4. FTA Law).
[62] In cases where taxable property is acquired in the middle of the year, the assessment is made proportional to time of acquisition. If during the year, the owner of immovable property changes, the new owner is not obliged to pay tax for that year.
[63] The penalty for failing to file a tax return in time is set at 10% of tax outstanding (Art. 84. FTA Law).
[64] Art. 16. Ordinance on Filing.
[65] Art.21. FTA Law and art.12. – 17. *Pravilnik o postpupku podnošenja poreznih prijava (Ordinance on filing tax returns),* Sl.gl. FB&H, No. 66/02, 54/03, 74/04, 38/09, 7/11, 53/12 (Ordinance on filing ...).

from the cadastre and land registries. It is important to mention that this process of assessment undertaken by the FTA, has effect only with regard to newly-built immovable properties. If a tax payer fails to submit relevant data about immovable properties in their possession, especially if properties are not registered in the cadastre and the land registry, (which is very likely when it comes to older properties) the tax liability will be very hard to establish.

The tax on immovable property has a very low revenue significance because of the impossibility of collecting all relevant data on the properties concerns. It is heavily reliant on tax payers, but it is also negatively affected by the failure to update relevant and non-related immovable property registries. For example, land registries do not have information about the usage of a house, whether it is for holiday and recreational or for residential purposes. If a taxpayer decides to register a property as house or apartment, no-one will check whether this is the only residence of the taxpayer, or whether it is a property put to a different purpose. The same applies when it comes to data from the municipal office. For the issuing of building construction or adaption permits, the purpose of the immovable property is completely irrelevant, especially when it comes to houses for holidays and recreation. The situation is slightly better with regard to immovable properties that are leased, such as business properties, parking places and garages. By signing the lease, the contract that must be verified at tax office, as a result of which the tax authority is given a chance to inspect the premises.

Another major problem is the fact that the cadastral and land registries are outdated. Even though B&H has a long history of using land registries as a basic instrument to keep records on immovable properties, the current situation with regard to non-relevant data and ongoing reform is that of trying to integrate data from both registries in some kind of new registry, which does not help in the proper implementation of immovable property taxation and its full execution.

If the cantonal branch of Federal tax authority finds that tax is not paid within the deadline, it issues a payment order. Such an order is also issued in cases when the tax return is not complete or the tax payer has not file a tax return at all.[66] The tax liability from the order should be paid within ten days. This deadline may be shortened if the tax office manager finds that there is a potential risk of non-payment.[67] If the taxpayer considers that the tax liability specified in the payment order is not correct, the taxpayer can contact relevant tax office and give an explanation with accompanying evidence about the error. The tax authority can after consideration of the evidence, cancell the tax liability or once again demand payment of the tax.

Enforced collection procedures can only be applied to the tax liability for which a payment order has been issued. The procedure for all kinds of taxes, including immovable

[66] Art. 41. FTA Law.
[67] Art.42. FTA Law.

property taxes, is defined by the Federal Tax Authority Law[68] and the bylaws attached thereto[69] and can be applied within a day after the tax liability from the payment order is due. If the taxpayer fails to pay the tax within the deadline specified in the payment order, the Law grants to the tax authority a lien on all the property and property rights of the taxpayer.[70]

Even though the form of assurance and accompanying methods are widely prescribed in the FTA Law, they are rarely applied when immovable property taxes are concerns. Inadequate tax supervision as well as relatively the modest revenues that are collected through this form of taxes, leaves immovable property taxation on the margins of FB&H tax system.

2 Land Registries and Cadastres in Federation B&H

2.1 Introduction

Throughout history, Bosnia and Herzegovina's territory has been part of different states and empires and was the scene of many different kinds of conflicts (international and non-international, armed and unarmed, national and non-national, economic and non-economic, legal and illegal etc.).

The turbulent history of the State was one of the causes of today's specific and complex political-legal framework and structure. During all that time, the country's legal system has passed through several stages of transition, transformation and eventually adaptation. These processes were reflected in almost all spheres of legal life. The issue of property ownership and its registration as well as its taxation were no exception to this. Moreover, the current situation where real estates have been reduced to insignificant tax object, both in fiscal and legal terms, is a direct consequence of the disorder of the country's real-estate registries.

For every country, real estate and property rights' records have a huge social, economic and political significance. The problem of the unsatisfying condition of real estate records in this area is long-standing and an adequate solution of the problem is required. After more than a decade of the intense reform processes that began in 2002 by the adoption of new land registry laws with the aim of revitalising the land registry, as guardians of lawful functioning of the real estate market, its role once again has been questioned.

[68] Art. 43.- 64. FTA Law.
[69] *Pravilnik o procedurama prisilne naplate poreznih obveza (Ordinance on Procedures of Compulsory Collection of Taxes),* Sl.l. FB&H, 50/02, 54/03, 31/11, 38/16 i 69/17.
[70] Art.50. FTA Law.

2.2 Historical Review of Land Registries' Role

Land registries play an important role in the legal transactions in real estate. They are public records where all relevant data and property ownership information, that enable real estate transactions, can be found.[71] However, data about real estate that are listed in land registries far too often fail to correspond with the real situation in practice. That creates difficulties and brings uncertainties into real estate transactions. As consequence of not being able to rely on the completeness and accuracy of data from the land registry, the volume of real estate transactions is declining.[72]

There is a long tradition of maintaining land registries in Bosnia and Herzegovina. They were introduced based on Civil Law from 1884, enacted after the cadastral survey of the land had been undertaken by the Austro-Hungarian Government[73] between 1871 and 1885.[74] The land survey resulted with in the cadastral registry, the first land plot registry in Bosnia and Herzegovina, which included an overview of all land plots and facilities on land, with a description of the land type, a list of plots and facilities holders.[75] Except in the economic sense or in the review of the state of land that under the Austro-Hungarian administration, the importance of the establishment of a cadastre, was also reflected in its legal and financial purpose.[76] While the legal aspects were mainly achieved through the establishment of land registries, as a public record documenting property rights over land, the land revenue (income) tax was realised based on the so-called cadastral income.[77] Moreover, the arrangement of cadastre and data contained in this register represented the only solid base for calculating the land tax, as one of the most important property taxes of that time.

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[71] Art. 2. *Zakona o zemljišnim knjigama Federacije BIH (Law on Land Registries FB&H)*, Sl.nov. F BIH, br. 58/02, 19/03, 54/04.) Hereinafter: ZZK FBiH.

[72] Abdić, A., Načelo povjerenja u zemljišne knjige u Bosni i Hercegovini (*The Land Registries Principle of Trust*) ZPR (6), 2017, p. 97. (Hereinafter: Abdić, A., Načelo ….).

[73] Since the establishment of the Austro-Hungarian administration over Bosnia and Herzegovina, its state, political, economic and financial position was very specific resulting in extremely complex civil law arrangements. See: Bevanda, M., *Obvezno pravo u Bosni i Hercegovini tijekom Austro-Ugarske Monarhije (Obligatory law during Bosnia and Herzegovina integration in Austro- Hungarian Monarchy,* in: Bevanda, M., *Obveznopravno uređenje u Bosni i Hercegovini (Obligatory law arrangements in Bosnia and Herzegovina)*, Pravni fakultet Sveučilišta u Mostaru, Mostar, 2009.

[74] By adopting the Civil Code in 1884, a deeply rooted deed system had been abandoned and a turning point had been reached for the more significant influence of Austrian land registry law in BiH. More about the deed system can be found in: Spaić, V., *Zemljišno-knjižni sistem u Bosni i Hercegovini u vrijeme Turaka* (*Land Registry System in Bosnia and Herzegovina during the Turks Administration*), Istorijsko-pravni zbornik, Sarajevo, 1950, Vol.3-4, pp. 15-33.

[75] More in: Begić, M., 110 godina p.10-21.

[76] Because of the financial status caused by bankruptcy in 1811, Austria sought to revitalized its tax system as soon as possible, in order to stabilised and increase its own tax revenues. See: Ipšić, I., Maslek, J., *Katastarski prihod i izravni porezi na poluotoku Pelješcu u drugoj polovici 19.st.* (*Cadastre Income and Direct Taxes at Pelješac Peninsula during second half of 19.century*), Anali Zavoda za povjiesne znanosti Hrvatske akademije znanosti i umjetnosti u Dubrovnik, 53/2, 4/2015, p.379-415. (hereinafter: Ipšić, I., Maslek, J., Katastarski prihod …..).

[77] By setting up cadastre's operators and classifying the land, the prerequisites for measuring tax bases and calculating real cadastral revenues were created. In: Ipšić, I., Maslek, J., Katastarski prihod …., p. 385 -388.

During the Kingdom of Yugoslavia, from 1930 till 1931, three land registry laws,[78] representing the implementation of the Austrian land registry law, were enacted. Based on these legislations, which essentially did not differ from the regulations of the Land Registry Law's, land registries were operated continuously until Second World War (hereinafter WWII).[79] Even more important is that from the end of WWII until the enactment of the new B&H's entities' laws on Land Registries, land registers were conducted in accordance with the legal rules listed in the three laws of the Kingdom of Yugoslavia. Notwithstanding that by adopting the new laws, the land registries were not replaced by new ones, but continued based on the new regulations.[80] [81]

The new State regime, within which Bosnia and Herzegovina found itself after the WWII[82], brought substantial change to the arrangements of real estate property rights. Within the legal and social systems, in which the dominant place belonged to the concept of social property, a large number of real estates became national (general) property.[83] The established duality of social and private ownership also led to legal uncertainty for entities involved in real estate transactions and was additionally supported by a growing gap between cadastral and land registry records.[84] Although land registries retained all their earlier data, there was limited political will for registering new units of real estates and ownership rights over them. Because land registry's records were not regularly updated during the 1980s, it was decided to replace the existing records with a single record of real estate and rights over them. Such a move was logical for the republics of SFRY in which there were no land registry records, such as Serbia or Macedonia, but not Bosnia and Herzegovina where there was already a century of the tradition of land registry

[78] *Zakon o zemljišnim knjigama - 1930.(Law on Land Registries - 1930), Zakon o unutrašnjem uređenju, osnivanju i ispravljanju zemljišnih knjiga - 1930. (Law on Internal Arrangement, Establishment and Correction of Land Registers 1930), Zakon o zemljišno-knjižnim diobama, otpisima i pripisima - 1931. (Law on Land Registries' Divisions, Write – Offs and Attributions 1931.).*

[79] Povlakić, M., *„Rolle – back" u nekim oblastima privatnog prava u Federaciji BiH,* p. 13., u: Medić, D., Povlakić, M., Aktualna pitanja i problem prava nekretnina u B&H (Current issues and problems with immovable property's rights in B&H), Specijalni prilog petogodišnjeg izdanja časopisa NOVA REVIJA, Sarajevo, 2017. (Hereinafter: Povlakić, M., Rolle-back ….).

[80] Loc.cit.

[81] See: Art. 87. ZZK F BiH.

[82] In 1946. Bosnia and Herzegovina become part of Federative National Republic of Yugoslavia (FNRY), which changed its name to Socialistic Federative Republic of Yugoslavia (SFRY) by the adoption of new constitution in 1946.

[83] By the foreseeable transfer of private property to socially owned ones, according to Art. 14 to 16 of FNRY Constitution, the generally property fund, owned and managed by an omnipotent State, was created. More in: Simonetti, P., *Denacionalizacija (Denationalization)*, Pravni fakultet Sveučilišta u Rijeci, Rijeka, 2004.

[84] Mutapčić, H., Brkić, A., *Odnos normativnog i stvarnog stanja upisa prava na nekretninama u zemljišnu knjigu Bosne i Hercegovine, s osvrtom na usporedno zakonodavstvo (Relationship between the normative and real state of immovable property rights in the Land Registry of Bosnia and Herzegovina, with reference to comparative legislation)*, Zbornik radova Međunarodne naučne konferencije „Javni i privatni aspekti nužnih pravnih reformi u BiH: Koliko daleko možemo ići?, Univerzitet u Tuzli i Centar za Društvena istraživanja International Burch University, Tuzla, 2014., pp. 149-150. (Hereinafter: Mutapčić, H., Brkić, A., Odnos normativnog ….).

management.[85] By adopting the Law on Property Survey and Cadastre of Bosnia and Herzegovina[86] in 1984, land registers and cadastres were merged into one register, and the responsibility to record real estate and the ownership rights was assigned to municipal administration bodies rather than the courts as had been the case earlier. Although the purpose of the reform was to update the records, the means of its realisation were inadequate. This primarily concerned the obligation and the formality[87] to register real estates in the records, but also the impossibility of achieving many of the functions of the real estate's legal records by the administration bodies.[88]

After Yugoslavia's dissolution at the beginning of 1990s and the formation of new independent states, the process of re-establishing land registries has begun by the adoption of new regulations. Because of the complex constitutional structure of the states, this process in Bosnia and Herzegovina encountered several difficulties and resulted in a series of specific solutions. Following the end of war in Bosnia and Herzegovina, the international community represented by the Office of the High Representative for Bosnia and Herzegovina[89], highlighted the updated and efficient land registry's records, that are by law harmonized in both entities, as one of its priorities. However, after two-years of discussion on the type of real estate records to be applied and the inability to reach a consensus, on 21 February 2002, the High Representative in B&H imposed new laws on land registers in both entities.[90] The aforementioned laws, accepted by the entities, without significant changes, marked the continuation of the legal traditions of the land registry as basic records for real estate and rights over them, with the introduction of some new and necessary solutions.

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[85] Croatia and Slovenia have never become part of this process because, as in Bosnia and Herzegovina, the Austrian-Germany form of land registries were already kept. For more details on the implementation of this reform see: Georgijevski, S., *Jedinstvena evidencija nekretnina i prava na nekretninama, (Single Real Estate and Property Rights Record)*, Pravni život, 11-12/91, vol.41., p.1509. or Stevanović, T., *Jedinstvena evidencija nepokretnosti (Single Real Estate Register)*, Naša zakonitost, 10-11/1984, p.1191.

[86] *Zakon o premjeru i katastru nekretnina (Law on Property Survey and Cadastre of Bosnia and Herzegovina)*, Sl.list SR BIH, No.22/84. (Hereinafter: ZPKN BIH).

[87] Contrary registration motivation based on the autonomy of will principle, it is now realised on the basis of obligation and state coercion. See: Matić, D., Đoković, T., *Zemljišno-knjižni postupak (Land Registry Procedure)*, Pravni fakultet Univerziteta u Beogradu, Beograd, 1998., p. XII.

[88] The formal principle and the principles of trust were particularly problematic. See more in: Orlić, M., *Uvođenje i obnavljanje zemljišnih knjiga (Introduction and Renewal of Land Registry)*, Pravni život, Beograd, No.12/2000, p.12.-17.

[89] The Office of the High Representative is an *ad hoc* international institution responsible for monitoring the implementation of civil aspects of the General Framework Agreement for Peace in B&H - the Dayton Agreement. The mandate of the High Representative is specified in Annex X of the Dayton Peace Agreement. On behalf of the international community, this individual is responsible for coordinating the activities of all international civilian organisations and agencies operating in the country, as well as for addressing the difficulties encountered in implementing the civilian part of the agreement. See more: Franić, D., *Profil političke institucije: Ured visokog predstavnika u BiH - „Bonski sustav u BIH", (Profile of the Political Institution: Office of the High Representative in Bosnia and Herzegovina - "Bonn System in B&H")*, Političke analize br.13., 3/2013.

[90] *Zakon o zemljišnim knjigama Federacije BIH (Law on Land Registries FB&H)*, Sl. novine FBiH 19/2003, and *Zakon o zemljišnim knjigama Republike Srpske (Law on Land Registries RS)*, Sl. glasnika RS 67/03.

2.3 New Law on Land Registries in Federation B&H

The solutions proposed by the new law on land registry in Federation of B&H were primarily aimed at strengthening the land registry as a public register by a more consistent application of the principle of trust and of registration.[91] The land registry fulfils its function in the legal space only if it creates the prerequisites of rights. The degree of trust in these public records will depend on their importance for the safety of legal transactions. Furthermore, it is indisputable that the external image of property ownership rights is accomplished by entering them into land registries. In that way all interested parties may be familiar with the content, volume and title of rights that exist on certain units of real estates. Only in such circumstances can the land register act as a guardian of legality and preventive action on potential disputes in real estate transactions. The land registry can fulfill its assigned task only if it is accurate and consistent with the factual state of units of real estates.[92] The inconsistent application of the principle of registration[93] has led to a mismatch between data entered into the land registries and reality, thus reducing the significance of the land registry and jeopardizing the trust in its content.

The solutions that the law proposes are aimed at returning the land registry to its original function as the security guard of legal transactions. The new provisions give priority to the conscientious acquirer of real estate rights who has relied on the accuracy and completeness of the land registry data. Furthermore, a completely new professional service of the land registry, specialising in real estate registration procedures, has been established, as a result of which the registration process is significantly accelerated. The former backlogs are largely eliminated and the offices almost entirely up-to-date in their workload. Greater efficiency of the newly-established offices was achieved through the digitization of the land registry and in particular by the electronic land registry management system, whereby the process of the registration of ownership rights and the harmonisation of data between land registry courts and the cadastre was accelerated.[94]

2.4 New concept of the Real Estate Register

The commitment for land registries as a basic form of real estate register, within certain circles, has never been fully accepted. The main opponents of the revitalization of the

[91] See: Povlakić, M., „Rolle – back“ … p. 13.
[92] Mutapčić, H., Brkić, A., Odnos normativnog …., *op.cit.* 152.
[93] For example, the owner of real estate, according to the current regulations, was not obliged to report any legal changes concerning the real estate. Since the change in the land registry was subject to the payment of the real estate sale tax and additional fees, most real estate owners were not interested registration of their rights. Furthermore, there was a great opportunity to acquire property rights without any kind of registration. The problem usually occurred when the registered and non-registered status of ownership rights clashed, since the judicial practice was usually in favour of holder of non-registered ownership rights and not for the conscientious person who relied on the land registry data.
[94] An additional impetus for the reform of the role of land registry in real estate transactions was the introduction of the notarial service into the legal framework of the FBIH in mid-2007. See more in: Povlakić, M., *Nadležnost notara u Bosni i Hercegovini (Competences of notaries in Bosnia and Herzegovina)*, Zbornik Pravnog fakulteta u Zagrebu, 63(2), 2013., p.245-311.

land registry were the geodetic administrations of both entities, which advocated for the introduction of a completely modified concept of real estate register. Contrary to the existing practice of having two separated records of real estate, one within the cadastre and other one within land registry, the geodetic administrations of both entities, advocate a merger of existing records in to single register.

The very concept of a single registry is not primarily a bad solution, nor is this concept unknown in other legal systems.[95] However, after more than ten years of investment in land registers, such efforts seem counterproductive. By adopting the Law on the Survey and Real Estate Cadastre[96] in 2012, this single registry arrangement is already applied in Republic of Srpska, where instead of two separated records, there is only one that is in the hands of administration while eliminating former competences of court completely. By unifying the records, the somewhat strange situation is created in which, instead of the land cadastre serving as the basis for land registers, they now constitute the basis for a cadastre of real estate.[97]

Unlike in RS, the Government of Federation of B&H proposed a draft[98] of similar legislation in 2014, and even though the Parliament of the FB&H accepted the draft, the new legislation has not so far been adopted. The most interesting parts of new legislation are the formation of a new, single land register combining data from the land registry and the cadastre; the establishment of a completely new body within the administrative structure, which will have the responsibility for the new register and the complete elimination of the role of courts, except in the case of an appeal to an administrative court within the extraordinary process, and the transfer of responsibility from local government units to cantonal ones.[99]

Besides the introduction of an entirely new concept and competences, the draft also brings an element of insecurity into the legal transactions of immovable property and their arrangements. According to some authors, the biggest threat from the new legislation lies in its incompatibility with other important (for immovable property) legislations,

[95] Sweden has single register and it has participated extensively in the whole process of the reform of the land administration in Bosnia and Herzegovina. Currently within CILAP project (Capacity building to improve land administration and procedures in Bosnia and Herzegovina), the component of establishing Real Estate Sales Price Register has been realised. One of the partners in this component is the Federal Tax Authority. For more about CILAP see at: http://www.cilap-project.org/Default.aspx#.W7s74Ggzbak.

[96] *Zakon o premjeru i katastru nekretnina RS (Law on Survey and Land Cadastre RS)*, Službeni glasnik RS 6/12.

[97] Medić, D., *Mišljenje o sistemu javnih registara u pogledu nekretnina u Republici Srpskoj (Opinion on system of public real estate registries in Republic of Srpska)*, p.61. u: Medić, D., Povlakić, M., *Aktualna pitanja i problem prava nekretnina u B&H (Current issues and problems with immovable property's rights in B&H)*, Specijalni prilog petogodišnjeg izdanja časopisa NOVA REVIJA, Sarajevo, 2017.

[98] *Nacrt Zakona o premjeru i katastru nekretnina FBiH (Draft of Law on Survey and Land Cadastre FB&H)*, No. 02-02-458/14, 9.4. 2014.

[99] This is some kind of anarchism, since a similar provision existed within old Law on the Survey and Cadastre Registry from 1984 which was criticised for not being in the line with the principle of the division of power and the right to effective legal remedy.

especially with the Property Right Law.[100] [101] While the Property Rights Law contains detailed provisions about the basic principles of land registries and provisions regulating the process and conditions of acquiring immovable property, the draft does not accept such provisions at all. Furthermore, when it comes to the land registry's principle of registration, the draft adopts completely different solutions. In addition, a very serious threat is seen from the removal of regular judicial protection from the process of acquiring and registering immovable property. There are serious doubts as to whether the administrative units are capable of undertakning this process independently, especially when the fact that the Geodetic Administration of Federation of B&H will also be acting as an appellate authority.

Since it took more than 20 years after Dayton Peace Agreement, to reform the regulation of property rights and that this reform has brought very much needed legal security and the enactment of current practice, the adoption of regulations that will abolish all those achievements, seems like another step backwards. Given that the new (four years old) law on Immovable Property Survey and Cadastre has not been adopted, it seems like that there are many opponents to the proposed new immovable property's registry structure, making this project, like so many other cases, another political issue.

Conclusion

Even though this historical review shows that the immovable property taxation was part of B&H's tax system for more than two centuries, its position in the current tax system of the Federation of B&H is modest and ambiguous. Because of its uncertain legal framework, along with complicated administration and the lack of harmonisation and cooperation between the different levels of government, as well as with the relevant agencies and bodies for immovable property, this form of tax is ineffective and impracticable.

The current legal and administrative framework in the Federation B&H, based on ten very modest and outdated legislations, needs to be change in order to make the immovable property tax efficient and effective. Without questioning and jeopardizing the cantons' competences over immovable property taxation, certain integrated approaches are necessary. In the absence of a General Tax Law, some form of framework law that will define the basic elements and principles of immovable property taxation could bring

[100] *Zakon o stvarnim pravima FBiH (Property Rights Law FB&H)*, Sl.nov. FB&H 66/13, 100/13.
[101] Property Rights' Law Reform is a classic example of sluggishness of reforms in Federation of B&H. It took more than seven years to adopt the new Property Right's Law in 2014. In the meantime, the solutions and provisions that were in force at the time of socialist planning and the absence of a market economy were applied. Since the new Land Registry Law was adopted in 2002, real estate transactions, especially their registration, were done in so called "legal vacuum" and *de lege ferenda* anticipation which lasted for 12 years,. For more see: Povlakić, M., *Stvarno pravo u Federaciji BiH (Property Rights Law in Federation B&H)*, p.47-53. in: Medić, D., Povlakić, M., *Aktualna pitanja i problem prava nekretnina u B&H (Current issues and problems with immovable property's rights in B&H)*, Specijalni prilog petogodišnjeg izdanja časopisa NOVA REVIJA, Sarajevo, 2017.

needed stability and harmonization, leaving the individual cantons to decide on tax rates and objects.

Another important element necessary to properly define and administrate immovable property taxes, is to have accurate, up-to-date and valid immovable property registers. Currently, the land registry and cadastre in the Federation of B&H contain only certain information about immovable property: including the name of the owner and associated property rights, the position and size of the immovable property. None of the existing registries has information about immovable property's market value or its use, even though in today's tax systems that information is very important for the accurate immovable property's tax assessment.

With the help of foreign partners and the efforts of the international community, a lot has been achieved in B&H, over the last 15 years, in terms of the reform of the property law system, including land registry law. But because of a recent lack of political consensus about the future form of the immovable property register (a new single register or the old separate concept), it is not clear how that reform will end and how effective its results will be.

Emphasising the need to redefine the current immovable property tax system by enhancing its legal framework and updating relevant records, regardless of its potential form, the creation of a property register that would serve as a basis for the proper introduction, administration and implementation of an immovable property tax could ensure that such a tax becomes an important part of the overall tax system and valuable source of needed resources.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
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Fiscal Real Estate Register in Bosnia and Herzegovina, Republic of Srpska

PERSA PAIĆ & ZORAN DRAKULIĆ

Abstract Property tax revenue in Republic of Srpska belongs to local self-government units. According to the current Law, municipalities have an influence on the revenue by regulating tax rates. However, municipalities still lack the necessary technical equipment and staff to undertake their responsibilities of establishing and taxing real estate. Administrative expenses for establishing and taxing real estate are substantial for the Tax Administration because the taxpayers' structure mostly involves taxpayers with lower tax bills, and therefore reforms have been initiated for the electronic submission of tax bills. It is not infrequent that the expenses of taxation are sometimes larger than the tax revenue. Data on the collection of real estate taxes on the property indicate that the concept of the determination of tax obligations by the issuing of tax bills on the basis of data in the fiscal registry of real estate is more successful than the concept of real estate taxation by the filing of tax returns - the self-taxation concept. In the future, therefore, activities should be directed to the updating of the fiscal real estate register. A complete and updated fiscal register of real estate (which means that the registration of all real estate is up-to-date and that the fiscal record in the register covers all real estates) will provide greater coverage and increased tax revenues for the municipality's budget.

Keywords: • Republic of Srpska • property tax • immovable property tax • valuation • tax reform

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Introduction[1]

Property tax is one of the oldest forms of taxation. Its importance in contemporary societies however has decreased because of the other forms of taxation that are seen to provide greater economic advantages. Property taxation allows for a fairer tax system that is based on benefits and the criteria of the ability to pay (economic strength) of the taxpayer. Property taxation as a benefit tax is based on the fact that property owners realize certain benefits from the state (for example, access to the building and other infrastructure facilities). The fact that the infrastructure benefits are provided by local communities is one of the reasons why revenues from property taxes belong to local communities. The criterion of ability to pay means that a taxpayer who has more (or more valuable) assets has a greater ability to pay (at least in theory). Property taxation policy should reflect the fact that a property owner may realize greater benefits from the state in relation to more encumbered assets of taxpayer in proportion to the size of the property.

Tax on property is defined as an asset tax, therefore, the data on taxpayers' property are essential for the operation of the property taxation. High quality and complete data on taxpayers' real estate property allow the identification of the tax potential of property taxes and the management of that tax potential in line with the needs of the funded authorities. In order to determine the property tax it is necessary that the tax authorities possess all relevant data on assets by establishing registers on immovable property whose purpose will only be to determine the property tax, and which do not necessarily have to be identical to the register on the ownership of immovable property kept by the authorities responsible for the cadastre and surveys of immobile properties. The availability of high-quality and complete property data and the assessment of property tax on the basis of these data sets increase the scope of taxation, have a positive effect on tax collection, provide the basis for revenue planning in relation to property taxation, and the conduct of fair and simulative tax policy in this area. For example, in relation to data on taxpayers' property, a legislator may need to determine how the increase or decrease of the rate of tax, as well as the introduction of tax reliefs, affect the revenue budget.

Prior to the establishment of the Fiscal Real Estate Register, the determination of property tax was based on the taxpayer's submission of a tax return. This method did not provide data on the property of taxpayers and therefore the voluntary reporting of taxes significantly affected the level of payment of taxes. Meanwhile tax authorities did not have data on the assets nor data about the object of taxation. Since the establishment of Fiscal Real Estate Register in the Republic of Srpska, property tax is determined based on the data contained in the Register, and, because it provides comprehensive information on the assets, its use represents a better way to implement the taxation of property. Moreover, it enables improved management of property taxation and better tax collection compared to the previous method of determining taxes.

[1] Note: This chapter deals with the largely autonomous Republic of Srpska, one of the two constitutional and legal entities of Bosnia and Herzegovina. The relevant circumstances within the Federation of Bosnia and Herzegovina are covered in a separate chapter.

The purpose of this work is to present the concept of taxation of property in the Republic of Srpska, Bosnia and Herzegovina, the position of property tax by affiliation and its role in total budget revenues. The concept of property taxation in Republic of Srpska is based on establishing the immovable property tax by issuing tax bills in relation to data on the immovable property identified in the Fiscal Real Estate Register. The advantages of the concept of taxation are presented, as well as reforms that should be implemented for its improvement. This work also includes a brief presentation of the history of taxation in Bosnia and Herzegovina and includes all the important factors that are associated with property taxation, such as, the privatization of State property, restitution, and the real estate cadastre as one of the most important factors in the property taxation. In addition, it describes the state of the property market and its monitoring.

1 Property tax

1.1 History

The importance of property tax reached its peak during the Middle Ages when feudalism was the dominant social system and with land ownership as the main indicator of wealth. With the development of society and capitalism emerging, land ownership lost its previous status and other forms of 'values' emerged due in part to technological development such as machines, technology, and various new products. Property taxation within the territory of Bosnia and Herzegovina (BiH) dates back to the Ottoman times as BiH used to be part of the Ottoman Empire up until 1878.[2]

During the period of the Ottoman Empire, most land was owned by the State, which then gave it for use to various military aristocracy and cavalry of the Empire (sipahis, beys, vezirs)[3]. Farmers were given smaller portions of land for which they were required to pay in kind, so that each farmer paid a tithe (öşür) of basic agricultural products (grains, legumes, fibers). During the Ottoman period, the land tax was one of the main sources of revenue for the State, which is also confirmed by the report on State revenue of that time "Land tax is the most important pillar of the Empire".[4] The Ottoman Empire did not have a land cadastre.

In 1878, Austria-Hungary received the mandate from the world powers at the time to occupy BiH. Austria-Hungary achieved total control over BiH by the unilateral annexation of BiH on 6 October 1908, which meant that BiH became part of the legal and monetary system of the Monarchy. After the occupation, Austria-Hungary established a

[2] After the Berlin Congress in 1878, Bosnia and Herzegovina became part of the Austro-Hungarian Monarchy.
[3] Osmansko carstvo, Temeljni pojmovi i državno uređenje (The Ottoman Empire, Fundamental Terms and State Planning). https://bs.scribd.com/doc/41328188/Skripta-Milo, 15. 8. 2015. P. 5.
[4] Adams, C. W. Za dobro i zlo: utjecaj poreza na kretanje civilizacije. Zagreb: Institut za javne financije, 2006 (For Good and Evil: The Impact of Taxes on the Course of Civilization).

land cadastre, which became a basis for the taxation of land and other facilities. The land cadastre was established between 1880 and 1884.[5]

Austria-Hungary did not just introduce a tax system identical to the one in other parts of the Monarchy. Rather, the system in BiH was a combination of the Ottoman rule system and the tax system of the Monarchy. During this period, the property tax base was widened to include real estate facilities such as houses and buildings.[6] The following forms of property tax were introduced: a cash payment of the tithe, a land tax, a forest tax, a building tax, and a house tax. The cash payment of the tithe was paid by those who had the right to use the land owned by the State. The tithe paid was the cash equivalent of one tenth of the total produce from that land paid as a lump sum. The land tax was paid by landowners. The tax base for the land tax was the assessed value of the land registered in the cadastre. The forest tax was paid by landowners who owned commercial forests, which could be used for industrial purposes. The tax base for the forest tax was the revenue registered in the cadastre books. The buildings tax was paid only for those buildings that generated revenue in the form of rent. The house tax was paid by house and building owners and included gardens up to 1,000 m^2 of the tax base and was based on the assessed house value. The house tax was also paid for building land, which was not taxed through the land tax.[7]

After World War I, BiH became part of the Kingdom of Serbs, Croats and Slovenes, (Kingdom of SHS). The property tax introduced during the Austria-Hungary, was paid until 1929 when Kingdom of SHS introduced the Law on Direct Taxation.[8] According to the Law on Direct Taxation of the Kingdom of SHS, the property tax for land and buildings was paid as a form of land tax revenue and a buildings tax revenue. The land tax revenue was paid by tenants, holders and owners of farmland based on a cadastral registered net income. The cadastral registered net income was the cash value of the median crop yield of the land, which could be achieved through a standard agricultural process. The implementation of the Law and the establishing of the net income was hampered because of the lack of real estate cadastres in all parts of the Kingdom, so, where land was not included in the cadastre, its revenue was established by comparison with similar land allotments. The buildings tax revenue was paid only in respect of buildings intended for residential or other purposes. The tax base for the buildings tax was not affected by whether the building was rented or not.

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[5] Raić M., Fanton I., Medić V. Katastar zemljišta i zemljišna knjiga. Zagreb: Sveučilište u Zagrebu-Geodetski fakultet, 1999. P. 22.
[6] Jelčić B., Bejaković P. Razvoj i perspektive oporezivanja u Hrvatskoj (Development and Perspectives of Taxation in Croatia). Zagreb: Croatian Academy of Sciences and Arts, 2012. P. 33.
[7] Jelčić B., Bejaković P. Razvoj i perspektive oporezivanja u Hrvatskoj. Razvoj i perspektive oporezivanja u Hrvatskoj (Development and Perspectives of Taxation in Croatia). Zagreb: Croatian Academy of Sciences and Arts, 2012. P. 34.
[8] Jelčić B., Bejaković P. Razvoj i perspektive oporezivanja u Hrvatskoj. Razvoj i perspektive oporezivanja u Hrvatskoj (Development and Perspectives of Taxation in Croatia). Zagreb: Croatian Academy of Sciences and Arts, 2012. P. 52-56.

The tax system of the Socialist Federal Republic of Yugoslavia (SFRJ) was based on the tax division between physical persons and legal entities.[9] Taxation of physical persons was regulated by the Law on Personal Income Tax. Property taxation in the period between 1945 (when World War II ended), and 1992 when BiH was recognized as a sovereign State, did not experience any significant changes from that implemented during the interwar period. Property tax was applied to land based on the cadastral income (land revenue). Land tax, and agricultural and forest revenue taxes, was paid by physical persons, being the owners and occupiers of land, arable land, and woodland. Aside from the income recorded in the cadastre, such individuals also had to pay special purpose contributions for the development of municipalities and other organizations at sub-municipal levels. Aside from the agriculture and forest tax revenue, a capital transfer tax was paid as well. The main feature of the property tax during the period of the Yugoslavian control was the use of the income approach. Owners, tenants, and occupiers were not just taxed because they owned, held or used land or buildings, but because the land generated and income. Thus, taxation was based on the appraisal of the income generated from farmland or income generated from sale or from a gift inheritance under a gift tax.[10]

The fundamentals of the Yugoslav taxation system with respect to property were in force in Republic of Srpska until 1994. In 1994, the National Assembly of the Republic of Srpska brought in a new Law on Property Tax which regulated three forms of taxation: the Property Tax, an Inheritance and Gift Tax, and a capital (real estate) Transfer Tax. The subjects of the taxes were buildings and related facilities (residential and commercial) and land. The taxation was based on the tax administration's appraisal of the real estate value. The Law on Property Tax 2002 introduced a new basis on which to establish a tax obligation in relation to the absolute amount by the area (square metre) of the facility and land that is not farmland. The 2002 Law on Property Tax was in force until 1 January 2012 when the Law on Real Estate Tax, which is currently valid in Republic of Srpska, was introduced.

[9] Jeremic, N. S. Geneza oporezivanja dohotka u Srbiji, stručni rad (The genesis of income taxation in Serbia, professional work). http://www.pepogledi.org/Arhiva/2012_01/03. P. 7-13.
[10] Jelčić B., Bejaković P. (Development and Perspectives of Taxation in Croatia). Zagreb: Croatian Academy of Sciences and Arts, 2012. P. 103-117.

1.2 The Position of Property Tax

The Republic of Srpska's (RS) Constitution prescribes that taxes are introduced by laws, which have to be adopted by the National Assembly as the legislative organ of the government. Property taxation is regulated by the Law on Real Estate Tax. According to the Law on the RS Budgetary System, the property tax is the revenue of the local self-government units (municipalities and cities).[11] The property tax is the only form of tax that is paid in relation to real estate property and is paid by owners (proprietors) and tenants. Real estate comprises land with everything built on it or connected to it. When ownership is transferred through sale, inheritance, or gift, no capital transfer tax is paid. Revenue from real estate rent and profit from the real estate sales are considered to be the physical persons' income, which is taxed in accordance with the Law on Income Tax. The tax gathered from income and capital gains is the income of the RS's entity budget.

The tax base for real estate is calculated from the fiscal register of real estate data whose sole purpose is real estate taxation.[12] The fiscal register of real estate data has been established based on applications to register in the fiscal register made by the real estate owners and tenants. The applications submitted to the register are not based exclusively on the data of the organization responsible for the real estate owners' data. The taxpayer is in fact accountable for the accuracy of data submitted in the application. The legal obligation of the State's Tax Administration is to provide information on registered real estate to local communities and the obligation of the local communities is to inform the Tax Administration about real estate located in their territory that is not reported by taxpayers. Submission of data on registered real estate to local communities and the provision of data from the local communities about the real estate that is not reported to Tax Administration contribute to the completeness of data in the fiscal register and increase the level of the collection of taxes on real estate. The fiscal register of real estate data is a public register containing data on the real estate tax, the tax number, address, the owner's or tenant's address, relevant characteristics and the taxable value of the real estate. The Tax Administration implements the real estate tax by issuing tax bills.

The Law on Real Estate Tax contains all relevant elements for establishing and implementing the real estate tax and one part of the authorization concerning its payment is the responsibility of the local self-government units. Although the real estate tax revenue belongs to the units of local self-government, its influence on the tax rate and the tax base is limited.

The Law on Real Estate Tax gives the following authorizations to the units of local self-government with regard to real estate tax payment regulations:

- Determining the real estate value by designating zones within its territory;

[11] Law on Budget System of the Republic of Srpska ("Official Gazette of the Republic of Srpska ") br.121/12 i 52/14).
[12] Law on Real Estate Tax ("Official Gazette of the Republic of Srpska") br. 110/08, 118/09 и 64/14).

- Determining the tax rate within the statutory range, and exemptions from paying property tax in the event of material damage to the property as a result of a natural catastrophe or natural disaster, as well as in case of manufacturing/industiral units' deficit production and craft activity.

The rate of tax applied to real estate tax rate is 0.20 %, whilst the tax rate for real estate where manufacturing/industrial production activity is directly carried out is 0.10 %. The local government units submit decisions on the tax rate and the amount of real estate value by zones within their territory to the Tax Administration, at the latest by 31 December of the current year. For 2017, 13 municipalities have prescribed the maximum tax rate of 0.20 %, whilst the maximum prescribed real estate tax rate where the production activity is directly carried out is 0.10 % for 32 municipalities.

A unit of local government can exempt the real estate owner (proprietor) or tenant from payment in case of material damage to the real estate resulted from a natural catastrophe within the municipal or city territory. This tax exemption is applicable for one tax year. The taxpayer is exempt from real estate tax because of the damaged incurred and as a result of which production has been adversely affected.

Local government units are not entitled to implement the real estate tax, which is levied and collected by the State's Tax Administration.

For every tax year, the State Tax Administration submits to local self-government units' lists of real estate containing data on real estate, the tax number, address, characteristics, market value, and real estate tax payable.

1.3 Structural components

Paying real estate tax in the RS has been regulated by Real Estate Tax Law[13] which has been in force since 1 January 2016. With regard to the Real Estate Law[14] that was in force from1 January 2012 to 31 December 2015, the real estate procedure has not been changed as a result of the 2016 Real Estate Law. The 2016 Law contains all the relevant elements of the tax: including the subject of taxation, the taxpayer, tax base, tax rate and the real estate taxation procedure.

The taxpayer of the real estate tax is a legal entity or a physical person who is either a real estate owner, or tenant if the owner cannot be established. If there is co-ownership of the real estate, the each co-owner pays tax proportionate to the ownership share. Real estate is defined as land together with everything that is permanently connected to it or that has

[13] Real Estate Tax Law "The Official Gazette of the Republic of Srpska", no. 91/15.
[14] Real Estate Law "The Official Gazette of the Republic of Srpska", numbers 110/08, 118/09 and 64/14 in force from1 January 2012 to 31 December 2015.

been built on its surface, above it or below it. Pursuant with the definition of real estate, the subject to real estate taxation is:

- Land;
- Land and building(s) which comprises one unit; and
- Residential and commercial units within a building.

Real estate taxation is based on the existence of a unit of real estate and on its owner's or tenant's obligation to pay tax for owning it or using it, regardless of whether the real estate yields any profit to the taxpayer.

1.3.1. Real Estate Fiscal Register

The foundation of real estate taxation in the RS is the real estate fiscal register which has been established exclusively for taxation purposes and which is run by the State's Administration. The real estate fiscal register – being the real estate tax database - contains data on real estate taxpayers, real estate tax number, address, characteristics and taxable value, as well as the tax rate, any tax debit and other data necessary to establish the level of real estate tax to be paid. The real estate fiscal register is managed electronically. Taxpayers report on their real estate by submitting an application for registration or amendments of the entry in the fiscal register. Apart from the data on the taxpayer, the application contains data on the real estate's address, data on ownership and any ownership share, and separate data on the land, building/facility and any auxiliary facilities necessary to establish the tax. Thus, the fiscal register records the following:

- in relation to land data:
  - Land surface area;
  - Land access (public or private access);
  - Shape of land (rectangular; square, of irregular shape);
  - Land topography (flat, elevated, steep);
  - Utilities to the site (electricity, sewage, telephone, gas, public water pipeline, waste and heating); and
  - Type of primary use (urban land for commercial and industrial facilities, agriculture land, mining land, woodland, unused land etc.).
- for building structures:
  - Year of construction;
  - Degree of completion;
  - Construction and materials;
  - Storey-height;
  - Data on the building's interior (number and type of premises, internal structure, floors);
  - Primary use (residential, commercial, office space, garages[15], warehouses, spaces for utilities, school, healthcare facilities, park and recreation facilities, hotels, public spaces, gas stations and other uses).

[15] For individual vehicles' storage.

- Auxiliary facilities
  - Value and surface are of an auxiliary facility[16].

Based on the fiscal real estate register application, a unit real estate is registered and given a tax number. A real estate tax number has 17 digits, which, among other things, indicates the municipality/city where the real estate is located, and the type of real estate (defined in accordance with the real estate codebook based on the European building code (EUROCODE)). The tax number of real estate unit is annulled in the case of the division of real estate which results in a new real estate unit(s), when several real estate properties are merged into one, or when the purpose or primary purpose of real estate is changed.

A building and adjacent land with which it is used require only one application for registration, and owners etc. of residential and commercial units which comprise a residential-commercial building or facility are requested to apply individually for each use, which is specified during the application process.

Formerly, taxpayers were to submit the application for fiscal registration by 31 March 2011. Physical persons and legal entities who after 1 January 2012 became proprietors or tenants of the previously unregistered real estate, are to submit applications within the 30-day deadline following the date when they acquired or started using the immovable property.

The only data changes concerning immovable property/real estate to be reported are when the purpose of the real estate use has changed, or if the real estate's value has changed as a result of investment in the building/facility. Changes regarding real estate values during a tax year will affect the tax assessment for the year following the year in which the changes were reported.

A change of ownership or tenancy of real estate is recorded in the fiscal register by the submission of an application to change the real estate owner/tenant. The tax obligation in the case of the ownership/tenancy change within a year is established based on the proportion of the number of months of the year when a person became or ceased being the real estate owner/tenant. If real estate has many owners or tenants, the application is submitted for every owner/tenant in proportion to their ownership/tenancy share. Real estate owners/tenants can authorize one of the other owners/tenants to submit such an application on their behalf, and this has to be stated in the application. If in the process of tax control and other related activities, it is established that a taxpayer has not submitted a required application to the real estate fiscal register, the Tax Administration submits an application on behalf of the taxpayer *ex officio*.

[16] Such as conservatories and stables.

Failure to report real estate is considered an offense in the area of registration for which the prescribed penalty is between 1,000 BAM[17] to 3,000 BAM for a legal entity, and 500 BAM to 1000 BAM for a physical person.

Taxpayers are to report all their real estate holdings to the real estate fiscal register regardless of what their tax treatment might be (taxable or exempt from taxation). This obligation ensures that the real estate fiscal register contains information about all units of real estate within the country, which provides (amongst other things) the foundation for determining the tax potential from real estate tax.

The tax base for real estate is the estimated market value of the unit of real estate. The market value of real estate is calculated based on data on market sale prices of real estate based on zones that are delivered to the Tax Administration by the units of local self-government, adjusted for the characteristics of the real estate mentioned in the application for entry into the fiscal register. For each feature of real estate, the Tax Administration determines the coefficient value which corrects the market value of real estate to a taxable value. The Tax Administration publishes the value of coefficients once a year in electronic form on their official website.

The law sets a maximum tax rate for real estate tax at 0.20 %, and for real estate where production activity is directly carried out at 0.10 %. The decision on the level of the tax rate is set by the units of local self-government. The tax payable, aside from the tax rate, is mostly affected by the appraised market value. Units of local self-government are required to make a decision by 31 January of the current year regarding the rate to be applied to the real estate appraised market value by zones and to inform the Tax Administration accordingly.

1.3.2 Exemptions and Reliefs

The Law also provides for real estate tax exemptions and deductions from the real estate tax base under specific circumstances.

To be entitled to tax exemption or deduction, taxpayers have to file a claim. For tax exemptions and deductions prescribed by the Law, a taxpayer does not need to file a claim for an exemption/deduction every year. unless there has been a change in the exemptions/deductions. However, tax exemptions, based on the decision of the local government, are introduced for the tax year only, and exemption/deduction claims based on the municipal decisions are not transferred into another year.
The following real estate has been exempted from real estate taxation by law:

- Public goods, with the exception of the objects on them that are used for gaining economic benefits;

[17] Bosnia-Herzegovina Convertible Mark. (1 BAM = 0.51 euro).

- Real estate which is the property of Bosnia and Herzegovina, Republic of Srpska and the Federation of BiH, Brcko District and where units of local self-government use their own property;
- Real estate owned and occupied by institutions founded by the Bosnia and Herzegovina, Republic of Srpska, the Federation of BiH, Brčko District and units of local self-government;
- Real estate belonging to foreign diplomatic and consular missions and offices based on the reciprocity principle;
- Real estate of religious communities which are used in the performance of religious services;
- Cultural and historical monuments, which are declared as such by the competent authority;
- Real estate used for humanitarian purposes;
- Shelters to protect people and goods from the adverse effects of war;
- Buildings or parts of buildings that, according to the law, are used for public works;
- Real estate located in mine fields and to which access and normal use are not allowed;
- Real estate that taxpayer is constructing, or has constructed, and which are appear in the accounts of the taxpayer, and are registered in accordance with the regulations governing accounting and auditing, as well as such buildings that are solely intended for further sale; and
- Cultivated agricultural land and real estate which are used for agricultural production by their owners.

By the decision made by local units of government, the following real estate can be exempted from tax:

- Those in which productivity or trade activity is underperforming; and
- Those that have been damaged in natural disasters and / or by force majeure.

The aforementioned real estate have been tax exempt because the taxpayer does not use them to gain economic profit, other than as cultivated farmland and / or as real estate built by taxpayer for resale. In a claim for tax exemption, the taxpayer is to designate the basis on which exemption is sought, as well as the tax number for the unit of real estate for which exemption is being requested.

Aside from tax exemptions, the Law also allows for deductions to the tax base for residential property owners. The deduction to the tax base reduces the surface by 50 m^2 for the real estate owner, and an additional 10m^2 for each household member. Real estate owners cannot exercise this right if they do not also occupy this real estate, or if the residential unit is not their main residence. If a residential unit has more than one owner, the right to a deduction is proportionate to the ownership share. The right to a deduction is exercised by filing a claim to reduce the tax base, in which the taxpayer identifies the real estate for which deduction is being requested.

The amount of the reduction is calculated by dividing the estimated market value of the real estate by the actual surface area in square meters, multiplied by the amount by adding numbers 50 to 10, multiplied by the number of household members according to the following formula:

$$TBD = (AREMV/ (Sm^2) - [50 + (10 * NHM - 1)])$$

where:
TBD – tax base deduction,
AREMV – appraised real estate market value,
Sm2 – surface area in square meters,
NHM –number of household members.

Co-owners can get deductions proportionate to their ownership share, provided the real estate is where they live. For taxpaying co-owners who are not members of the resident household and who have individually registered as taxpayers during their application to the real estate fiscal register, the right to a deduction from the tax base of 50 m^2 is in proportion to their ownership share. Co-owners living in the building exercise their right to deduction according to the following formula:

$$TBD = (AREMV\ 50\ m^2 * NTP) + AREMV\ 10\ m^2 / (NHM - 1)$$

where:
TBD – tax base deduction,
AREMV – appraised real estate market value,
NTP – number of taxpayers,
NHM –number of household members.

The right to a deduction is exercised by filing a claim. The taxpayer is not required to file this claim every year unless there has been a change in relevant circumstances (change of main residence, decrease or an increase in the number of household members).

1.4 Administration

The procedure for establishing and charging real estate tax is implemented pursuant with the Law on Tax Procedure of Republic of Srpska[18] and Law of General Administrative Procedure[19]. The Law on Tax Procedure gives all the authority in terms of establishing and charging direct taxes to the Republic of Srpska's Tax Administration. Specific details regarding real estate taxation have been regulated by the Law on Real Estate Tax. The

[18] Law on Tax Procedure of Republic of Srpska("Official Gazette of Republic of Srpska numbers 102/11, 108/11, 67/13, 31/14 and 44/16).
[19] Law of General Administrative Procedure("Official Gazette of Republic of Srpska " number 13/02, 87/07 and 50/10).

procedure to introduce real estate taxes begins with the submission of an application for the real estate fiscal register.

The tax administration calculates the real estate tax and issues tax demands for all real estate accounted for in the fiscal register for which a taxpayer has not filed a tax exemption claim. The tax obligation is established annually.

Establishing the tax obligation and the issuing of tax demands is done according to the following procedure:

- At the beginning of the tax year, and on the basis of data on real estate market values in the zones that have been submitted to the Tax Administration by the units of local government, the market value of real estate is updated as at 31 December of the year preceding the year of determination of real estate tax, and is adjusted, on the basis of features of the real estate, using the coefficient that was set for the year by the State's Tax Administration;
- Data on real estate tax rates are collected based on the decisions made by units of local self-government;
- Tax bills are created electronically and then issued in paper form and sent to taxpayers via mail or electronically. The downloading of tax bills in electronic form via the Tax Administration web page is enabled for 2017. For real estate with multiple owners and tenants, every owner/co-owner/tenant is issued with a tax demand in proportion to their ownership share or occupancy right. A tax demand comprises data on the real estate tax number and address, taxpayer, appraised market value, tax rate, established payment obligation, payment deadlines, and legal remedy. A tax bill is issued individually for all real estate that a taxpayer has within the territory of a single municipality. If a taxpayer has real estate in multiple municipalities, a tax bill is issued separately for each municipality. Tax bills are sent to the taxpayer’s address and if their home of origin is not in Bosnia and Herzegovina, a tax bill is sent to the real estate address. There are municipalities/cities in the Republic of Srpska where a significant number of real estate taxpayers are citizens who live and work abroad which makes it difficult to send tax bills and charge the tax. A tax bill is not considered delivered unless a taxpaying physical person receives it. Only on the basis of a delivered tax bill can the process of enforced real estate tax collection procedure be applied for unpaid taxes. There is software for the issuing of tax bills that creates and issues tax bills for all municipalities/cities in the Republic. This is done based on the real estate market value from the fiscal register data and by applying an appropriate tax rate. Tax bills are issued every year to all real estate owners and tenants by 31 March of the year for which the tax is being established;
- A taxpayer has the right to challenge the established tax obligation from the tax bill within 15 days of receipt of the tax bill. The challenge is decided upon by the Tax Administration. A challenge which has not been filed in time and / or which has not been filed by the appropriate person is dismissed;

- Taxpayers can appeal the decision made on the basis of the complaint within the 15 days of the receipt of the Tax Administration's decision. The Tax Administration can decide on the taxpayer's complaint by accepting the taxpayer complaint or by forwarding it to the appellate body, which is the Ministry of Finance. The taxpayer cannot appeal the decision of the Tax Administration, but can file a lawsuit within 15 days after the decision's receipt. The Ministry of Finance's decision cannot be appealed but the matter can be taken to the court;
- Taxation is suspended until the complaint against the tax bill or the complaint against the Tax administration's decision have been determined. After the Ministry of Finance's decision, the tax obligation becomes final and binding, and the tax administration can undertake enforced tax collection measures. Filing a lawsuit does not suspend the obligation to pay.

The taxpayer can also use emergency legal aid in the light of new circumstances, facts and evidence that can affect the tax payable. The deadline for the renewal of such a procedure is 30 days after the day the new facts have become known. The Tax administration can renew the real estate tax payable *ex officio* if they become aware of new facts affecting the obligation. This opportunity is not available after the five years deadline following the decision or when the tax bill was delivered.

On the basis of the final administrative decision, real estate tax is paid in two portions, the first one by 30 June and the second one by 30 September of the year for which the tax has been established.

If the taxpayer fails to pay the tax within the deadline, the enforced real estate tax collection process starts without the obligation to previously notify the taxpayer. For any late payment, the interest rate of 0.03 % is added for every day of delay. To recover outstanding real estate tax, the Tax Administration can take out a mortgage against the real estate by application or request to the body in charge of running the real estate owners' register. The mortgage is executed by the courts and the collection of the outstanding real estate tax is taken from the mortgage.

In the process of enforced tax collection, the Tax Administration cannot confiscate real estate but can only take out a mortgage for the amount of the unpaid tax and start debt proceedings in the relevant court. During the debt proceedings, a public auction sale is announced to dispose of the real estate. When the real estate is sold, the purchase price is used to settle any debts following a chronological order of outstanding mortgages. Charged debts relating to the failure to pay real estate tax have no priority in relation to other registered taxpayers' debts.

1.5 Valuation: appraisal of real estate market value

Pursuant with the Law on Real Estate enacted on 1 January 2012, the real estate tax base is based on the appraised real estate market value.

Valuation is undertaken by the Tax Administration of the Republic, using mass appraisal methodology based on the data held on real estate market values and real estate characteristics available in the real estate fiscal register.

The methodology of real estate valuation has been prescribed by the Rulebook on Real Estate Value Appraisal. Originally, it had been necessary to appraise real estate market value by using collected data on traded real estate. Because the volume of real estate trade fell while the model was being drafted and insufficient quality of data on traded real estate was available, that model of mass appraisal was abandoned. The mass appraisal model that *was* selected uses prices of newly built buildings - apartments and business premises - as the initial input along with land price data obtained from units of local government.

Pursuant with the Law on Real Estate Tax, land and everything that has been built on it, above or below the ground, is treated as a single unit of real estate, The value of the unit of real estate is established by separately carrying out a land valuation, and then a valuation of the facilities and ancillary facilities comprising that real estate. The total market value is calculated as the sum of individual values.

The basic formula for calculating real estate market value is:

$$V = GQ *((PL * QL) + (PI * QI + OL))$$

where:
V is the real estate market value
GQ is the general qualitative factor (the value of 1 is applied)
PL is the land value/m^2
QL is the land surface/ m^2
PI is the building value/ m^2
QI is the building surface/ m^2
OL is the auxiliary buildings' value

The land value in terms of square metres (PL) comprises the following components:

- Initial land value;
- Coefficient of land quality; and
- Coefficient of land use.

The initial value of the land use depends on the zone in which the real estate is located, as well as its general land use. To define the initial land values, every municipality has been divided into zones. Initial land values are unique at the zone level, whereas initial values are different for certain general uses: construction land, farmland, woodland, industrial land etc.

The coefficient of the land quality is defined based on land characteristics:

- Land access (main road, main street, back alley etc.);
- Land shape (square, rectangular, triangular, irregular shape);
- Land topography (flat, elevated, steep);
- Land utilities (electricity, water pipeline, sewage, phone etc.).

The coefficient of the land use is based on more detailed data on the land use. There are 11 distinct land uses: including urban land, mines, other types of industrial land, small-scale farming and large-scale farming.

The building value per square metre (PI) comprises:
- Initial building value;
- Coefficient of building value; and
- Coefficient of building use.

The initial building value is defined, as in the case of land, according to the zone of the building's location and its general use: such as flat, house, business premises, industrial premises.

The coefficient of the building's quality is defined on the basis of the:
- Characteristics of the building's construction (construction material, insulation, type of roof, roof material, percentage of completion);
- Building's age (the value is reduced by 1 % for every year since its completion, but only up to 60 % of the building's value);
- Storey- height of the real estate; and
- Interior quality of the building (windows, doors, floors, window blinds, utilities).

The coefficient of the building's use is defined based on the actual building's use and there are 27 different uses: including a separate house, duplex, apartment as a building unit, commercial activities, office, garage, warehouse, gas station, hotel.

Value of auxiliary buildings (OL) is not defined by the tax administration but by the taxpayer who directly states their value during real estate registration. These are mostly smaller values that do not significantly affect the total real estate value.

For the market valuation of industrial real estate and special purpose/use real estate units whose market is small and infrequently used, the Rulebook on Real Estate Valuation uses the following formula:

$$TV = OK * [VZ + (TI – A)]$$

TV is the real estate market value
OK is the general qualitative factor (value 1 is applied)
VZ is the land market value
TI is the cost for building an exact same building (as new)

A is the depreciation of the actual real estate

For simplicity of application, for these cases of objects for industrial and special purposes, the following formula applied:

V = GQ * [(PL * QL) + (Pl * QI + OL)]

where:
OK = GQ
VZ = PL * QL
TI = Pl' * QI
A = Pl' * QI * YO * 1%

where: PI' is the value per m2 of a new object with the same characteristics; and
YO is the age of the object in years

To ensure simplicity of application, in practice, the basic formula also applies to those cases where the land value (VZ) is defined in the same way for the other units of real estate, where the initial price and industrial building's use coefficient in the basic formula are such that the value sum obtained approximately matches the construction costs of an exact same new building (TI), and where the depreciation of the real estate (A) is calculated in the same way as the depreciation resulting from the age of the building.

Pursuant to provisions of the 2016 Real Estate Tax Law, at the beginning of every year the local communities announce the initial land values and initial building values on which the assessment of the value of real estate is to be made for the forthcoming year.

1.6 Revenue performance

Table 14.1: Revenue performance

Property tax revenue as % of all state revenues	2.3 %	1.1 %	1.2 %	1.4 %	1.0 %	1.0 %	0.9 %	0.7 %	1.1 %	1.0 %	1,00%
Property tax revenue as % of all regional and local revenues	8.3 %	4.1 %	4.2 %	4.9 %	3.5 %	3.8 %	3.4 %	2.7 %	4.5 %	4.2 %	3,90%
Property tax revenue as % of tax revenues at regional and local level	12.4 %	6.2 %	6.7 %	7.9 %	6.2 %	6.2 %	5.2 %	4.2 %	7.1 %	6.6 %	6,20%

Source: Statistical yearbook Republika of Srpska 2016, http://www.rzs.rs.ba/front/article/2240/?left_mi=None&add=None.

The Table 14.1 above shows that during the period from 2005 to 2012 the property tax burdens in relation to total revenue at all levels tended to fall. In terms of the total amount, the property tax revenue has decreased in all years of the observed period. The continuous decline in property tax revenue was connected to the alteration of the regulations that was brought in 2007 and in regard to the changes that abolished the tax on real estate transfer of newly built objects. The property tax decline was the largest in 2012 compared to 2011 (from 20.2 million BAM to 15.5 million BAM) because of the changeover to the new system of property taxation, with the complete abolition of real estate transfer taxes. Data for the period from 2013 to 2015 show that changes in property taxation lead to more positive trends in the collection of real estate taxes, with a growth in yield compared to the period before the adoption of the 2012 Real Estate Tax Law. Compared to 2005, the property tax inflow in 2012 was half the amount (from 34.2 million BAM in 2005 to 15.50 million BAM in 2012).

Table 14.2: The number of properties by main use category

LAND	Built-up area	Industrial land	Mining land	Forest land	Major agriculture – land cultivation	Major agriculture – cattle breeding	Minor agriculture – land cultivation	Minor agriculture – cattle breeding	Courtyard and other land	Unused land
Size in hectare	8,436	9,751	7,034	927,673	39,057	13,148	360,334	286,173	192,905	138,762
Number of plats	105,114	13,841	1,727	352,703	24,313	16,977	744,133	390,341	368,21	214,768

Source: Fiscal real estate register Tax administration Republika of Srpska, for 2016.

Table 14.3: Buildings

BUILDINGS	
Number of buildings	108,217
Number of water works	889,000
Number of housing units	407,129
Number of owners	375,097

Source: Fiscal real estate register Tax administration Republika of Srpska, for 2016.

1.6.1 Banja Luka – case study

Table 14.4: Revenue sources for the city of Banja Luka (in mil. BAM)

Year	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
All revenues (in BAM)	115.31	120.83	144.42	161.20	134.26	122.97	129.43	121.37	110.09	107.36	110.75	115.81
Tax revenues (in BAM)	80.90	79.68	95.96	102.10	79.01	79.41	87.03	79.25	69.27	65.62	65.86	64.70
Property tax revenue (in BAM)	13.98	6.34	7.57	10.79	4.75	5.78	5.34	3.79	5.72	5.55	5.47	6.92
Property tax revenue as % to all revenues	12%	5%	5%	7%	4%	5%	4%	3%	5%	5%	5%	6%
Property tax revenue as % to tax revenues	17%	8%	8%	11%	6%	7%	6%	5%	8%	8%	8%	11%

Source: City of Banja Luka.

The case study for Banja Luka[20] municipality shows similar results to the analysis of the share of the property tax at the level of Republic of Srpska. Thus, the share of property tax in the total municipal budget income has tended to decline in line with the reduction in the number of property sales at that time. In total, the property tax yield has fallen.

The property tax decline was higher in the last observed year period (2016) than in the first year of the Republic. The property tax inflow was two times lower in 2016 than in 2005. However, 2016 recorded an increased share of the property tax within the tax revenue of the Banja Luka city budget.

[20] The largest city in and the de facto capital and administrative centre of the Republic of Srpska, and the second largest city in Bosnia and Herzegovina after Sarajevo.

The above-mentioned property tax decline can be primarily explained by the changes made regarding the system of taxation, among which the most remarkable one was the abolition of the Real Estate Transfer Tax. Banja Luka has been the largest real estate market within the Republic and thus this change is most visible here.

Data on property tax collection in the period 2005-2011 includes data on the property tax, taxation on the transfer of immovable property, and inheritance and gift taxes. These data are gathered using a three-tax form, while data on the collection property tax in the period 2012-2016 contains information on collected taxes on real estate only, being the one real estate tax remaining.

Note that the data on property tax collection in Table 14.1 Revenue performance are shown in the same manner as data for the city of Banja Luka, Table 14.4.

Table 14.5: Price indices of flats and business premises

Year	Average indices (2005=100) of prices of flats and business premises in Banjaluka	
	Flats	Business premises
2005	100.0	100.0
2006	111.2	121.2
2007	125.4	127.3
2008	170.5	137.3
2009	151.2	124.6
2010	144.7	129.1
2011	141.2	154.6
2012	142.0	118.6
2013	131.5	124.3
2014	134.6	93.8
2015	118.3	N/A
2016	139.0	N/A

Source: Database Tax administration, referred to the period 2005-2016.

The price index for apartments shows steady growth compared to the base year of 2005. The data peaked at 2008-2009 when the RS Government through the Investment and Development Bank (IRB) and favourable housing loans, stimulated demand for this type of real estate within its social and economic policy.

On the other hand, the price index for business premises in Banja Luka also shows substantial growth, but not at the same level as for residential premises. Also, the lower value of business premises points to a crisis in the economy with lower demand for business premises and higher demand for apartments.

With a reduction in real estate prices and the tax generated is reduced. This can be seen by the changes in legislation on the real estate taxation in 2007, when the tax on real estate transfer to the newly constructed real estate market was abolished.

1.7 Possible reforms

As stated in above, the 2016 Law on Real Estate Tax did not significantly change the concept of property taxation in relation to the Real Estate Tax Law, which was applied in the period from 1 January 2012 to 31 December 2015. The real estate tax replaced the property tax, and the tax on inheritance and gift, and the tax on the transfer of real estate which was paid during transfer of the ownership rights to real estate has been abolished. All three types of taxes were revenues collected by units of local government, and the real estate tax was intended to secure at least similar levels of revenues to those acquired from the previously imposed property taxes. By abolishing the transfer tax on the sale of real estate, municipalities lost a secure source of revenue because its collection was almost 100 %. The high rate of collection of this type of tax was made possible because, in order to register property ownership with the relevant body in charge, these transfer taxes had to be paid. Real estate tax collection is not as efficient as that of the capital transfer tax so that real estate tax revenue in the first year (2011) of its implementation was less than the revenue collected by units of local self-government before the law had been passed. However, as early as the second year of the law's implementation, real estate tax revenue reached the level of collection of the previous period. In 2011, the total tax collected (comprising property tax, inheritance and gift tax and capital transfer tax) was 20,391,560 BAM and in 2013, the real estate revenue tax was 22,506,567 BAM[21] as a result of changes in the way the tax was collected.

In the analysis of the results in applying this method of property tax, it is necessary to exclude the tax on inheritance and gift, and tax on transfer of real estate because these are now classified as consumption taxes rather than property taxes, and the tax on the transfer of real estate has been abolished.

[21] The data are taken from the annual Tax Administration Activity Report with regard to the tax collection within the Tax administration jurisdiction. TARS Annual Report 2013. https://www.poreskaupravars.org/SiteEn/AnnualReport.aspx.

On the basis of the property tax alone, in 2011, 6,804,231 BAM was collected (with a total of 13,587,329 BAM being the payment of taxes on the transfer of real estate and taxes on inheritance and gifts). In 2012, 20,391,560 BAM was collected. These data show that the collection of property tax on the basis of data in the fiscal register of real estate has tripled in twelve months (with an increase in the coefficient of 2.99689) when compared to the collection of property taxes using traditional methods.

The annual collection of taxes on real estate is about 22,000,000 BAM and exceeds the total collection of property tax, taxes on inheritance and gift, and taxes for real estate transfer and rights from 2011, which was the last year of application of the concept of taxation based on the submission of tax returns.

The increase in the collection of the property tax is a direct consequence of increasing the scope of taxation (i.e. increasing the number of tax items). The increase in the scope of taxation (the object of taxation) is shown by the data on the filed tax returns for the property tax for 2011 and the tax bills issued for 2012.

Since the implementation of this concept of taxation (from 2012) the average number of annual tax bills issued is 410,272.

Also, the number of payers of the real estate tax has also increased in relation, which is confirmed by data on the number of tax returns filed during the implementation of the Law on Property Tax, when, for 2011, 106,646 tax returns of property tax were filed. Previous data show that the number of tax payers of taxable property increased 3.874 times by applying the 2012 concept of taxation.

These data demonstrate that the implementation of the Law on Real Estate Tax alone has not reduce the revenue of the units of local self-government.

Law on Real Estate Tax which came into force on 1 January 2016 has increased the power of municipalities to regulate this tax, in addition to the right to determine the tax rate within the range prescribed by law and to determine the market value of property by zones. Determining the market value of real estate by zones directly affects the tax base and thus the amount of taxes payable.

Municipalities have their own association, (the Association of Municipalities and Cities of Republic of Srpska) which represents them when addressing the Ministry of Finance regarding issues of property taxation. During the first year of the 2012 Real Estate Tax Law's implementation, this Association agreed the decision that all municipalities should apply the same real estate tax rate of 0.18 %. Most municipalities accepted this, while underdeveloped municipalities introduced lower tax rates. Given that the real estate tax is municipal revenue, it was also agreed that municipalities would take on the collection

and enforced tax collection following the amendments introduced within the 2016 Real Estate Tax Law.

The fiscal real estate register, which is fundamental to real estate taxation, was not established by taking over the data from the bodies in charge of gathering information on real estate owners. Because of the incompatibility of information systems within the Republic of Srpska's Tax Administration and the Republic's Administration for Geodetic and Property Affairs, the Tax Administration could not have used their real estate data as a starting basis for establishing a real estate fiscal register. A number of taxpayers did not even submit an application to become registered within the fiscal register, which is why the real estate fiscal register has not yet been completed. A completed fiscal register is a precondition for establishing the full potential of a real estate tax. The 2016 Law on Real Estate Tax obliged the Republic's Administration for Geodetic and Property Affairs to allow the Tax Administration and the municipalities and cities unrestricted access to the information on real estate held by that body. The commitment of local governments, the Tax Administration and the Republic's Administration for Geodetic and Property Affairs to submit data on real estate which had not been registered, or the ones registered, and to access information on real estate will contribute to the completion of the fiscal register which will have a direct impact on increasing the taxation yield. By ensuring the registration of all real estate, the real estate tax potential will increase as will the revenue of local governments.

According to the 2012 Law on Real Estates, the tax base of the real estate tax was determined by the Tax Administration on the basis of data on the market value of property and on the model of mass appraisal. The model of mass appraisal was difficult to apply to sales of real estate because there was no trading for such types of real estate as rural family houses, large industrial facilities, low level buildings and other specific facilities/buildings which are almost never traded. The then existing appraisal model did not acknowledge the fact that it is impossible to establish market value for certain types of real estate because such real estate is never or is rarely traded.

The 2016 Law on Real Estate Tax gave the authority to local governments to determine the market value of real estate by zones and by types of real estate. This has partially solved the problem of determining the market value of rarely traded property because local governments have more information about the market value of real estate within their territories than does the Tax Administration. The first year of application of the law (2016) showed that some local authorities increased or reduced the market value of certain units of real estate in relation to the assessment of the market value of these facilities conducted by the Tax Administration. However, most taxpayers whose property increased in market value and therefore their tax base, appealed the determined tax value, which partly shows that local governments should review their estimated market values. The Law provides the right of an owner or user of real estate to require the Tax Administration to revalue their real estate in cases when the real estate suffers damage that affects its market value.

Based on previously published data on the application of the new Law on Real Estate, there has been an improvement in terms of the regulations relating to the update of data in the fiscal register of real estate. However, regarding the assessment of market value, significant progress has not been made. For the future, it will be necessary to work on the actual market prices achieved in real estate transactions and, on the basis of these data, to carry out the assessment of taxable values by zones and the types of facilities. For real estate which is never or rarely sold, it is necessary to prescribe specific models of valuation or assessment[22].

In addition to the reforms to be implemented in the assessment of market value for the purposes of taxation, it is also necessary to reduce costs in the delivery of tax bills by switching to electronic delivery.

The existing law does not stipulate any relief for taxpayers not using their real estate. Paying real estate tax for property not yielding any income is an additional burden for commercial entities in conditions of an increased commercial activity.

2 Evolution of real estate market

2.1 Property restitution

The communist rule established after World War II confiscated property from certain categories of both physical persons and legal entities. The property was confiscated in the processes such as agrarian (land) reform, and nationalization,. The greatest portion of confiscated property was land. In the period until 1992, the Socialist Federal Republic of Yugoslavia did not introduce a single act that would allow for any compensation for those persons whose property was confiscated. The Republic of Srpska brought the Law on Return of Confiscated Property and Damage Compensation [23] The High Representative[24] suspended the implementation of this law because he was of the opinion that this problem should be resolved at the level of BiH. In 2008, the National Assembly of Republic of Srpska adopted a draft law to deal with the issue of restitution, which, after a public hearing, was rejected. International community representatives advised that the issue of the return of confiscated property should be resolved at the State level by bringing regulations that would be applicable throughout the Federation of Bosnia and Herzegovina. A working group, based on the 2001 decision of the Council of Ministers for Civil Affairs, was formed to prepare a framework restitution law. However, the framework was never proposed for adoption nor was it ever available for public comment.

[22] Such models are likely to be based on the costs of construction.
[23] Law on Return of Confiscated Property and Damage Compensation ("Official Gazette of Republic of Srpska" number 13/00).
[24] The High Representative of the Union for Foreign Affairs and Security Policy is the chief co-ordinator and representative of the Common Foreign and Security Policy within the European Union.

After that, in 2008, there was an attempt at the BiH Parliament to adopt a Law on denationalization but it did not gain a sufficient majority.

Thus, Republic of Srpska and BiH have not adopted any regulation regarding restitution nor the compensation payable to persons whose property was annexed, so BiH remains the only ex-Yugoslav state without a Law on Restitution.[25]

2.2 Privatization

The process of privatization of State enterprises and socially-owned apartments has been completed in Republic of Srpska. The privatization of State enterprises was implemented on the basis of the Law on Privatization of State Capital in Enterprises.[26] The privatization process began in 1998 and it was undertaken so that 55 % of the State capital in enterprises was distributed in the form of vouchers to citizens of the Republic of Srpska, 30 % was sold in the processes of public auctions and directly, 5 % of the capital was directed to the Restitution fund, and 10 % was directed to the Pensioners' fund. Special interest enterprises[27] in the Republic were privatized according to special privatization programmes. The value of the privatized State capital was the then current "value" as shown in the balance sheet. The preparation of enterprises for privatization involved dividing the existing property of the enterprises into three "balances": active, passive and neutral.[28] In the active balance, enterprises showed their business assets; in the passive balance they showed their non-business assets; and in the neutral balance were credits and debits that had been written off.

The subjects of State-owned capital privatization in enterprises were the assets expressed in the active sub-balance, pursuant with the Law on Opening Balance Sheets in the Process of Privatization. Where the former State enterprises owned apartments,[29] these were given to employees for their use, and such employees had special tenancy rights. In the process of State-owned capital privatization, the enterprises had to separate the property pertaining to these apartments into the passive sub-balance. The privatization was executed so that the employees with tenancy rights were able to purchase the apartments they occupied at a much reduced price. The privatization of apartments owned by State enterprises, state authorities and institutions was implemented in accordance with the Law on the Privatization of State-Owned Apartments.

[25] www. PROJURIS-ORGANIZACIJA ZA PRAVNU EDUKACIJU I KULTURU PRAVA (PROJECT-ORGANIZATION FOR LEGAL EDUCATION AND CULTURE OF RIGHTS). Belgrade: Denationalization in Bosnia and Herzegovina , 18. 8. 2015.
[26] The Law on Privatization of State Capital in Enterprises ("Official Gazette of the Republic of Srpska" no. 24/98).
[27] Public companies, mines, companies that used to have a large capital value and other companies that used to have a large State capital value, or conduct the activities of special importance e.g. railway companies and other public companies.
[28] Law on Opening Balance Sheets in the privatization of state capital in enterprises ("Official Gazette of the Republic of Srpska" no. 24/98, and 70/01).
[29] In the process of enterprises' preparation for privatization, the apartments were expressed in the negative (passive) balance.

The assets obtained from the sale of State-owned apartments were then paid to the Housing Fund of Republic of Srpska. The purpose of the Housing Fund was to give housing loans to persons who wished to purchase their own dwellings.

The privatization of State-owned enterprises and apartments showed how little attention was given to property issues under communism in terms of real estate and land registration. The public register of property rights was a land register run by the Office of Land Registry, an organizational unit of the courts. Most enterprises did not have data on their property rights harmonized with the Office of Land Registry data. During the period of the drafting of the opening balance sheets within the privatization process, the enterprises had to prove their ownership rights over land and buildings as stated as their property in the balance sheets. One could say that privatization of State-owned enterprises and apartments positively affected the updating of data in land registers.

2.3 Limitations of land/property ownership

The Republic of Srpska real estate market is an open market. Ownership rights and limitations to ownership rights over real estate have been defined by the Proprietary Law[30]. The subjects of the ownership rights of legal entities and physical persons cannot be goods of general use (rivers, lakes, sea, springs, squares etc.) nor natural resources (such as minerals, game, fish). These goods can only be given for use under the Law on Concessions.

Foreign legal entities and physical persons can own real estate under the conditions of reciprocity, if this does not violate the Law on Proprietary Rights or International Contracts. It is not permitted to trade State-owned real estate acquired in the process of nationaliation, confiscation (seizure), agrarian reform or other proceses as a result of which the property had been seized from legal entities and physical persons during the communist period without just compensation. The right to forbid the trade of the aforementioned real estate will last until the deadline to submit claims for just compensation pursuant with the special act regulating the right to return seized property has expired[31].

Real estate which are considered to be cultural goods can be subject to trade under the conditions prescribed by the Law on Cultural Goods.

[30] The Proprietary Law ("Official Gazette of Republic of Srpska " numbers 124/08 and 95/11).
[31] This deadline has not yet been defined.

2.4 Nature of the property market

Real estate market in Republic of Srpska was formed at the end of the war in BiH and during the privatization of State-owned enterprises and apartments. The real estate market before the dismantling of Yugoslavia mostly concerned land. The socialist State structure resolved the housing issues by giving apartments to employees' use. Physical persons who did not have their housing issues resolved in that way build family houses. Buying apartments and houses was rare. Construction firms were State-owned and they would only build following the request from State enterprises which then gave those apartments to their employees for use.[32]

After the war, the rebuilding of war-damaged property began, and this was mostly funded by donations from international organisations. The rebuilding of such damaged houses reached its peak between 1998 and 2002. The privatization of State-owned apartments also rejuvenated the real estate market. Physical persons who became apartment owners in the process of State-owned apartment privatization could sell them making substantial profits because their original purchasing price was minimal. On the other hand, investing in apartments became more secure than investing in houses because during the war far more houses were destroyed in comparison with apartment buildings. Displaced persons with tenancy rights before the war were able to purchase their apartments and sell them.

Also, privately-owned construction companies building apartments exclusively for the market emerged. The real estate market was also boosted by housing loans made available by the Housing Fund and by various bank loans. The sale of family houses did not have a huge share of the market, because in the Republic and in BiH, it is far more difficult to sell a house than an apartment. There is tradition of family homes in the territory of Republic of Srpska but the houses that are for sale have not been well maintained, so after purchasing there is a lot of renovation work for the new owners to do. The prices of new and renovated houses are higher (by comparison) so they are less attractive for buyers. The supply of houses is also greater than the demand as a result of more people being displaced during the war. Displaced people have no incentive to return to their former homes which is why they want to sell their houses. The market price of houses is so low that former owners are unable recover what they had invested. In rural areas, house sales are minimal and because of the war as well as migration into the cities, there are a lot of houses in rural areas which are not being used and which cannot be sold because there are no buyers.

Since 2009, apartment sales have reduced because of the economic crisis and the reduction in the population's buying power. The apartment prices in all cities in the Republic (with the exception of Banja Luka), have fallen.[33]

[32] www.ekapija.com/.../bih/..Tržište, 18. 8. 2015 (*property of BiH).*
[33] www. glas srpske, 15. 1. 2015. Godine Banjaluka.

Based on the preliminary census data in BiH in 2013,[34] there are 588,241 residential units in the Republic of Srpska including houses and apartments.

There is no institution in Republic of Srpska dealing exclusively with the monitoring of the real estate market, which is why there are no available data on real estate market values for apartments and houses[35]. The Republic Statistics Institute monitors the area of civil engineering and building construction relating to real estate investments.

Table 14.6: Investments in new construction projects

Value of performed work by type of construction	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**
Buildings[36] (in thousand BAM)	351,553	406,004	398,316	247,583	238,093	231,289	206,917	189,112	251,367
Civil engineering[37] (in thousand BAM)	270,315	372,317	334,422	379,945	407,161	387,688	482,391	570,36	499,397
Total (in thousand BAM)	**621,868**	**778,321**	**732,738**	**627,528**	**645,254**	**618,977**	**689,308**	**759,472**	**750,764**

Source: Statistical yearbook Republika of Srpska 2016.

The data show that investment in new construction projects in terms of residential and non-residential buildings, after the steady fall of investment from 2008, recorded an increase in 2015, while civil engineering and roads reached its highest increase in 2014.

Investment growth in residential and non-residential buildings in 2015 shows the recovery of the real estate market. Investments in 2015 have increased by 33 %, (relative to investments in 2014, when the lowest level of investment in residential and non-residential buildings in the observed period is recorded), but still have not reached the highest level of investment in 2008.

The recovery of the property market in the Republic of Srpska also shows that prices of apartments, (refer Table 14.5) were the lowest in 2015 (at 118.30 BAM and that they increased in 2016 to 139.00 BAM. The increase in the prices of apartments in 2016 shows that the demand for real estate in general was growing as well.

[34] www.republičkizavod za statistiku (Republic Statistics Institute), preliminary census data for 2013.
[35] State registers recording sales transactions are not publicly available.
[36] Total residential and non-residential buildings.
[37] Roads etc., but not buildings.

3 Property data

3.1 Real Estate Cadastre – GIS/Cadastres

The real estate cadastre was established during the era of the Austro-Hungarian Monarchy. The establishment and operation of the real estate cadastre had been regulated by the Law on Survey and Cadaster of Republic of Srpska[38]. The real estate cadastre is a unique set of records on all real estate in Republic of Srpska. The cadastre is managed by the Republic Administration for Geodetic and Property Affairs. This institution operates at the Republic level with its head office in Banja Luka, and organizational units at the local level. Registration within the cadastre records rights to, limits in, and transfers and terminations of real estate rights. The real estate cadastre comprises cadastral records, the book of deposited contracts and the land register[39].

The cadastral territorial units are: the cadastral parcel, the cadastral municipality, and the cadastral area.

The real estate cadastre contains data from the real estate survey, the collection of relevant documents and the real estate transactional data base.

The real estate survey implies geodetic measurements and the collection of data on the physical real estate and real estate proprietors. It includes a geodetic reference point for horizontal and vertical positioning of the unit of real estate, the definition of its coordinates, the identification and border marking of the cadastral municipality, the border marking of the cadastral parcel, the geodetic measurement and real estate measurement data collection, data collection on real estate owners and the cadastral land use classification of land.

The collection of documents comprises documents on the basis of which a property right over real estate is acquired or erased.

The real estate database contains data on the:
- Parcel of land;
- Building;
- Special parts of buildings (such as flats and business premises); and
- Owners of real estate proprietary rights.

[38] Law on Survey and Cadastre of the Republic of Srpska ("Official Gazette of Republic of Srpska " number 6/12).
[39] The cadastral record is the draft of the cadastral parcel and objects built on that cadastral parcel, and land registers refer to ownership records on those parcels and objects on those parcels. In some municipalities these records are unified into one record, and currently unification of records in other municipalities is in process.

Technical data on units of real estate are registered exclusively in the real estate cadastre according to the survey data recorded in Gauss-Krueger projection[40].

Based on the real estate data base, a cadastral plan is issued to each proprietor both in a digital and analogue form, along with the real estate folio from the land register . The real estate folio is issued for a single unit of real estate. Proprietors are required to have real estate folios for all of the real estate in their possession.

The real estate cadastre is a public register and anyone can access the cadastral data. For the publication of cadastral data, the Administration for Geodetic and Property Affairs forms a committee in charge of cadastral data publicity pursuant with the law.

The following items are registered in the real estate cadastre:

- Real estate;
- Proprietary rights;
- Certain obligation rights towards third persons which may arise in the registration;
- Pre-registration of a lien; and
- Registration of a lien.

Real estate registration involves the registration of data on land parcel, buildings and special parts of the building. By the process of registration, proprietary rights and other types of real estate rights are gained, transfered, limited or terminated[41]. Pre-registration of a lien is a type of registration whereby proprietory real estate rights are conditionally gained, transfered, limited or terminated. Registration of a lien is a registration of certain facts which can affect property rights and other rights (personal condition of the proprietory holder, restraint on alienation, the commencement of a dispute of the registration of real estate rights etc.).

Based on the cadastral data, appropriate certificates, confirmations, reports and documents are issued. To use cadastral data, such as certificates and confirmations, a specially regulated fee has to be paid. There are limitations on the use of data, because real estate folios are given to the proprietor, a person who can prove a legal interest and to State bodies for the procedures within their jurisdiction. This ensures data privacy for personal property.

3.2 Title registration

The registration of proprietory rights is the most significant type of data in the Cadastre, and contains entries for the following real estate rights:

[40] Or transverse Mercator map projection.

[41] Thus, what matters is the fact of registration which takes precedence over actual documented events i.e. if someone does not have a lien over property, but such a lien is shown in the cadastre, that lien is held to exist - prima facie, until the actual facts are verified and the entry in the cadastre altered accordingly.

- Property rights;
- Liens;
- Rights of beneficial interest;
- Usufructuary rights;
- Right to build;
- Concession[42]; and
- Right to lease for the period not shorter than five years.

Documentation related to the entry of real estate rights into the cadastre has to be certified by notaries.

For the registration of title, the following conditions have to be met: the unit of real estate has to be registered in the cadastre; there has to be a registered predecessor and a registration document. For the registration of title for newly built facilities, no predecessor is required. The necessary documents are a sales contract, inheritance decisions and other relevant documents. Title registration as well as other changes regarding real estate rights are done on the day the decision is made.

The updating of the real estate cadastre's registered property rights data is crucial for the quality of the cadastre. Real estate property rights holders are obliged by the law to report to the Administration for Geodetic and Property Affairs any changes regarding their real estate and real estate rights within 30 days from the date the changes take place so that the Administration for Geodetic and Property Affairs can make the necessary alterations.

To update the Cadaster, the Administration for Geodetic and Property Affairs is required to monitor any real estate changes *ex officio*. Monitoring real estate changes *ex officio* involves periodical using aerial monitoring as well as other methods and procedures. The Republic and other bodies, companies, institutions and other organizations are required to submit any real estate changes to the Administration for Geodetic and Property Affairs.

Conclusion

Property tax revenue in Republic of Srpska belongs to local self-government units. The introduction of the new concept of real estate taxation in 2012 has not significantly reduced these units' property tax revenue, so in the next period the existing taxation yield and administration should be greatly improved, primarily in relation to the updates of the real estate fiscal register.

According to the current Law, municipalities have an influence on the revenue by regulating tax rates. However, municipalities still lack the necessary technical equipment

[42] It represents the right of property use in a certain period, e.g. the Commission for concession in accordance with the Law on Concessions gives the right of agricultural land use for the purpose of agriculture production.

and staff to undertake their responsibilities of establishing and taxing real estate. Administrative expenses for establishing and taxing real estate are substantial for the Tax Administration because the taxpayers' structure mostly involves taxpayers with lower tax bills, and therefore reforms have been initiated for the electronic submission of tax bills. It is not infrequent that the expenses of taxation are sometimes larger than the tax revenue.

Taxing all real estate regardless of whether it is in use or not, and abolishing the real estate transfer tax was meant to improve the real estate market. In the process of the law's application, however, improvements have not been noted because of the introduction of the new taxation concept as a result of which more real estate was traded in the market.

Bearing in mind that the existing concept of taxation of all real estate did not improve actual real estate sales, the taxation policy should be more geared towards making sure that real estate brings benefits to the taxpayer, while the tax burden on real estate which is not in use should be reduced.

Data on the collection of real estate taxes on the property indicate that the concept of the determination of tax obligations by the issuing of tax bills on the basis of data in the fiscal registry of real estate is more successful than the concept of real estate taxation by the filing of tax returns - the self-taxation concept. In the future, therefore, activities should be directed to the updating of the fiscal real estate register. A complete and updated fiscal register of real estate (which means that the registration of all real estate is up-to-date and that the fiscal record in the register covers all real estates) will provide greater coverage and increased tax revenues for the municipality's budget.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
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Fiscal Autonomy of Local Governments in Montenegro

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Abstract The Law authorizes municipalities to introduce and levy local public revenue types to administer them, to determine tax rates within the limits prescribed by the law, to provide for tax reliefs and exemptions, to undertake the billing, collection and control of local revenues, and to introduce penalty measures. Arguably, the most appropriate and significant local government revenue source is the real estate tax. In order to improve real estate taxation in Montenegro, there are some vital issues to be dealt with. Specifically, in accordance with the analysis by the Union of Municipalities, the regulations governing the taxation of land need to be strengthened and further regulated. The state entity in charge of agricultural issues should enact a regulation that clearly defines what is considered to be „cultivated agricultural land" in order to ensure the correct levies are imposed. Despite the improvements, there remain areas where good tax policy continues to yield to tax administration constraints (for example, the failure to establish a property tax that generates an adequate level of revenue, as well as the need for judgmental assessments in the absence of good information on property values). Effective taxation of both urban and rural real property, through property taxes, remains beyond the ability of most developing countries' local tax administrations including Montenegro. Finally, the reforms indicated above will lead to even more work for tax administration specialists. No tax is better than its administration, so tax administration matters - a lot.

Keywords: • Montenegro • property tax • immovable property tax • valuation • tax reform

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Introduction

Montenegro, unlike other countries in the Balkans, is highly centralized and the municipalities have limited functional responsibilities. Consequently, the share of Local Government Units (LGUs) spending in terms of GDP was 6.5 % in 2015, which is less than 10 % of the overall consolidated general government spending.[1] The Law on Local Self Government[2] stipulates their municipal functions that include local road maintenance, water services, garbage collection and treatment, street lighting, urban greenery (e.g. parks), culture and sports. Municipalities do not have the responsibilities to deliver education and health services, which constitute a large share of the local public activities and budgetary expenditures in other countries. However, fiscal decentralization continues and central government insists on increased local revenue collection.

Montenegro has a one-tier sub-national government system of municipalities at the local level and no regional government level. Although the country has three distinctive geographical areas as per the Law on Regional Development (North, Central and South/Adriatic regions), they are not administrative units. There are 23 municipalities, including the capital city, Podgorica, and their size varies considerably. One-sixth of the municipalities have fewer than 5,000 citizens, while Montenegro has on average 30,000 inhabitants per local government unit. However, within the Balkans, it has one of the largest concentration of citizens in Podgorica (30 %). Northern municipalities, in particular, face significant challenges in terms of depopulation, deindustrialization and a rapidly ageing population that all put pressure on their fiscal and institutional ability to perform even the limited functions devolved to them.

Towards the end of 2008, the world was hit by a global financial sector crisis that resulted in a recession during 2009 and the subsequent slow recovery. In the wake of the October 2012 elections, additionally aggravated by the tightening of fiscal spending as a result of the global economic crisis, the fiscal policy in Montenegro experienced a serious set-back during 2010 to 2012. The recession and the Euro-zone debt crisis, with the banking sector imposing less accessible and more expensive borrowing, resulted in Montenegro's local budgets experiencing substantial constraints.

In this period of economic downturn, Montenegro's local governments were hit by the fiscal restrictions and the consequences of the declining economic outputs already experienced in 2009. The first reactions to the crisis at the local level were to increase the sales of assets, increase efficiency in the collection of recurrent revenues, and the extensive use of borrowing, as a new revenue raising option. Legislative amendments

[1] World Bank, Montenegro Public Finance Review, Local Government Chapter, October 2016.
[2] The Law on Local Self-Government determines that local self-governance is executed on the principles of democracy, decentralization, depolitization, autonomy, legality, professionalism, efficiency of the work of local self-government bodies and mutual cooperation between the state and the municipality. In addition, the Law establishes the responsibilities of local self-government units, including defining the competencies of local self-government bodies, the powers of local officials, senior officials.

since 2008 have abolished or reduced traditional sources of local revenues, seeking to eliminate their distortionary effects on economic activity, as well as perceived abuses of taxation power by some municipal authorities (who were taking advantage of the inelastic tax bases)[3].

On the other hand, amendments were introduced which aimed to increase the resources raised by the real estate tax, the shared revenues[4], and the Equalization Fund[5], but it remains unclear whether the net effect of all these legislative changes was an increase or a reduction in the municipalities' fiscal capacity.

[3] Firstly, at the aggregate level, the most significant reform was the abolition of the charge for the use of buildable land since 2009, after this charge provided nearly € 30 million in 2008. Since municipal governments have extensive autonomy to determine this charge (there was no upper limit included in the legislation), there was capacity for excessive taxation, and some municipalities were charging very high levies on companies using public spaces for their production activities. Secondly, amendments to the Law on Local Communal Fees abolished a number of fees since 2008 (e.g., the use of facilities for power transmission, telecommunication facilities, TV and radio transmitters, and the use of the seashore for commercial purposes). The estimated revenue loss was around € 3-5 million. Thirdly, amendments to the Law on Local Self Government Finances which came into force in 2011, eliminated some taxes and charges (including the consumption tax, the tax on the company name, the tax on games of chance and entertainment games, the fee for the use of passenger vehicles and trailers or eco-charge), with an estimated revenue loss of € 6 million. Fourthly, amendments to the Law on Roads reduced the collection from charges for the use of municipal roads from 2010 (charges now must be approved by Central Government), with an estimated revenue loss of € 3-4 million. Fifthly, recent amendments to the Law on Spatial Development and Building of Structures envisage exempting the general-interest buildings, ancillary buildings, and prefabricated temporary structures, from the charge for the provision of utilities to buildable land. Also, legislative changes introduced in 2009 shifted the timing of the collection of such charges from the grant of the building permit to the end of the development cycle i.e. certificate of occupancy, but these were subsequently reversed. The joint effect of these legislative reforms and the collapse of the real estate boom was eventually a reduction in charge collected from nearly € 66 million in 2009 to € 37 million in 2013. There are concerns that further limitation of these charges might be enacted, with the expectation that the real estate tax can compensate for the revenue loss. The charge for the provision of utilities to buildable land is paid by investors in order to secure the provision of utility infrastructures to their buildings and structures. It is intended to fund the real cost of developing the land and making the utility infrastructure available to an urban site, presumably on the basis of cost-recovery principles, and thus it is seen as capital revenue (not recurrent revenue). It is agreed in a contract concluded between the investor and the local government authority (with the consent of Central Government), and its purpose is strictly prescribed by law. Substituting the real estate tax for the charge for the provision of utilities to buildable land raises complex issues: the charge seeks full cost-recovery and such concept is alien to the real estate tax; and transferring the cost of providing utility infrastructure from profit-making investors to other taxpayers (including households) is politically difficult and may not be deemed fair. (Montenegro Policy Notes 2017).

[4] Shared revenues include: personal income tax (PIT), charges for the use of assets and natural resources (concessions), the property sale tax, the annual charge for vehicle registration, and the fees for the use of road motor vehicles and their trailers (eco-fee), payable when registering a vehicle.

[5] The Law on Local Self Government Finances, amended on January 2011, raised the percentage of shared revenues accruing to municipalities. Thus, the PIT share increased from 10 to 12 percent, with 16 percent for Cetinje (the Old Royal Capital) and 13 percent for Podgorica; the real estate turnover tax share increased from 50 to 80 percent; the concession fee share increased from 30 to 70 percent, except for the use of ports (20 percent) and the coastal zone (20 percent). The Equalization Fund was also increased. Overall, revenue rose from € 45 million in 2010 to € 82 million in 2013 before dropping to 74 million in 2015. In addition, the Law on Real Estate Tax, also amended on January 2011, increased the tax rates and the coverage of the real estate tax, the yield of which rose from € 25 million in 2010 to € 47 million in 2015 (Ministry of Finance of Montenegro).

The tax system and tax policy became one of the most important levers for building a market-based economic system for the country. To this end, in the context of the reform process being conducted in Montenegro, significant emphasis was given to activities related to the reform of the tax system and tax policies. Tax reform was aimed at:

- enhancing economic growth, stimulating domestic production and investments, and making the market more attractive to foreign investors, while ensuring that domestic products were more competitive in the international market;
- generating the indispensable revenues to fund public spending;
- providing a greater degree of fiscal decentralization; and
- ensuring that the tax legislation is more efficient, equitable, transparent, stable and easier to implement.

Montenegro's comprehensive tax reform began in mid-2001 in an effort to harmonize the tax system and tax policy with EU standards. The tax reform in Montenegro had the aim of creating a competitive and consistent tax system which is based on simple and clear legal provisions and procedures, competitive tax rates, a small number of tax exemptions and deductions, automated processes, efficient and professional administration, and sound discipline for taxpayers and others involved in tax administration.

A competitive and consistent tax policy has a crucial role for Montenegro in order to maintain and further improve its image as an attractive investment destination. Moreover, it contributes to retaining existing and generating new investments, which is a prerequisite to the preservation of existing employment and the creation of new jobs, thus expanding the tax base for increased revenues. In the last 15 years, the tax system has been upgraded. Legal procedures have been further simplified to align with EU best practices, the basic tax rate has remained competitive and stable, a target increase in the real estate tax has been conducted, while certain small but expensive-to-administer tax levies have been abolished, eliminating significant distortions of the market.

In practice, the tax policy in Montenegro was influenced by historic decisions which resulted in significant political influence in tax policy decisions. Economic, administrative, political, and social realities have always shaped tax policy decisions and constrained what could be done. However, it has been very difficult to adopt sound economic and fiscal policies by, for example, eliminating protectionist measures, fighting tax evasion, and enforcing the tax system. Penalties still exist more in law than in fact. Tax evasion is seen to be more a badge of honor than a crime. Low tax morale combined with inadequate and unwilling enforcement show that there is much room for improvement of the current tax system.

The subject of this analysis is a review of the real estate tax legislation in Montenegro and the nature of its real estate taxation policy over the last ten years. In addition, this chapter considers the factors which determine the level and structure of real estate tax revenues, the trends, how changes in the legislation affect revenue levels and their impact on the real estate market and economic development. The chapter also examines how

local government real estate taxation has evolved since 2001, by focusing on the key legislative changes that occurred during the period under observation, as well as on the fiscal impact these changes and the economic crisis have had on municipal revenue performance.

During the period of 2003 - 2008, the Republic adopted legislation that strengthened the role and fiscal autonomy of local governments. During 2008 - 2015 a new set of national government policies came into force, all leading to mixed results when it comes to local government revenue performance. However, the generation of revenues from real estate tax as the main subject of this analysis has improved significantly over the observed period, ranging from 0.5 % of GDP in 2009 to 1.3 % of GDP in 2015/2016.

1 Property (Real Estate) tax

1.1 Background

Montenegro is a State of some 620,000 inhabitants and it consists of 23 local government units. In Montenegro, the reform of the tax system, as well as the reform of the overall financial system, began in 2001. The main goals of the tax reform have been to make tax system more simple, efficient and easier to implement, and for the tax reform to be based on principles of simplicity, equity, neutrality, efficiency, stability and applicability.

In 2001 the Republic of Montenegro passed The Law on Real Estate Tax replacing the Law on Property Tax which had been in use since 1992. The Law on Real Estate Tax (the RET Law) which was enacted in December 2001, stipulates rights and duties and the full responsibility of the municipalities for directly levying and collecting all real estate tax revenues (as of 2003). The RET Law authorized municipal authorities to determine the allocation of revenue within the municipality. The RET Law requires that each municipality determines tax rates based on the market value of the immovable properties within their jurisdiction (and not on a nominal value which was the previous methodology implemented by the National Department of Public Revenue) and within the range of rates as established by the RET Law. The Law further introduced the obligation for the Ministry of Finance to develop a methodology using a market-based valuation system to assist the municipalities in the creation of an *ad valorem* property tax base.[6]

In 2010 and 2015, further amendments to the RET Law were made to add more detail on certain concepts, as well as to increase the tax rate, and to ensure tax collection from illegal constructions (discussed further below).

The real estate tax is administered by LGUs and the revenue raised belongs entirely to the municipal budget. Tax decisions, i.e., tax demands, must be delivered by the LGUs by April 30 of the current year and in case of the liability for the tax on new real estate,

[6] Decree on the Detailed Criteria and Methodology for the Determination of Market Value of a Real Estate.

the taxpayer must submit a tax application to the local taxation authority within 30 days from the date of acquisition. The 2001 Real Estate Tax Law and the associated Decree on Detailed Criteria and Methodology for Determination of Market Value of a Real Estate have proved to be concise, simple and substantive pieces of legislation.

The taxation system for real estate has so far been mainly focused on providing constitutionally-defined autonomy for local governments. In that context, local governments are authorized to:

- enact their own regulations to set the market value of the taxable immovable property within their jurisdiction;
- define the tax rate on real estate, within the range provided by the Law;
- assess the level of tax due and send out tax demands, control the payment of taxes on real estate; and
- maintain the register of taxable immovable properties within their jurisdiction.

In accordance with the Law, the Ministry of Finance enacted the Decree on Detailed Criteria and Methodology for Determination of Market Value of a Real Estate. Based on this, municipalities have enacted their own municipal Decrees for the Introduction of the Real Estate Tax, and for the Introduction of Coefficients and Tax Rates.

With the new legislation in place, the tax treatment of real estate in Montenegro has been harmonized with international practice. The main features of international practice related to property taxation which has been incorporated into the Montenegro system can be briefly described as the following:

- Real estate tax is exclusively a municipal tax; a taxpayer is informed about who imposes the taxation, the amount required to be paid, and the purpose of the payment of the tax;
- A taxpayer has clear information on what is being taxed and has knowledge of the method for the determination of the tax obligation;
- The structure of the tax clearly indicates tax rates, exemptions, special treatments and tax reliefs;
- All taxpayers are treated equally;
- Real estate tax is simple to implement and comprehensible for both taxpayers and local tax authorities; and
- Local tax authorities are responsible for the real estate tax and are entitled to set the rates in accordance with municipal decisions and within the limits set down by the state legislation.

The increase in revenues from real estate tax since 2010 is the result of:

- the expansion of the tax base;
- the increase of the tax rate;
- the introduction of the special tax treatment for certain categories of immovable property (such as agricultural land that is not being used as such for agricultural

production, secondary housing, illegal buildings (i.e. those built contrary to the law), tourist accommodation facilities located in the zone of a priority tourist site; construction land that has not been used in accordance with the planning documents);
- more efficient control of the calculation and payment of tax liabilities by the municipal tax authorities, improved municipal records of the owner of the real estate; and
- a strengthening of tax compliance and improved taxpayers responses.

Better cooperation between local and state tax authorities, more up-to-date data, more efficient collection mechanisms on the one hand, together with adequate engagement primarily of local government authorities, on the other hand, have created the preconditions for more efficient revenue administration and higher collection rates from real estate tax and an improvement in the fiscal capacity of local self-governments in Montenegro.

1.2 Legal Base for Property Taxation in Montenegro

The governing legislation regulating real estate valuation in Montenegro comprises national laws and regulations, supported by local decrees. Municipal authorities are responsible for real estate valuation for tax purposes and the implementation of valuation techniques and methodologies. In doing so municipalities are required to comply with the Decree on Detailed Criteria and Methodology for Determination of Market Value of a Real Estate to ensure nation-wide uniformity of assessment processes, while each Municipal Assembly enacts its Decision on Real Estate Tax which is published in the Official Gazette.

The Decree covers the following sections: the methodology for determining the market value of real estate, the basis for determining the real estate tax, the criteria for determining the market value of immovable property, the purpose of immovable property, its size, location and the quality of the real estate, coefficients for determining the market value of real estate (being the municipal coefficient of real estate, the locational coefficient, the quality coefficient and the age coefficient) and the determination of the tax on real estate for a taxpayer who runs a business.

Property taxation in Montenegro is regulated by the following legislation:
- the Law on Real Estate Tax which was adopted at the end of 2001, and has been in force from January 2003;
- the Decree on Detailed Criteria and Methodology for Determination of Market Value of a Real Estate;
- the Law on Tax Administration which regulates tax procedures in Montenegro in general;
- the Rulebook on the Contents of the Report on the Payment of Real Estate Tax; and

- the municipal Decrees for Introduction of the Real Estate Tax, and the Introduction of Coefficients and Tax Rates.[7]

The following related legislation is also relevant to property taxation:

- the Law on State Survey and Immovable Property Cadastre;
- the Law on Execution Procedure;
- the Law on Notaries;
- Law on Spatial Planning and Construction of Structures; and
- the Law on the Tax on the Turnover of Immovable Property.

1.3 Position of real estate tax

The Law on Real Estate Tax regulates the objects of taxation and the real estate tax base, determines the tax payers, sets criteria for determination of the market value of the immovable property, stipulates time periods for incurring the tax obligation, stipulates the range of tax rates available to local authorities, sets out available tax exemptions and tax reliefs, defines the tax application, and introduces the various obligations of the local tax authority, as well as the tax period, and the monitoring of the implementation of the tax and penalty provisions. The proportion of the total tax that is related to real estate depends on the market values in the jurisdiction where property is located.

Amendments to the Law (introduced in 2010 and subsequently in 2015) have been made with the aim of providing a greater degree of fiscal decentralization and sustainability of the system of financing local governments, by ensuring increases in the range of tax rates available, thus enabling more revenue flows. In addition, the amendments were aimed at preventing further illegal construction of buildings, stimulating the proper use of agricultural land by promoting cultivation and the ground preparation of agricultural land, eliminating barriers to commerce and stimulating "luxury" tourism. Revisions to the Law on Real Estate Tax showed the legislator's intention to create stable sources of municipal financing appropriate to the functions performed by local self-government units, to ensure long-term financial stability and the timely and adequate fulfillment of their legal obligations.

Amendments to the Law of 2010 have brought about significant changes in terms of defining the real estate, and the details determining the tax rates for certain types of real estate, while also expanding the tax base and increasing the range of tax rates (from 0.10 % to 1.00 %). As of 2010, local self-government units have been able to determine a higher tax rate for: agricultural land not being used as such, secondary housing facilities (including apartments), construction facilities that are not built in accordance with the law, tourist accommodation facilities within the zone of priority tourism based on the

[7] The Law allows municipalities to determine tax rates between 0.25 % and 1 % of the market value of the property.

Government Act on Determining the Priority Tourist Location[8], and undeveloped construction land.

Further amendments to the Law on Real Estate Tax were introduced in 2015[9] the implementation of which was postponed until 1 January 2016 to allow for the necessary preconditions to be met for its full implementation through adoption of the secondary legislation. The amendments have been undertaken to ameliorate the poor financial position and insolvency of more than 50% of municipal budgets, as well as to improve fiscal policy in the context of the development of entrepreneurship. The amendments were aimed at enhancing revenue from taxes on real estate in a way that allowed for the increase of the lower tax rate limit, an expansion of the tax base, and, for the first time, the prescribing of penalty provisions for the violation of the Law.

New legal solutions (further described in Section 1.4 Structural Components) additionally clarified what constitutes the real estate tax payer, removing uncertainties and preventing the taxing of the occupiers of the immovable properties when the owner of the property is known. An important amendment to the Law was the creation of conditions for the establishment of a comprehensive database of taxpayers. This was achieved by introducing a mandatory requirement for notaries, courts and other state entities to deliver to the local governments on whose territory the real estate is located, the reference documents (contracts, decisions, etc.) relevant to the change in ownership of real estate, within 10 days from the day of the binding agreement. This measure is aimed at providing timely, effective, and comprehensive identification of taxpayer owners and thus the taxation of real estate.

Under the new legal provisions, the increase in the minimum tax rate applicable to real estate from 0.10 % to 0.25 % of the market value of real estate has been achieved, which is aimed at achieving of a greater level of revenues from the real estate tax and ensuring that it is one of the main stable sources of funding for local government budgets. In addition, further higher rates for certain categories of real estate and agricultural land have been introduced.

Considering that the territory of Montenegro has a large number of owners of real estate who have two or more residential units (secondary homes which are not their permanent residence e.g. apartments), in order to provide additional revenue the Law has imposed higher tax rates for such secondary residences. This is a recognition that a second home is clearly a "luxury" and, by implication, owned by (relatively) wealthy individuals who can afford to contribute more to the social services provided by municipalites. It may not comply exactly to the principle of basing real estate tax on the value of property, but it is based on a certain social justice which is recognised in many states.

[8] Based on the Government Act on Determining the Priority Tourist Location.
[9] Act on Amendments to the Law on Real Estate Tax *"Official Gazette", No. 9/15.*

In the same manner, the tax rates have been changed in order to encourage agricultural activities, primarily to stimulate the processing of major agricultural complexes and promote the cultivation of the agricultural land. The amendments also allow for different rates (up to a 100% increase from the base rate) for the taxation of illegal constructions which were not built for the purpose of resolving housing issues (to distinguish from those homes built as the first housing facility mostly by relatively poor citizens for which the rate increase is up to 50%). The amendments further included measures to stimulate luxury tourism by imposing higher rates on those tourist facilities located at the priority tourist sites.

The 2015 amendments included provisions which limit the exemption on real estates declared to be monuments of culture, by allowing the taxing of those facilities which are used for housing non-cultural or profitable activities.

However, the original legislation lacked precision, which has lead to local governments implementing the Law in different ways. As a result, special consideration was given with regard to the tax treatment of buildings and separate parts of a residential building owned by investors, which are recorded in the business books as “investments in progress" or "stocks of finished products" and which are intended for further sale. The 2015 amendments stipulates a deferral of the real estate tax payment for the abovementioned real estate for a period of three years from the year in which the building permit was issued. This measure provides for a unique tax treatment of these immovable properties at the municipal level, and ensures the legal protection of investors in terms of a limited exemption of the real estate tax on ,,construction in progress" or ,,stocks of finished products."
In terms of the assessment and collection of real estate tax, the new legal provision envisaged a revisions of the deadlines for the assessment and payment of tax liabilities. Specifically, it is stipulated that the real estate tax liability be determined by the relevant local tax authority, by April 30 of the current year, and payable in two equal installments (the first due by 30 June and the second by 31 October of the year for which the tax is assessed). In practice, the implementation the tax liability is determined by 31 May, and paid in two equal installments: (the first by 30 June and the second by 30 November of the year for which the tax is determined).

The 2015 amendments also obliged taxpayers who maintain business books, to submit real estate tax returns by 31 March of the calendar year. In addition, in order to eliminate ambiguities that have occurred in practice in certain municipalities where the property is located on the territory of two or more municipalities, the Law further stipulates the tax payer must file a tax return to each of the relevant local tax authorities in which territories the real estate is located and be responsible for the accuracy and completeness of data.

In order to ensure the accuracy of the data of the immovable property subject to the real estate tax assessment, the 2015 amendments also introduced a new deadline for

submission of data to local governments by the State Property Authority, which is now 31 January of the year for which the tax is determined.

The 2015 amendments also include penalty provisions for non-compliance and non-enforcement of the law, aiming to develop greater tax discipline in both authorities, taxpayers and other relevant professionals and thereby suppressing the "grey economy". In this regard, penalties are introduced as follows:

- a fine of between 2,000 EUR to 6,000 EUR is imposed on notaries who fail to submit relevant documentation within the legal time limits following the acquisition and transfer of ownership on immovable property;
- a fine of 250 EUR to 1,000 EUR is imposed on responsible persons in courts, or other state entities who fail to submit relevant documentation within the legal time limits following the acquisition and transfer of ownership on immovable property;
- a fine ranging from 2,000 EUR to 20,000 EUR is imposed on legal entities in the case of non-compliance with the Law, as well as on the responsible persons within such entities (250 EUR to 2,000 EUR); and
- a fine of 500 EUR to 3,000 EUR is imposed on a taxpayer/entrepreneur and a fine ranging from 250 EUR to 2,000 EUR on a taxpayer (physical person), for non-compliance with the Law, in terms of non-payment of tax liabilities, failing to submit a tax returns, or for the submission of inaccurate and incomplete data.

The increase of the tax rate on real estate, the expansion of the tax base, and the improvement in the discipline of parties to tax administration, the empowerment of local tax authorities, and the improvement of cooperation with the State Property Administration, are just some of the reasons that caused a significant increase in revenue from real estate tax during 2008 - 2016.

1.4 Structural components

The real estate tax is levied by local governments and all the revenue collected is allocated to their municipal budgets. The tax liability is determined by a decision of the competent tax authority of the municipality.

The object of taxation is the taxable real estate unit and the tax is paid on:[10]

- land (construction, forest, agricultural and other); and
- construction facilities (residential, commercial, etc.), buildings, special parts of residential building (apartments, offices, cellars, garages housing vehicles, etc.).

Buildings and construction facilities in separate ownership from the land are taxed separately from the land.

[10] Art. 3 of the Law.

The taxpayer is the physical person or legal entity which is the owner of the property, as registered in the real estate cadastre and other records of real estate on 1 January of the year for which the tax is determined. When a property owner is unknown or not specified, the taxpayer is the user of the property. If several persons have co-ownership of the same unit of real estate, the taxpayer of the tax is each of these persons in proportion to the share held. The taxpayer of real estate tax, which is acquired under a contract on the fiduciary transfer of ownership rights (i.e. under the contract on financial leasing), is the fiduciary transferor of the ownership right, or the recipient of a lease (lessee or tenant).

Local self-government units are authorized to:

- determine the market value of the immovable property;
- determine tax rates on immovable property;
- perform tasks of assessing and billing, control and collecting taxes on real estate;
- keep a register of taxable immovable properties;
- regularly reconcile its real estate register with the real estate register maintained by the State Administration Authority in charge of real estate; and to
- provide the Ministry of Finance with data related to the establishment and collection of real estate taxes, if necessary, and at least once a year. Ministry of Finance prescribes the form and content of the municipal registers of taxable real estate.

1.4.1 Tax base and tax rate [11]

The tax base is the market value of the property assessed as at 1 January of the year for which tax is determined, and which is obtained by the multiplication of the size of the immovable property with an average market price per square metre for that type of property in that location.

Criteria[12] for determining the market value of the real estate include: its purpose, size, location, quality and other elements of the immovable property that may have an impact on its market value. The Government of Montenegro stipulates the criteria and the methodology for determining the market value of immovable property based on the proposal of the Ministry of Finance. The methodology is realigned with market conditions at least once in three years. The local government departments in charge of assessment, collection and the control of local public revenues determine the market value of immovable property located within their jurisdiction.

Real estate tax rate is proportional and currently ranges from 0.25 % to 1.00 % of the market value of the real estate based on the criteria laid down in the legislation. The authorized local government department can establish a higher or lower tax rate than the range of rate established in accordance with the Law, for:

- non-cultivated agricultural land;

[11] Art. 5 and Art. 9 and 9a of the Law.
[12] Art. 6 of the Law.

- a secondary residential facility or a dwelling;
- an object constructed illegally (contrary to the law);
- a catering facility (restaurant) located in the zone of the priority tourist location based on the Government Act on Determining the Priority Tourist Location;
- a catering facility (restaurant) that is used for a purpose other than that specified in the relevant planning document; and
- construction land not being developed in accordance with the planning document.

The Law introduces taxation at the higher rate (up to 150 % for a secondary residential building i.e. a facility which is not considered to be the main permanent residence of the taxpayer, but excluding the cases where the premises is the only residence of the taxpayer in Montenegro; a housing asset owned by a legal entity is also considered to be the secondary residential facility and taxed accordingly).

Furthermore, the amendments to the Law, aimed at prevent further illegal constructions, allow for the taxation of illegal constructions (the object which was built contrary to the law) at an increased tax rate of up to 50 % (for facilities which contribute to the reduction in the current shortage of housing and which also serve as the taxpayer's only dwelling) and up to 100 % (for those which do not seek to reduce the current shortage of housing). Property which was built contrary to the law refers specifically to: facilities built without a building permit in the territory for which there is planning documentation available (on application); and facilities used contrary to a relevant planning document; or those built on usurped land (being land to which the developer had no rights).

In order to eliminate barriers to business and to stimulate luxury tourism, the Law has been revised to allow for local governments to tax „tourist accommodation facilities" operating in the zone of priority tourist locations. The level of tax applicable varies in accordance with the relevant Government regulation which identifies three different "categories" of facilities, which are taxed at an increased rate, being:

- Category 3 *** facilities, taxed at between 2 to 2.5% of the market value of the real estate;
- Categories 2 ** facilities, from 3 to 3.5% of the market value of the real estate;
- Category 1 * facilities, from 4 to 4.5% of the market value of the real estate; and
- Tourist accommodation facilities which are not categorized can be taxed at a rate ranging from 5 to 5.5 % of the market value of the real estate.

Where the above mentioned tourist accommodation facilities are in operation during the whole year, they are not categorized, and the applicable real estate tax rate can be reduced as following: categories 4 **** up to 30 %; and categories over 4 **** up to 70 %.

For the purpose of tax rates, tourist accommodation facilities include: hotels and resorts, natural beauty resorts, hotels, small hotels, boutique hotels, bed and breakfast accommodation, hotels comprising apartments, condo hotels, hostels, boarding houses,

motels, touristic villages, ethno villages, eco lodges, villas, inns, mountain lodges, resorts, camps, located within the zone of a priority tourist location.

For any tourist accommodation facility that is used contrary to the purpose defined by the relevant planning document, a tax rate of 5% to 5.5% of the market value of the real estate can be prescribed at the discretion of the municipality.

Furthermore, the Law regulates the rate of tax on construction land, allowing for up to a 150 % increase in the real estate tax rate for construction land which has not been put to use in accordance with the relevant planning document. The exception to this is for construction land intended for the construction of commercial facilities and facilities intended for further sale. For such real estate, a tax rate of 3 % to 5 % of the market value of the immovable property is determined, after the expiration of a period of five years from the day of the adoption of the planning document.

For non-cultivated agricultural land with an area exceeding 150,000 m^2, the tax rate is determined within the range of 3 % to 5 % of the market value of the relevant real estate. The Ministry of Agriculture issues regulations by which such agricultural land is defined as "cultivated agricultural land".

Construction land in urban areas is defined by local regulations. The market value of such real estate increases in accordance with the growth of retail prices from 31 December of the previous year to the date of determination of the tax liability, in accordance with the data issued by the Statistics Department.

The obligation to pay real estate tax incurs on 1 January of the year for which the tax is assessed. The market value of the immovable property is determined by the tax department of the LGU. In the case of damage to immovable property due to natural disaster (drought, flood, fire, earthquake, etc.), a LGU may, on its own authority or at the taxpayer's request, carry out a reassessment of the market value of the real estate in question.

If the taxpayer fails to file a tax return or submits incorrect information in the application, the competent tax authority determines the market value of the real estate, basing its decision on available data (obtained during the process of the tax assessment).

1.4.2 Tax exemptions

Pursuant to Article 10 of the Law, the real estate tax is not paid on:

- Property owned by the state, used by state bodies, organizations and departments, local self-government entities and organizations that perform the public service functions for which they are established;
- Real estate owned by the Central Bank of Montenegro;

- Real estate owned or occupied by accredited diplomatic or consular offices, if the real estate is used for this purpose and on the condition of reciprocity;
- Real estate owned by international organizations, if so provided in the agreement it holds with the State;
- Real estate by law declared as monuments of culture, except when used for housing;
- Real estate owned by religious organizations that are used for religious purposes;
- Real estate owned by NGOs used for the functions for which they are established;
- Public roads, streets, squares and parks, ports, railways and airports, protected forests and those used in flood defences, and national parks.

Exemptions are applicable only if the real estate is not used for profit-making.

Payment of the real estate tax is deferred for the period of three years from the year in which the building permit was issued in the case of newly constructed objects and special parts of a residential building in the ownership of an investor, which are stated in the business books as „ongoing investments" or „inventories of finished goods" and are intended for further sale. The aforementioned tax exemption applies to legal or physical persons which have registered their activity of the construction of residential and non-residential buildings in the Central Register of Commercial Entities, and who are recorded in the Cadastre of Immovable Properties as the owners of the immovable property in question.

Taxes are not paid when the value of the total tax base for a taxpayer's real estate does not exceed 5,000 EUR, and if the property is not used for income generation.

1.4.3 Tax reliefs and tax period

The real estate tax on buildings and apartments, which form the taxpayer main place of residence, is reduced by 20% for the taxpayer and by 10% for each member of his household, up to a maximum of 50 % of the tax liability.

1.5 Administration

Law on Tax Administration[13] represents the codification of legal provisions which regulate the assessment, control and collection of taxes and other fiscal duties. Depending on the type of tax, it regulates tax procedures for all taxes in Montenegro and is also applicable to local taxes. The Law also regulates the executive power of the “bodies of local self-governments” (*„organi jedinice lokalne samouprave”*) with regard to tax administration, and refers to the “competent authority” of local self-governments. Enforcement of claims is initiated by a "decision on enforced collection" (literally:

[13] All issues not regulated by this Law require subsidiary implementation of the Law on General Administrative Procedures and the Law on Inspections, while for specific issues the Law on Executive Procedures, Law on Mortgage and the Law on Execution and Security.

"conclusion" / *zaključka o prinudnoj naplati*) and further regulated by the Law on Execution and Security.

Pursuant to Article 5 of the Law on Tax Administration, the tasks regarding the establishing, collecting and controlling of taxes introduced by LGUs are performed by the competent authority within the local government. This authority in practice can either be the Local Tax Authority or the Local Tax Department, under the Local Finance Secretariat.

1.5.1 Rights and obligations of a taxpayer

In accordance to the Article 25 of the Law on Tax Administration, taxpayers are entitled to:

- be informed punctually and in due time about all issues that enable them to submit tax declarations and pay fiscal duties;
- demand that collected data on the assessment of fiscal duty shall be kept confidential and shall be used, or transferred only to the institutions and entities involved in procedures and in the manner prescribed for by the Law;
- demand a reconsideration and a new assessment of the fiscal duty in a manner prescribed for by the Law;
- receive information from the tax authority about the fiscal legislation, and rights and duties prescribed by it free of charge;
- receive a copy of tax declaration form and a copy of every other fiscal forms;
- to be treated with respect and dignity by the tax authority;
- represent their own interests before the tax authority either individually or through an authorized representative;
- use the tax reliefs in accordance with the tax regulations;
- be provided with an insight in the data on the assessment and collection of the tax obligation imposed by the tax authority and to request amendments and additions to any incomplete data;
- be present during the office or field inspections, as prescribed for by the fiscal legislation; and
- execute other rights prescribed for by the Law.

Taxpayers whose rights have been violated have the right to file a lawsuit at the competent court. If the court determines that the rights of the taxpayer have been violated, the compensation and expenses of the court proceedings shall be borne by the tax authority

In accordance to the Article 26 of the Law on Tax Administration, the taxpayer is obliged to:

- submit a declaration to the competent tax authority for the purposes of registration;
- calculate precisely the tax due and submit a tax declaration to the competent tax authority in the form and in the terms prescribed for by the fiscal legislation;

- report to the responsible tax authority any change in the principal place of business, the place of permanent or current residence or other data from the taxpayers' register;
- keep books, records and ledgers in the manner prescribed by the law;
- fulfill fiscal duties in the manner and within deadlines provided for by the fiscal legislation;
- submit all documents and other data necessary for assessment of fiscal duties upon a request of the tax authority;
- enable the officials of the tax authority to work without any obstruction when executing legal authorities; and
- perform other duties prescribed for in the fiscal legislation.

1.5.2 Identification and general registration of a taxpayer

In order to register with the competent tax authority, the taxpayer is required to file an application for registration by signing the tax register, within the deadline and in the manner prescribed by the Law on Tax Administration. The form and content of the application for registration is prescribed by the Ministry of Finance.

In order to identify taxpayers, and within 15 days from the date of filing the application for registration, the tax authority issues a decision on registration that entitles legal entities and individuals to a Tax Identification Number (TIN). The TIN is the unique number for legal entities and for individuals for all types of taxes and is retained in the event of the changing of residence, by the taxpayer.

1.5.3 Submission of the tax return

A taxpayer submits a tax return to the competent tax authority where the taxpayer is registered using the prescribed form, in the manner and within the deadlines prescribed by law. The tax return contains taxpayer general information and a specific section which contains the data relevant to the determination of the tax liability. In addition to the tax return, the taxpayer is obliged to submit all documentation relevant for tax assessment.

The taxpayer submits the tax return in person or by post. A taxpayer may file a tax return on a diskette or other form that allows for computer data processing. A taxpayer or a (professional) proxy signs the tax return under threat of a penalty for perjury Responsibility in this case is borne by the professional person who made the tax return.

The form and content of the tax return, as administered by the competent tax authority, is prescribed by the Ministry of Finance.

The competent tax authority has the right to file a tax return on behalf of the taxpayer, within three days from the day of finding out that the application was not filed within the prescribed deadline. The Tax Authority has the authority to amend an incomplete tax

return or correct a wrongly filled tax return, on the basis of the information available for the taxpayer, immediately after learning about omissions and errors in the submitted tax return.

At the written request of the taxpayer, the head of the tax authority may authorize the extension of the deadline for filing the tax returns prescribed by law, but no later than 90 days from the date of expiry of the deadline. The extension may be granted in the case of sickness, absence from the country and other circumstances beyond the control of the taxpayer. The request for an extension is formalized by an issued decision, within seven days from the date of receipt of the request. The extension of the deadline does not affect the time the tax is payable and the accrued interest payment.

1.5.4 Tax obligation and Tax Decision

The taxpayer personally undertakes the tax assessment when the law stipulates self-taxation, as in the case of the real estate tax. Determination of the tax liability is performed by the competent tax authority in the event the taxpayer does not submit the tax return or submits inaccurate data, in which case the tax liability is levied by means of a decision issued by the competent tax authority. The deadline for issuing a decision for final determination of the tax liability is three years from the date of the issuance of the temporary decision.

The tax liability determined by the tax decision is due for payment within 10 days from the date of delivery of the decision in question.

1.5.5 Delivery of tax decisions

It is up to the municipalities to define the most effective way to deliver tax decisions. Generally tax decisions are delivered by post. In rural areas, they are sometimes delivered by a courier who is a civil servant of the municipality. Common practice is that, if tax decisions are not collected, a reminder is delivered by registered mail and the failure of the taxpayer to pay within the deadline prescribed in this reminder initiates the enforced collection procedure.

1.5.6 Payment of tax liability and enforced collections

Payment of real estate tax is made by the taxpayer within the terms and in the manner prescribed by the Law on Real Estate Tax, by means of a deposit of the relevant funds in favor of dedicated revenue deposit accounts, as stipulated by the Ministry of Finance.

The Law on Real Estate Tax does not contain any restrictions as to its applicability to non-residents. Property tax is therefore collected from non-residents in the same way as from a resident.

Enforced collection of tax is triggered if the taxpayers do not comply with their tax obligations within the time limit. Enforced collection is regulated in the Law on Tax Administration[14]. The enforcement of claims is initiated by a decision (literally: "conclusion" / *zaključak o prinudnoj naplati*) issued by the responsible tax entity and further regulated by the Law on Execution. The taxpayer bears the costs of enforced collection.

Subject to enforced collections are the taxpayers' financial resources;[15] financial claims;[16] property (immovable and movable;)[17] non-cash receivables and other rights of the taxpayer (goods, services, share in a company, etc.). Salaries, compensation of salaries and pensions, are not exempt in accordance with the law regulating execution and security.
The enforced collection may be carried out in one or more of the aforementioned cases. Enforced collection can involve the suspension of the salary or pension of the taxpayer. If the payer of the salary or pension fails to deduct the owed tax payment from the aforementioned earnings, the tax authority can enforce the collection of funds from the payer's account.

With regard to appeals against a decision on enforced collection, the Law on Tax Administration stipulates that an appeal can be filed against the decision on the enforcement of claims which does however not prevent the execution of the decision. The deadline for filing an appeal is three days from the date of delivery of the decision.

1.5.7 Expiration of the right to determine and collect tax liability

The right to determine tax liability expires within five years from the year in which the liability was to be determined.

The right to collect tax liability expires within five years from the year in which the liability was in fact determined.

The right to a refund of an excess tax payment expires within three years from the end of the year for which the tax duty was over paid.

[14] In Section X Enforced Tax Collection.
[15] Collection of fiscal duty from the financial resources consists of transfer of funds from taxpayer's account to the designated account in favour of which the tax obligation is being deposited. The decision on the collection of fiscal duty from financial resources is executed by the Central Bank of Montenegro.
[16] Enforced collection from the financial claims of a tax payer is performed in a manner and under procedure set out in the Law on Executive Procedure.
[17] This is achieved by the security of the fiscal liability by means of collateral or mortgage. In order to secure the fiscal liability in the process of enforced collection, property and property rights of a taxpayer become the objects of a lien or mortgage. The measures of introducing collateral or the mortgage are performed in a manner set out in the Law on Mortgage. Enforced collection of taxes from the tax payers property consist of the acquisition and sale of tax payer's property (movable and immovable property), as well as the use of the funds collected through sale or other procedures to pay of fiscal dues.

Inspection and control is performed by the tax inspectors of the local government bodies in charge of local public revenue operations.

1.6 Valuation

Based on the amendments to the ,,Decree on Detailed Criteria and Methodology for Determination of Market Value of a Real Estate" (which took effect as of January 2016) and including the recent amendment to the Decree[18], the market value of immovable property is determined by multiplying the average market price of similar properties in the locality (in terms of square metres) with the size of immovable property, and applying the criteria established by the decree. In accordance with the law, the market value of immovable property is determined by the local government body responsible for the activities of assessment, collection and control of local public revenues. This is undertaken using the following information:

- The average market price per square metre of the construction object is determined on the basis of the average market price of a newly built housing facility within the municipality, published by the Office for Statistics for the year proceeding the year for which the tax is determined;
- The average market price per square metre of a construction object being a housing facility for municipalities for which the average market price of the dwelling is not published, is based on the average market price per square metre of the housing facility in Montenegro, published by the Office for Statistics for the year preceding the year for which the tax is determined;
- The average market price per square metre of a construction object being a housing facility, housing and business facility or business premises is determined by adjusting the average market price per square metre of the housing facility with a coefficient ranging from 1.00 to 2.00;
- The average market price per square metre of a building not covered by the three cases above, is determined by adjusting the average market price per square metre of a housing facility by a coefficient ranging from 0.30 to 1;

The average market price per square metre of land is determined on the basis of the:

- average market prices of land (in terms of square metres) in the respective municipality published by the Office for Statistics for the year preceding the year for which the tax is determined;
- average market prices of land (in terms of square metre) in Montenegro published by the Office for Statistics for the year preceding the year for which the tax is determined; or
- data on the price of a square metre of land and on land use obtained from the land sales contracts for the previous three fiscal years based on a representative sample which State Tax Authority submits to the municipality by January 31 of the current year. The representative sample includes data from at least three land sale contracts;

[18] Official Gazette of Montenegro, No.39/2017, from 22 June 2017.

- If the market price of the land per square metre cannot be determined by using any of the above mentioned methods, the average market price per square metre of land shall be determined by an authorized assessor of immovable property;
- If, according to the data of the Office for Statistics, the average market price of a square metre of immovable property in relation to the previous year is increased by more than 20 %, the municipality may determine the tax base on the basis of the average market price of square metre of real estate for the three years preceding the year for which the tax is determined, as published by the Office for Statistics.

Criteria for determining the market value of the real estate include: purpose, size, location, quality and other elements of the immovable property that may have an impact on the market value of the immovable property.

Construction objects are divided according to purpose into: residential facilities (family houses, cottage houses, etc.), business premises (production units, warehouses, offices, department stores, restaurants, etc.), residential-business premises, special parts of residential buildings (dwellings, business premises, basements, garages housing vehicles, etc.).

Land is divided according to purpose into: construction land, agricultural land, forest land and other plots (mountains, etc.).

The size of the immovable property represents the real estate area as registered in the Real Estate Cadastre, or in the other real estate register.

The size of immovable property for which there is no data in the records in the Cadastre or any other real estate register, or if these data do not correspond to the actual situation in the field, is determined following the procedure for determining the tax liability in accordance with the law governing tax administration.

The location of the immovable property is determined by the municipality and by the site (zone) where the immovable property is located.

The quality of the construction object is determined based on the elements that increase or decrease the value of the object (micro location, utility equipping, type of construction - hard construction, prefabrication, size of the construction object, floor space of the building, etc.).

The quality of the land for the purpose of construction is determined based on its access to utility connections and infrastructure, whilst for agricultural and other land, the quality is determined based on the kind of agricultural uses to which the land is suitable, as registered in the Real Estate Cadastre.

The coefficients for determining the market value of the immovable property are:

- Municipal coefficient. This can range from 0.10 to 2.00 and is used for determining the market value of the immovable property by those municipalities that only have available the data on average market prices of immovable property within Montenegro;
- Location coefficient. This can range from 0.10 to 2.00 and is applied for the determination of the market value of immovable property for the municipalities that only have data on the average market price per square metre of real estate from Montenegro, as well as for the municipalities for which the data on the average market price of a square metre of real estate are published;
- Quality coefficient. This can range from 0.10 to 2.00 for construction objects and from 0.10 to 3.00 for land. It is applied to the average market value determined in accordance with the Decree; and
- Age coefficient. The value of the construction object is reduced by 1.00 % for each year since the last reconstruction. This deduction cannot exceed the maximum of 60 % of the value of the object.

The tax base on the immovable property for the taxpayer who maintains the books is determined by taking as the market value the value of the immovable property shown in those business books, in accordance with the regulations governing the accounting (*fair value* determined in accordance with international regulations on financial statements), as of 31 December of the year preceding the year for which the real estate tax on is determined.
If the taxpayer fails to indicate the value of the real estate in accordance with the regulations or does not file a tax return, the tax on immovable property shall be calculated in accordance with the law governing tax administration.

1.7 Case Study: Municipality of Bar

1.7.1 Municipal Decision on Real Estate[19]

The assessment, collection and control of the real estate tax are performed by the local authority (of the Municipality of Bar) in charge of local public revenue. The tax on real estate is determined by a decision of the authority made by 30 April of the current year.

Undelivered tax returns are made public by means of a notice issued on the municipal board within the municipal building and the municipal website and are deemed to be delivered within 15 days from the day of publication.

Market value of the building construction and construction land, (determined in the manner specified in Art. 2 of the Decree (*valuation methodology*)), is corrected by the location coefficient according to the zone in which the building and the construction land

[19] Decision on Real Estate Tax "Official Gazette of Montenegro - Municipal Regulations", no. 40/2012, 39/2014, 19/2015 and 50/2015.

are located. The zones are determined according to cadastral plots presented in electronic form on a digital map, which are an integral part of the valuation decision and are corrected by the location coefficient according to Table 15.1 below:

Table 15.1: Zones and Location Coefficient per the determined zones

Zone		Location Coefficient
I		1.40
II		1.20
III		1.00
IV		0.90
V		0.80
VI		0.70
VII		0.50

The average market price of per square metre of residential object in the territory of Bar Municipality is corrected by the coefficient, as shown in Table 15.2 below:

Table 15.2: Corrective Coefficients for Residential Premises

a) commercial premise	1.40
b) auxiliary premises	0.40
c) storage facilities (warehouse, halls, reservoirs, etc...)	0.80
d) production units	0.60

The average market value of land is corrected by the soil quality coefficient, as shown in Table 15.3 below:

Table 15.3: Quality of Land Corrective Coefficient for Land

- construction land, land beneath the object, cultural type land, yard	0.65
- agricultural land	
a) arable land, fields, gardens, orchards and vineyards	0.40
b) meadows and pastures	0.25
- forest land and other land	0.10

Table 15.4: Elements for the Determination of Real Estate Quality

Description of position	**Number of Points**
Building construction	
Buildings made of bricks	50
Assembled buildings (wooden, iron, etc.)	120
Buildings made of reproduced elements and mixed materials	200
Classical construction (hard material)	240

Description of position	Number of Points
Exterior look of building	
Classical façade	10
Facade brick	20
Artificial stone	35
Natural stone, marble	45
Apartments equipment (interior)	
Closets – minimum 3m2 of the vertical space	10
Shades	
Wooden	10
Plastic	10
Aluminum	15
Kitchens and aspirators in the new apartments	5
Sanitary equipment	
Bathroom - completed	30
Bathroom – partially completed	10
Water Supply	
Pipes connected on the water supply network	20
Pipes connected on the well network	10
Sewage	
Sewage connected to the wastewater system network	20
Sewage connected to the septic network	20
Electric installation	
Electric installation	20
Telephone installation	10
Heating	
Central heating	40
Other types of heating (fuel, liquid fuel and electricity)	10
Elements which increase value of the building	
Pool for bathing	50
Access to the asphalt road	40

Source: Municipality of Bar Decree on Real Estate Tax (Official Gazette of the RoM- Municipal Regulations. No 40/12, 39/14, 19/15, and 50/15).

The tax rates are prescribed by type of real estate as follows:

- Buildings regardless of the degree of construction:

For residential buildings, the tax rate applied is 0.26%. A residential building is a housing unit, i.e., an apartment which is a permanent residence or place of permanent residence, or the main place of residence of a taxpayer in the municipality of Bar. Also included in the definition is any subsequent residential building or apartment which is not the taxpayer's main place of residence and which is located in the territory of the Municipality of Bar.

The real estate taxpayer with a main place of residence in the Municipality of Bar and who has several housing units within the territory of the Municipality of Bar, has the right to deduct tax on the basis of the number of household members, but only in relation to the taxpayer's the main place of residence.

The tax rate applied to secondary housing is 0.60%. Secondary housing facilities are residential unit or apartments that are not the taxpayer's main place of residence or permanent residence, and also include a residential building or apartment owned by a legal entity.

Further relevant tax rates are shown in Table 15.5 below.

Table 15.5: Other premises and associated tax rates

c) auxiliary premises	0.25 %
d) production units	0.25 %
e) storage facilities (warehouse, halls, reservoirs, etc)	0.25 %
f) hotels and tourist facilities	0.31 %
g) housing – commercial objects	0.31 %
h) commercial and other similar objects (electricity, telecommunication, etc.)	0.40 %

Source: Municipality of Bar Decree on Real Estate Tax, ,,Official Gazette of the RoM- Municipal Regulations". No 40/12, 39/14, 19/15, and 50/15.

Table 15.6: Land tax rates

a) construction	0.25 %
b) land beneath an building, cultural type land, yard , parking lot	0.25 %
c) agricultural	0.25 %
d) forest and other land	0.25 %

Source: Municipality of Bar Decree on Real Estate Tax, ,,Official Gazette of the RoM- Municipal Regulations". No 40/12, 39/14, 19/15, and 50/15.

The real estate tax rate is increased in the following cases:

- In cases where an object is built contrary to the Law, the tax rate is increased by 40% if the property provides residential accommodation. In cases where it does not, the rate is increased by 80%.

  A property built in violation of the law is considered to be an object that was built without a building permit in the area for which there is a planning document, or in circumstances where a special part of the building was not built in accordance with the building permit, or an object not used in accordance with the purpose of the adopted planning document, or an object which was built on land to which the development does not have rights of ownership.

- "Tourist accommodation facilities" operating in the zone of the priority tourist location of:
  - category 3 *** , the rate is increased by 2 % of the real estate market value;
  - category 2 **. the rate is increased by 3 % of the real estate market value;
  - category 1 * , the rate is increased by 4 % of the real estate market value.

- The real estate tax rate is decreased for the "tourist accommodation facilities" of:
  - category 4 **** by 30 % of the real estate market value; and
  - categories over 4 **** by 70 % of the real estate market value.

- The real estate tax rate is increased by 20 % of the real estate market value for construction land that has not been put to use in accordance with the planning documents.

The owners of immovable property are obliged to file a tax return to the competent tax authority of the local government unit within 30 days from the date they acquired the immovable property.

Taxpayers, who keep company accounts, are obliged to file a tax return to the competent tax authority of the local government unit by 1 April of the year for which the tax is determined.

The tax return can also be submitted electronically to the relevant e-mail address.[20]

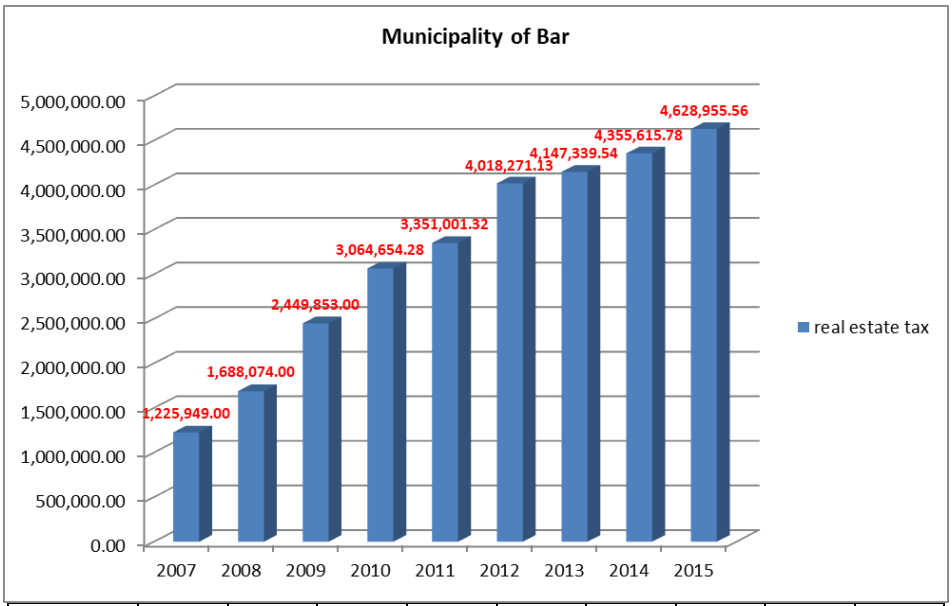
The competent tax authority of the LGU files a tax return on behalf of any taxpayer who fails to submit the tax return within the prescribed deadline. In addition, such authority has the power to amend the incomplete and correct the incorrectly filled tax return immediately upon learning of the omissions and mistakes in the application filed by the taxpayer.

Real estate tax revenue performance over the years 2007 - 2015[21]

The real estate tax revenue from 2007 to 2015 for the Municipality of Bar is shown in Figure 15.1 below.

[20] gradjanski.biro@bar.me
[21] Ministry of Finance, Municipal Finance Data Base, September 2016.

Figure 15.1: Real Estate Tax Collection 2007 - 2015, Municipality of Bar (in EUR)



	2007	2008	2009	2010	2011	2012	2013	2014	2015
real estate tax	1,225,949	1,688,074	2,449,853	3,064,654	3,351,001	4,018,271	4,147,340	4,355,616	4,628,956

Source: Figure derived from the data of the Ministry of Finance of the Government of Montenegro. Data made available upon the request of the World Bank – Montenegro Policy Notes (Subnational Governments).

1.8 Revenue performance

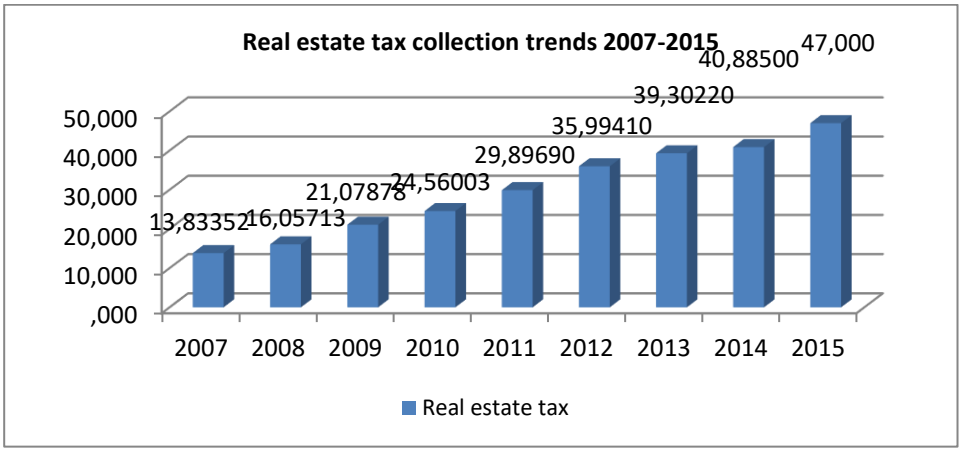
Local government revenues vary hugely. Among the own source revenues, the options for collecting property-related taxes are very diverse, even among local governments of a similar type. Per capita real estate tax revenues in the cities or municipalities with the largest amount of revenue could exceed the average of the same category by as much as four to six times (see: Table 15.7)

Table 15.7: Local Governments Units, Number of Inhabitants, 2015 and municipal real estate tax per capita (in EUR) for 2015

Municipality	Inhabitants	Real estate tax per capita
ANDRIJEVICA	5,081	9.63
BAR	42,128	109.88
BERANE	34,035	8.86
BIJELO POLJE	46,138	11.69
BUDVA	19,255	579.95
DANILOVGRAD	18,507	20.17
HERCEG NOVI	30,923	118.35
KOLASIN	8,396	457.85
KOTOR	22,644	5.22
MOJKOVAC	8,638	13.68
NIKSIC	72,581	65.15
PLAV	13,133	11.93
PLUZINE	3,252	440.29
PLJEVLJA	30,844	109.47
PODGORICA	186,290	39.45
ROZAJE	23,008	2.92
TIVAT	14,058	214.65
ULCINJ	19,959	66.89
CETINJE	16,689	18.47
ZABLJAK	3,576	71.08
SAVNIK	2,074	14.28

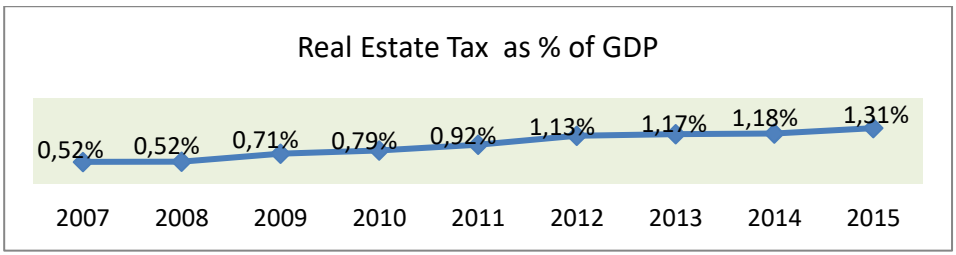
Source: Statistical Office of Montenegro http://monstat.org/cg/; Ministry of Finance, Municipal Finance Data Base, September 2016; and own calculations.

Figure 15.2: Montenegro Real Estate Collection Trends 2007 - 2015, in Millions EURO



Source: Ministry of Finance, Municipal Finance Data Base, September 2016; World Bank, Montenegro Public Finance Review (Concept Note), Restoring Sustainability and Strengthening Efficiency of Public Finance (Local Government Chapter), 21 June 2016.

Figure 15.3: Real Estate Tax collection as a percentage of Montenegro GDP, 2005 – 2015



Source: World Bank, Montenegro: Options To Restore Fiscal Sustainability And Improve Spending Efficiency At Subnational Level, November 2015.

Table 15.8: Total Municipal Budget Revenues 2007 - 2015

Budget Revenues (Million Euro)	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**
TOTAL	**305**	**348**	**280**	**238**	**210**	**214**	**236**	**230**	**268**
Own Revenues	**150**	**201**	**142**	**134**	**103**	**123**	**120**	**122**	**127**
Surtax on Personal Income Tax (PIT)	15	19	16	15	15	15	18	18	19
Real property tax	14	16	21	25	30	36	39	41	47
Charge for provision of utilities at buildable land	73	93	66	65	35	50	37	38	38
Charge for use of buildable land	16	29	4	1	0	0	0	0	0
Other local taxes, fees, and charges	33	44	36	29	24	23	26	25	23
Shared Revenues	**36**	**38**	**26**	**23**	**30**	**33**	**41**	**41**	**40**
Personal Income Tax (PIT)	12	14	13	12	13	13	16	17	17
Charges for the use of assets and natural resources (concessions)	4	3	3	3	6	6	12	10	9
Property sale tax	20	19	9	8	10	11	11	12	12
Annual charge for vehicle registration	1	2	2	1	1	2	2	2	2
Equalization Fund and grants	**17**	**28**	**28**	**22**	**29**	**29**	**41**	**36**	**34**
Equalization Fund	11	21	19	17	23	23	24	29	26
Conditional Grants	2	2	1	0	2	3	5	3	1
Other transfers and grants	4	5	7	5	5	3	12	4	7
Financing Transactions	**102**	**82**	**85**	**59**	**47**	**29**	**34**	**32**	**68**
Sale of property	79	14	23	22	12	11	15	8	2
Loans	11	17	17	22	21	8	9	10	47
Carry-over from previous years	13	51	44	15	14	11	10	14	19
MEMO									
Composition of Budget Revenues (percent)									
Own Revenues	49	58	51	56	49	58	51	53	47
Shared Revenues	12	11	9	10	14	15	17	18	15
Equalization Fund and Grants	6	8	10	9	14	13	17	16	13
Financing Transactions	33	23	30	25	23	14	15	14	25
Composition of Budget Revenues Excluding Financing Transactions (percent)									
Own Revenues	74	75	72	75	63	67	60	61	63
Shared Revenues	18	14	13	13	19	18	20	20	20
Equalization Fund and Grants	8	10	14	12	18	16	20	18	17

Own Revenues + Shared Revenues + Equalization Fund (million Euro)	**197**	**260**	**187**	**174**	**156**	**179**	**185**	**192**	**193**

Source: Ministry of Finance, Government of Montenegro, Municipal Finance Data Base, September 2016.

Table 15.9: Municipal revenues 2007 - 2015 (total, own municipal revenues, real estate tax revenues as percentage of all and own revenues)

Year	**2007**	**2008**	**2009**	**20010**	**2011**	**2012**	**2013**	**2014**	**2015**
All revenues (in million Euro)	305	348	280	238	210	214	236	230	268
Own municipal revenues (in million Euro)	150	201	142	134	103	123	120	122	127
Property tax revenue (in million Euro)	14	16	21	25	30	36	39	41	47
Property tax revenue as % to all (total) revenues	0.05	0.05	0.08	0.10	0.14	0.17	0.17	0.18	0.18
Property tax revenue as % to own revenues	0.09	0.08	0.15	0.18	0.29	0.29	0.33	0.33	0.37

Source: Ministry of Finance, Government of Montenegro, Municipal Finance Data Base.

1.9 Possible reforms

As a whole, Montenegrin municipalities largely rely on their own-source revenues to fund their local budget. Legislative changes introduced in recent years are intended to improve the potential for raising own-source revenues (especially from the real estate tax). Such changes are also aimed at reducing distortions in the taxation of economic activities at the local level (particularly those induced by the charge for the use of buildable land) as well to eliminate revenues which were reportedly too expensive for the local governments to administrate. However, some municipalities have been unable to strengthen their own sources of budgetary income.

Potential reforms include the following:

1. A further strengthening of own-source revenues - particularly from the real estate tax - which is necessary in all municipalities, and which would help improve financial sustainability in the long term. The real estate tax is meant to be a cornerstone of own-source revenues. Its collection was actually expected to more than offset the reduction in other traditional sources of local revenues. The tax compliance rate is high (80 - 90 %) for real estate owned by corporations, arguably because municipalities have a handful of inexpensive administrative procedures available to enforce tax obligations

(such as the ability to block bank accounts and transactions). On the other hand, the tax compliance rate is dismal (less than 50 %) for real estate owned by households. Resident households are unwilling to pay real estate taxes, in some cases, because of insufficient income or non-productive real estates, and there are weak procedures to enforce their tax obligations. In addition, illegal constructions, primarily of household residences, have eroded the base for real estate tax. It seems likely that Montenegro will seek to legalize such constructions and then impose the real estate tax on them to regularize both their existence and their taxation.

2. Policy and reform options to strengthen real estate tax collection might include the following[22]:
   - The enforcement of the legalization of irregular settlements - which is legally necessary and politically justifiable;
   - Local tax administration units taking full advantage of the centralization of cadastre information to better assess the real-estate tax base and thereby improve collection rates. The World Bank's Land Administration and Management Project is currently providing support to Montenegro's Real Estate Administration Department (READ) to centralize and upgrade the cadastre system. As a result of this endeavor, the registration of a transaction, wherever it occurs, is immediately reflected in the system, which is a vast improvement compared to the previous, time-consuming practice of replicating the transaction in the central cadastre. In addition, all data can be accessed from any location in real time. Municipalities should therefore be able to enhance their tax-administration performance using these innovations. For instance, they are able to work together with READ to establish an effective and efficient access to cadastre data. This could be achieved through online services developed by READ, similar to the services being developed for notaries and geodetic companies. The municipalities could use the cadastre data to monitor real-estate transactions and valuations for taxation purposes, as well as to ensure consistency between the real estate turnover tax and the real estate tax;
   - The imposition of a legal obligation that no property sale (or related transaction) can be registered in cadastres unless all outstanding tax obligations (including the real estate tax) have been settled;
   - The enforcement of the registration of property in the cadastre, because some individuals or entities do not register their properties in order to avoid paying the real estate turnover tax. In some cases, the local tax administration unit effectuates its own inspection of properties not registered in the cadastre and thus collects data;
   - For the future, the introduction of true ad-valorem real estate tax could be considered;
   - Efforts should be made to invest in local tax-administration agencies to provide additional human, technical, and administrative resources (and incentives) necessary to improve their performance and to collect more local revenues. Local

[22] Source: World Bank, Montenegro: Options To Restore Fiscal Sustainability And Improve Spending Efficiency at Subnational Level, November 2015.

tax administrations agencies (in cooperation with the Tax Administration Unit) should make additional efforts to collect the estate-related taxes, the personal income tax and the surtax on the personal income tax, which are perceived to be largely evaded. Information exchanges and technical assistance between tax administration units should also be encouraged;

- The raising of awareness among residents of the importance of paying real estate tax in order to support municipal development and improve service delivery;
- Develop IT systems in order to improve technical assistance and capacity building and to enhance local tax administration capability to take advantage of the centralization of cadastre information, and thus to better assess real-estate valuations and improve collection rates. Municipalities should enhance their tax administration performance using these innovations. For example, they should be able to download the data in a customized format and use the information to monitor real-estate transactions and valuations for taxation purposes, as well as to ensure consistency between the real estate turnover tax and the real estate tax;
- Strengthen the information systems of local government units which can be achieved through the establishment of the extended connectivity of municipalities with the registry of real property so that it covers other databases needed for municipal functioning, their interconnectivity and their connectivity with the central state bodies. This could significantly improve the potential for local governments to increase their revenue collection capabilities. Currently, the information systems across municipalities vary a great deal, and there are even issues of connectivity within the same municipality;
- Taking further advantage of the Geoportal, the national portal published by the real estate administration which allows for spatial data searching and browsing by citizens and institutions, and is enabled by the national spatial data infrastructure (INSPIRE Directive). In addition, geographic information system (GIS) needs to be updated, ensuring that orthophotos, alphanumeric and geophysical maps are connected;
- Improving data exchange. The cadastre of immovable property, is the single public record of immovable property, property rights on immovable property and related obligations (real estate tax debt burden registered in cadastre). For local government units, it is difficult to search data because the export data format is Excel (access). There is also a problem with the lack of identification numbers paired with the name, address and a plot identifier of non-residents in the database.

Improvement in the assessment and collection of real estate tax, as the main source of revenue administrated and collected locally, can be ensured through the introduction of a unified information system and increased capacity building within the local tax administration units.

Real estate tax policy measures in 2011 and 2015 were aimed at mitigating the adverse effects of the financial crisis and overcoming the lack of liquidity. A precondition for the improvement of real estate tax collection rates is an accurate and complete database,

which includes illegal constructions as well as constructions not aligned with obtained construction permits. Although the whole territory of Montenegro is covered by vertical orthophotography, to identify illegal constructions and calculate precise gross building area, it is still necessary to make leaning orthophotos for the general urban plan area.[23]

Another revenue option for local governments is to expand the tax base by taxing illegal constructions which are often not registered with the real estate department. To complete such an inventory manually, would be very time consuming and expensive. New technology provides a more cost-effective solution. By using digital orthophotos to compare with the real estate cadastre and previous orthophotos, it is possible to identify new constructions and to assess their status. A further advantage for property taxation could be to pilot a mass valuation system in one municipality to test the potential for roll-out to the entire country, in order to achieve a more accurate asset valuation and property tax base.

2 Evolution of real estate markets

2.1 Privatization

In Montenegro, several methods of privatization were applied. Asset sale privatization was the most successful in terms of state budget revenues and the sustainability of the sold companies. Privatized state companies include: the Telecommunication Company, Aluminum Plant, Ironworks, and the Electricity Company.

Mass voucher privatization started in 2001 when adult citizens were given vouchers that they could use to invest directly in companies or in the privatization funds. The programme was a good idea that in practice did not achieve the expected results because the outcome was not aligned to the stated goals and objectives. The investment funds collected were nearly half of the offered capital, and their achievements were far below expectations. The system was set up in such a way that the fee for managing the companies responsible for the funds did not depend on the outcome. Thus, there was little incentive for such companies to deal efficiently with the restructuring of firms within any given portfolio. As a result, the number of employees in the companies has been significantly reduced, and most of the companies went bankrupt. Restructured companies with positive results have been rare.

[23] Regarding detailed general urban plans (GUPs), there is a bigger problem in the south, as northern part of the country was covered by the Land Administration and Management Project (LAMP). The estimated cost for a GUP is between 40,000 - 120,000 EUR per municipality. About 45,000 illegal constructions are identified by the Real Estate Administration creating a loss of real estate tax revenue of some 15,000 - 20,000 EUR per year. At the same time in some municipalities, about 500 people are working on the issuing of building permits (and it is estimated that 100 are needed). World Bank, Montenegro, Proposed Subnational Finance Sustainability (SUFIS) Project, Aide Memoire Scoping Mission, November 9-12, 2015.

2.2 Limitations of land/property ownership

The real estate market in Montenegro is well developed and fully opened.

Under the current legislation, there are no substantial restrictions on the purchase of property in Montenegro. Any foreign purchaser can become the owner of property (a house, flat or farm) in Montenegro, in the same manner as a local buyer. The property is registered in the name of the purchaser after the payment of the appropriate state tax. The rate of property turnover tax is 3 % of the tax base, which is the market value of real estate at the time of its acquisition. Under the Law, the State Tax Administration is entitled to check the validity of the contracts and the possible under-declarations of sale prices.

2.3 Nature of the property market

Montenegro is slowly becoming one of the Europe's attractive real estate markets.

Before the 2009 global economic crisis, the Montenegrin economy experienced an economic boom. Real economic activity increased by an average of 5 % a year, progressively reaching a double-digit peak in 2007, driven by a massive inflow of capital (46 % of GDP in 2008), that went mainly to the tourism, real estate and the banking sectors. The boom period was followed by a sudden and drastic reduction in external financing to about 35 % of GDP between 2009 and 2014 (also triggered by the global crisis), causing a dramatic decline in credit to the private sector, a collapse in investment and, as a result, a severe fall in the GDP growth rate.[24]

The Law on Real Estate Tax amendments introduced on January 2011, increased the tax rates and the coverage of the real estate tax, whose collection level rose from 25 million EUR in 2010 to 39 million EUR in 2013.

Although the real estate market in Montenegro can be considered as "developed" and relatively stable, the statistical data indicates a reduction of investment in real estate after the investment boom in 2008, with reduced demand, partly due to high bank interest rates on loans and high cost of apartments. This period of significant slowdown occurred after years of investment boom. More recently, there is evidence of general expansion in all forms of investment in construction, particularly for housing. This has included a high level of government investments directly or indirectly related to the construction sector, as well as a high level of private investment in other industries that required the engagement of the construction sector.

,*Real estate prices in Montenegro are very high, although they have been lagging in recent times. But the fall in prices is not enough to animate the demand to the extent necessary that would significantly affect the construction sector and the real estate*

[24] World Bank, Montenegro Public Finance Review (Concept Note), Restoring Sustainability and Strengthening Efficiency of Public Finance (Background), 21 June 2016.

market, two components that are inextricably linked, A more active role of the banking sector and the state is needed in the policy of interest rate reduction that is applied in developed countries in such situations. In the light of the general geopolitical events, it is unrealistic to expect a significant foreign demand for Montenegrin real estate in the upcoming period. All statistical indicators point to a dramatic decline in the real estate market in recent years, and this trend continues,"[25]

According to the results of a regular survey on the real estate price trends in Capital City of Podgorica conducted by the Central Bank in June 2016,[26] the average price of real estate per square metre in the capital, Podgorica, amounted to 1,019.9 EUR, representing a 5.7 % year on year increase. Looking at the trend of real estate price movements, it can be seen that in June 2016, a mild upturn in real estate prices, which started in September 2015, continued in June 2016, following a three-year decline in real estate prices.[27] The price of a housing unit is primarily influenced by the zone in which the housing unit is placed.

Table 15.10: Summary statistics on average prices, minimum and maximum prices for individual types of housing in Podgorica, in EURs

Variables	Average value	Minimum price	Maximum price
Average price of housing space per square metre	1,019.9	400	2,500
The average price of housing space per square metre - house	913,6	400	2,000
The average price of housing space per square metre – apartment	1,079.9	462	2,500

Source: Central Bank of Montenegro, http://www.cb-cg.org/eng/slike_i_fajlovi/fajlovi/fajlovi_publikacije/makroekonomski/macro_iiq2016.pdf Central Bank of Montenegro, CBCG Macroeconomic Report Q2 2016.

One of the measures to be implemented is the taxation of newly constructed buildings, with apartments for sale to be taxed as if they were occupied instead of being exempted from real estate tax as is the case (a three year period exemption as per the law). This would provide a stimulus for developers to achieve a timely sale to meet the real demand

[25] Anon. 2015 http://www.bankar.me/2015/11/30/trziste-nekretnina-u-crnoj-gori-u-katastrofalnom-stanju/ .
[26] http://www.cbcg.org Central Bank of Montenegro: Macroeconomic Report, quarter II, June 2016.
[27] The observed sample consists of 485 residential units from Podgorica, of which 175 are houses and 310 are apartments. The sample was collected from three zones in Podgorica: 122 residential buildings from the high class Zone 1, 119 from the medium class Zone 2 and 244 from the poorer Zone 3. The prices of housing units per square metre, on an individual level, range from 2,500 EUR per square meter at high-end city locations to 400 EUR per square metre settlements that are farther from the city center. In June 2016, the average price per square metre in the first zone of Podgorica amounted to 1,169.5 EUR and ranged overall from 700 to 2,500 EUR. The average price per square metre in the second zone was 907.4 EUR, while in the third zone of Podgorica it amounted to 999.9 EUR.

in the housing market and would also lead to a reduction of the market price per square metre.

Table 15.11: The number of properties by main use category (Montenegro level) Agricultural Land (in ha)

Year	Total agricultural utilized land	Gardens	Arable land	Vineyards	Orchards and plantations	Orchards extensive	Nurseries	Perennial meadows and pastures
2014	230,321.2	1,832.4	6,898.4	2,703.3	1,099.6	1,156.8	47.3	216,583.4
2015	231,405.4	1,861.1	6,853.3	2,708,.0	1,144.8	1,147.2	57.9	217,633.1

Source: http://monstat.org/cg/page.php?id=1354&pageid=1354.

Table 15.12: Number of flats in the State of Montenegro, their total area in square metres and the average area per apartment 2013-2015

Housing Fund	2013	2014	2015
Flats	256,231	260,520	264,499
Area in m²	18,308,674	18,628,524	18,873,931
Average area per apartment in m²	71.5	71.5	71.4

Source:
http://monstat.org/userfiles/file/publikacije/CG%20U%20BROJKAMA/MONSTAT_CG_fin.pdf.

Table 15.13: Price indices of new-built flats per square metre in Montenegro and in selected municipalities 2013-2015

Year	2013	2014	2015
Montenegro	1,152	1,089	1,090
Capital City of Podgorica	1,128	1,080	1,121
Bar	850	1,076	1,246
Budva	1,995	1,594	1,269
Niksic	672	561	598
Other	770	735	766

Source:
http://monstat.org/userfiles/file/publikacije/CG%20U%20BROJKAMA/MONSTAT_CG_fin.pdf.

3 Property data

3.1 GIS/Cadastres

The Real Estate Cadastre is defined by the Law[28] and represents a unique public record (data base) of immovable properties and actual rights on immovable property and associated legal rights in accordance with the law. The holder of a right on immovable property is obliged to file a request for registration of that property right and other real estate rights in the Real Estate Cadastre.[29] The Cadastre comprises a list, description, spatial data, and locational information of all immovable property. Ownership and other rights to the immovable property are also registered in the cadastre.

The central public administration authority in charge of providing the services of the cadastre is the Cadastral Office of the Real Estate Administration. It undertakes the central administration of the cadastre, co-ordinates research, assures and co-ordinates international co-operation in this area and co-operates with other organs of the state.

Cadastral offices are established throughout the country, and are involved with registering ownership and other subject rights regarding immovable property, making changes in cadastral data, and with determining the permission to enter new information or erase information regarding ownership and other subject rights linked with immovable property contained in the cadastre.

The Cadastre of Immovable Property includes data on:[30]

- land, specifically, the cadastral parcel (name of cadastral municipality; the number, form and parcel area; type of land; cadastral culture; cadastral class and quality class; cadastral; revenue; name or address);
- structures on the land (position; form; gross building area (measured in accordance with standards); manner of usage; name of the structure; address, number of storeys; year of construction and legal status of construction);
- separate parts of the structure (position; form; net area (measured in accordance with standards); manner of usage; name of the structure; address; number of floors; number of rooms; construction year and legal status);
- the rights over immovable property and holders of such rights;
- encumbrances and limitations (property and personal easements, mortgage, real property encumbrances, common ownership of heirs, expropriation, de-expropriation[31], return of expropriated property rights and compensations, natural resource concessions, contractual right to pre-emptive purchase, right to purchase,

[28] Law on State Survey and Real Estate Cadastre Official Gazette of Montenegro no. 43/15, as amended.
[29] *"Compulsory principle"*, Art. 13a of the Law.
[30] Art. 49 of the Law on State Surveying and Cadastre of Immovable Property, Official Gazette of the Republic of Montenegro, no 43/15.
[31] This occurs when property (either the actual property, a substitute or monetary compensation) is paid to an expropriated owner, because the purpose for which the land was taken was not realised.

right to resell, right to lease, contract of providing lifelong care[32], relevant legal facts relating to an individual and immovable property, certain obligation rights and other).

3.2 Registrations in the Cadastre of Immovable Property

Ownership rights are registered in the name of the owner of immovable property. The legal ground for acquiring ownership rights (contract of sale, contract of gift, contract of exchange, unilateral legal transactions for transferring ownership right, court decision, and decision of the state authority in accordance with law) is also registered when the ownership right takes effect. Immovable property in state ownership is registered as being in state ownership, with the titleholder having rights and authorizations in accordance with law.

The right to co-ownership is registered for the parts determined with respect to the whole, and expressed in the form of a fraction. The right to joint ownership is registered for the benefit and in the name of all joint owners, with the designation that it is a joint ownership.

The right to strata ownership is registered in the name of strata owners of the separate parts of the building (apartment, business premise, garage for vehicle storage, basement, garage place), together with their right to joint ownership on the joint parts of the building that can represent an independent facility of ownership right, and on the land upon which the building is constructed. The right of joint ownership of strata owners is registered on such part of the urban parcel that belongs to an investor in accordance with a contract or another grounds for acquiring ownership rights. If several residential-commercial buildings are constructed on an urban parcel, the joint ownership rights of the strata owners of one building is also registered on such part of the urban parcel that is serving such strata owners. The provision also applies when the part of the urban parcel is serving strata owners of several residential-commercial buildings.

The investor is obliged to submit, along with the request for registration of the residential-commercial building, relevant planning documents containing also the boundaries of the urban parcel whereon the building was constructed.

Property-based and personal easements, mortgages, sub-mortgages, leases and concessions for a period of longer than five years, pre-emptive purchase rights, the prohibition on the right to divest of and encumber the property, are also to be registered in the immovable property certificate.

[32] In return for which the carer receives the property on the death of the owner.

3.2.1 Types of Registration

Registration made in the cadastre of immovable property involves the full registration, preregistration and post-registration procedures.

- Full registration means the entry by which rights on immovable property are acquired, transferred, limited or terminated without additional justification. Thus, full registration for the benefit of a new holder is not permitted, if the previous holder of the right is not designated and the right of new holder determined in the document on the basis of which a full registration is performed. Similarly, full registration on the basis of private documents is only permitted if the signature on the private document is authenticated in accordance with law.

- Pre-registration means the entry by which rights on immovable property are acquired, transferred, limited or terminated provided that they are additionally justified. For example, if a document on the basis of which a pre-registration fails to meet requirements for full registration in the cadastre of immovable property, pre-registration shall be allowed on the basis of such document. Mortgage pre-registration are permitted only when a claim and the legal grounds of the mortgage are sufficiently determined and proved by a document.

- Post-registration means the entry of certain legal facts that can produce legal effects under conditions prescribed by law. Thus, post-registration is used to record facts relating to the owner of immovable property (such as, issues of underage, guardianship, withdrawal of business capacity), or to the immovable property itself (including the initiating of a lawsuit for determining rights on immovable properties, or for the initiation of expropriation procedure).

3.2.2 Grounds for Registration

Registration of rights is required on the basis of law; the final decision of a competent authority; the final and non-appealable decision of the court; and a document of a legal transaction made in accordance with law.

3.2.3 Registration Procedure in the Cadastre of Immovable Property

The registration procedure commences when a registration request or document on the basis of which registration is required is received by the authorized entity.

Parties to the procedure include: the submitter of the request; person for whose benefit registration is requested, or person for whose benefit registration is decided ex officio in case such person is not the submitter of the request; the person on whose property registration of an encumbrance is proposed; and every person who demonstrates a legal interest in its registration.

The request for full registration or pre-registration may be submitted by the person who would thus acquire, change or lose a right on immovable property. The registration request is submitted in a written form.

Request for post-registration may be submitted by a person having a legal interest in post-registration or who is authorized to do so by a special regulation.

Registration of joint rights may be required by any of the co-owners for the benefit of all. Registration of rights is carried out at the request of parties, which is supported with relevant documents.
The request for registration in the cadastre of immovable property shall contain:
1) the designation of the Administrative Authority;
2) in the case of a minor, the name of one parent, and last name of the submitter of the request, address and unique identification number of the submitter citizen;
3) the name, registered office and unique registration number (for legal entities);
4) the name of the cadastre municipality and all cadastre data on immovable property for which the registration is requested; and
5) the nature of the requested right.

The Competent Authority may reject an incomplete request, or a request that does not contain all evidence necessary for making the decision on whether the request is well founded or not.

3.2.4 Deadline for Submitting a Request for Registration

A person shall be obliged to submit a request to register an ownership right on immovable property, as well as other rights in the Cadastre of Immovable Property, within 15 days from the day of acquiring rights on immovable property, or from concluding a contract, or the occurrence of another legal ground for acquiring an ownership right.

The request for registration of rights and other facts to be included in the cadastre of immovable property are adopted by way of a decision and are allowed, if:
- there are no obstacles for registration, in accordance with data from the cadastre of immovable property;
- the request is in accordance with the contents of the submitted document; and
- the document by its type, form and content, meets the requirements for registration of rights on immovable property.

The Competent Authority is obliged to decide upon such a request within 15 days following its receipt.

3.2.5 Complaint for Deleting a Registration

If a registration of an ownership right in the Cadastre of Immovable Property has infringed the ownership rights of individuals, they may request the deletion of the registration and a reinstatement of the previous data, by way of a complaint to a competent court. A post-registration of the complaint to delete the registration may be entered in the Cadastre of Immovable Property at the request of an interested party. The complaint should be lodged within three years from the day the registration is made.

3.2.6 Submission of the Decisions

The Competent Authority is obliged to submit the decision on registered rights on immovable property ex-officio to the state administration authority in charge of taxes (Tax Administration), as well as to the local administration authority in charge of taxes.

3.3 Geodetic-Cadastral Information System

The geodetic-cadastral information system is kept by the Cadastral Office of the State Authority for the purpose of the more efficient gathering and processing, maintaining and distribution of data on immovable properties. The Authority is obliged to provide the state administration bodies, local self-government bodies, legal entities which perform public interest activities and notaries, public access to the geodetic-cadastre information system and the downloading data from that system, for the purpose of performing tasks within their jurisdiction. However, such access is not available to private citizens.

Conclusion

The Law authorizes municipalities to introduce and levy local public revenue types (local taxes, fees and charges (see Table 15.8)), to administer them, to determine tax rates within the limits prescribed by the law, to provide for tax reliefs and exemptions, to undertake the billing, collection and control of local revenues, and to introduce penalty measures.

Arguably, the most appropriate and significant local government revenue source is the real estate tax. Yet this tax has been underused significantly in Montenegro, accounting for only about 0.9 % of GDP on average in state, compared to more than 2 % in industrialized countries. One constraint has been the administration. The strengthening of revenues from property taxation often requires significant investment in surveys, valuation methods, and recordkeeping, as well as effective and efficient enforcement. Most municipalities have not been able to undertake this kind of investment and effort.

Compliance remains one of the main issues in local tax collection. Penalties for non-compliance need to be imposed in a more effective manner, since noncompliance is not followed through. Both within the administration and the judiciary, a new focus on tax compliance should be pursued. Capacities in tax audit are still very low.

In order to improve real estate taxation in Montenegro, there are some vital issues to be dealt with. Specifically, in accordance with the analysis by the Union of Municipalities, the regulations governing the taxation of land need to be strengthened and further regulated. The state entity in charge of agricultural issues should enact a regulation that clearly defines what is considered to be „cultivated agricultural land" in order to ensure the correct levies are imposed.

A discrepancy still exists when it comes to cadastral records and the actual situation on the ground (for example, a ruined structure may be retained in the cadastre as a residential building; there may be a difference in the actual size of the construction and the size of the object compared to that registered in the cadastre). Also, there is a problem of the failure of the cadastre to register a large number of objects, especially those which do not possess a building permit, so it often happens that the taxpayer refuses to pay the tax because the object is not registered in the Cadastre.[33]

The legalization of informal buildings (official data indicates that there are around 100,000 illegally built constructions throughout Montenegro) would bring additional revenues but also would regularize the construction sector to ensure compliance in the future. The legalization has been regulated retrospectively (from 2008) with the specific legislation and would include the obligation for the payment of utility and other construction fees as well as the real estate tax.

Real estate tax collection has improved significantly over the years mainly as a result of the introduction of legislative changes aimed at increasing the real estate tax rate and broadening the tax base, the improvement of cadastral records at the national level, as well as through building the capacity of municipal authorities in terms of assessment, collection and the control of the tax.

Although real estate tax administration has come a long way in Montenegro over the last decade, there is still much to be done. Despite the improvements, there remain areas where good tax policy continues to yield to tax administration constraints (for example, the failure to establish a property tax that generates an adequate level of revenue, as well as the need for judgmental assessments in the absence of good information on property values). Effective taxation of both urban and rural real property, through property taxes, remains beyond the ability of most developing countries' local tax administrations including Montenegro. Finally, the reforms indicated above will lead to even more work for tax administration specialists. *No tax is better than its administration, so tax administration matters — a lot.*

[33] Union of Municipalities of Montenegro, Commission For Financing Local Self-Government: Analysis Of The Situation In The Financing Of Local Self-Governments, 2013.

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New Local Revenues from the Property Taxes in North Macedonia

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Abstract The property tax reform in North Macedonia has had a multidimensional impact. First, it is tremendously important for the stability of local government revenue, as it stands as a main pillar in the own fiscal local resources. Second, the property tax reform initiated other necessary changes in the area of privatization of the properties that had been previously treated as social ownership. Third, the quality property tax reform has transformed the overall country image, both for the citizens and foreign investors. The most important changes in property taxation were established much more recently, within the fiscal decentralization process that started in 2004. According to the law, it is ad valorem property taxation, and an exclusively local revenue source. In summary, the Macedonian experience of property tax reform, denationalization, privatization and the transformation of the properties, especially of construction land, has not been free of political obstacles, and significant trade-offs have needed to be negotiated. There is room for creating more precise amendments in bylaws and solutions in practice, but having in mind the big picture, Macedonia is moving in the right direction.

Keywords: • Czech Republic • property tax • immovable property tax • valuation • tax reform

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Introduction

Macedonian property taxation has a long tradition, beginning more than 60 years ago in the former Federal Republic of Yugoslavia. Since then, there are various trend and models that need to be examined to explain today's modern system of taxation. Specifically, three types of taxes are applied to real property: the property tax (as a yearly burden on all types of real estate), the property sales tax, and the tax on the inheritance and gifts of real estate.

The Macedonian property tax, historically, involves the authority of both local and central government officials. The State has undergone a reform of the Cadastre, aiming to generate quick and reliable information regarding taxable real estate. This has been achieved hand-in-hand with the fiscal decentralization reform that has given the necessary autonomy to local governments to put in practice the new methodology for the assessment and evaluation of taxable properties. This is important in order to clarify mistakes in previous calculations, and in order to gain more revenue from the local property taxes. Today, after numerous reforms, the financial independency of the newly-established local governments is highly reliant mostly on the three types of local property taxes: the property tax, the property sales tax and tax on the inheritance and gifts of real estate. With the aim of improving the level of tax revenues and to increase tax equity among taxpayers, Macedonia is facing ongoing reforms in the area of local taxation, specifically in the evaluation and re-assessment of existing taxable real estate units and in the modernization and implementation of legal and informatics changes in the Cadastre. At the same time these reforms are linked with ongoing processes for the strengthening the local tax capacities within the fiscal decentralization agenda.

The historical sources for property taxes research and Macedonian literature in this area are limited and more practical, being policy guidelines, rather than theoretical and reflective. Some authors have recently started to collaborate with international donor agencies and therefore in the last ten years there is an increase in the literature on theoretical aspects of local property tax in Macedonia, but there is still a lot of work is to be done, to support the future development of local taxation in Macedonia.

1 Property Tax

1.1 History of Property Taxation in Macedonia: From Ottoman's "*Defter*" to OECD Classification Systems

The origins of all tax models being a subject of examination, starting with those of the Ottoman Empire 200 years ago, then through the Balkan wars and the socialistic regime of taxation, up to the modern property taxation system in independent Macedonia. Since, these are traditionally local taxes, the new system of fiscal decentralization that had been established is also briefly explained in relation to main subject of inquiry. To develop the topic further, the authors explore the influence of the property reform in Macedonia through the reforms of the Cadastre and the new methodology for the evaluation of the

prices of taxable properties. The last two issues are highly correlated with the property taxation as a whole, because the remodelling of the evaluation system has generated new local revenue from the property taxes.

Macedonia, as part of the Ottoman Empire during the XIII - XIX centuries, had been divided between Serbia and Bulgaria. All of these countries had been taxed according to the rules of the "*timar*" system, which was set within the wider context of landholding and property law. The Ottomans recognized four types of real property:[1]

- *"Miri*" - State land consisting of all arable farm land and pastures, which belonged to God and therefore to the Sultan as God's agent. All goods produced on the *miri* belonged to the Sultan;
- "*Timar*" or semi-public land was granted by the Sultan to civil or military officials, on the principles of feudalism. *Timar* land was not meant to be private property and could not be inherited or taxed. If it was somehow transformed into private property, the smaller parts were called "*chiftliks*". The primary role of the *Timar* system was to collect feudal obligations from the *chifliks*, being a variety of property fee, before cash taxes became dominant. In the Balkans, peasants on *timars* typically paid the property tax in kind, around 10 % to 25 % of their farm produce;
- "*Vakf*" land was tax-exempted property devoted to religious purposes or the support of institutions of public welfare, such as hospitals. As a tax dodge, some landholders contrived to place their land into *vakf* status by creating fake foundations, as a one way to make public land essentially private;
- "*Mulk*" land was true private property. Legally, it consisted of the land comprising people's houses, or by gardens, vineyards and orchards, being property improved by the owners. In essence, when *timar* land was converted to private status, it would legally became *mulk* land. *Mulk* property was exempt from State control: specifically, the State could no longer demand military service from holders of,, *mulk*" and also found it hard to protect people living there from abuses by the Ottoman's administration, such as excessive taxation. Property taxes and charges under the scope of excess taxation often led to enforced payment or tax evasion.

Given the tax administrative perspective, it is very important to note that the entire territory of today's modern independent Macedonia had been evidenced according to the "in tabulation" books classification system[2]. Significantly detailed census evidence had been established and used for tax and other administrative purposes in the Empire by the Ottoman officials. The book-keeping evidence had been so sophisticated and organized, that it is still a symbol of the very precise nature of the ex-Empire. The tax registry, as an essential element of the system, was known as the "*Defter*" or the Land Cadastre. It recorded individual's names and property/land ownership; and it categorized households, even entire villages, by religion criteria. The names in the *Defter* have provided valuable

[1] Sowards, S. W. Twenty-Five Lectures on Modern Balkan History (The Balkans in the Age of Nationalism). 1996.
[2] In tabulation books were evidence books for property classification in the Ottoman Empire.

information about ethnic origins. These tax records had been a source of vital information for tax collection under the different tax regimes, and at the same time contain precious historic sources for contemporary historians.[3]

The property tax payers within these territories were treated unequally. Privileged status had been given to certain exempted tax payers, being subjects that were released from personal and real taxes throughout the Middle Ages (such as priests or wealthy men). The lower class individuals were required to paid taxes on their land and buildings.

During the first years of the XX century and the Balkan Wars, the feudal system had begun to weaken and property taxes collected in cash were reformed by the principles and logics of the newly established system of a liberal economy. Along with the systematic economic modifications, the central focus in taxation during that period was transferred from the real estate property taxes to income taxes that were paid on income and business activities. As a result, the wealth of citizens began to be concentrated in gold, bonds or other goods, that were harder to locate. Immovable property cannot be hidden or kept out of sight, and therefore, taxes on real estate are always hardest to avoid. So, even though property taxes had undergone many transformations throughout their history in Macedonia, they had never been abolished.

At the end of World War II, in 1944, Macedonia, as a Republic of Federal Yugoslavia, adopted the communal system using communal fees as the main fiscal revenues for local government. Property taxes in the federal Yugoslav system were established much latter, by the Law on Citizens' Taxes (1972) and were divided in two major groups: property taxes, "in statics" and "in dynamics". The Real Estate Property Tax[4] by definition belongs to the first group, whereas the Tax on Property Sales[5] and Tax on Inheritance and Gifts are in the second group.[6]

The Real Estate Tax was not levied on agricultural land and the land surrounding agricultural buildings, because social ownership was in force. Also, cars and various business vehicles were taxed as movable property at a tax rate of 0.5 % on the basis of their initial market value. The tax applied to immovable property, including buildings, involved numerous exemptions for taxpayers, because by law, nobody owned private property. The municipalities, as essential cells of the federal system, were accountable for variable tax rates, determined according to an *ad valorem* system. Along with the long list of tax exemptions, tax evasion was widespread, as a result of which property taxes contributes merely 0.25 % of the general fiscal revenues, which, in 2004, was at the low margin of the OECD countries.[7]

[3] Cosgel. Ottoman Tax Registers (TahrirDefterleri). Historical Methods: A Journal of Quantitative and Interdisciplinary History 2004 (2). P. 87–100.
[4] Under the OECD Tax Classification this is number 4100 /4200.
[5] Under the OECD Tax Classification this is number 4400.
[6] Under the OECD Tax Classification this is number 4300.
[7] OECD. Revenue Statistics of OECD Member Countries. Paris: OECD, 2004.

1.2 Position of the Property Tax

In 1991, Macedonia become an independent State with a tax regime inherited from the Federal Republic of Yugoslavia. The modern system of property taxes was introduced later, within the major tax reforms of 1993 and 1994. The new property tax system was created upon modern European tax principles, and was implemented at the same time as the transformation of the economic system. Major improvements were accomplished by the acceptance of the principles of a market economy and private property ownership. Since that reform, three types of property taxes exist: the Real Estate Tax for immovable property, Property Sales Tax (on Transfers of real estate rights), and Tax on Inheritance and Gifts of real estate.

In the first three years of administration, the property tax rate was set 0.10 %, while the property sales tax rate was 3 % of the value of the transferred property. The tax on inheritance and gifts had rates that differ according to the order of succession. In the first order of succession, there is a tax exemption; however, the successors do pay an administrative local fee at some fixed amount, set by the tax administration. In the second order of succession - the rate was 5 % and in the third - the tax was calculated at the rate of 10 %. The inheritance and gift taxes are always paid by the successor or recipient of a gift, nominated in the Law. The rates were fixed and did not depend on the municipal socio-economic and regional specifics. Numerous tax exemptions were set by the Law in order to stimulate the development of the newly-established property tax systems in Macedonia. Even so, the amendments in 1997 introduced a change, resulting in a reduction to 3 % in the second, and 5% in the third order of succession. With these amendments, movable property (such as vehicles) was no longer a subject of property taxation.

1.2.1 Local Property Taxes without Fiscal Decentralization: 1994-2004

The property tax system in the early period of the country's independence, according to the basic tax principles and the intentions of the legislation, had ambitious fiscal objectives. Property taxes were envisaged as the main local revenue for the newly-established units of local governments, but the motivation of the central government tax administration for tax collection was missing. The decentralization process was weak and unstable, without any fiscal basis. *De lege,* the municipalities had been assigned local competences and local revenues, but *de facto,* property taxes as the main local revenues were not collected nor transferred correctly. In particular, the Public Revenue Office was responsible for the collection and the administration of all property taxes, and afterwards, their transfer to the municipalities as municipal revenues. The State tax officials were not motivated to solve the problems of property tax evasion (because such income was not part of their central budget revenue), local revenue offices did not exist, and the tradition of paying property taxes, especially the Real Estate Tax, was absent. The tax evasion

penalties were very low; the property tax base was inadequately calculated because of the erosion of the tax base, being based on the self-evaluations of the property owners. In addition, the final calculations of the tax base were not checked properly by the tax administration, because the tax administration was weak and improperly functioning, with numerous failings and capacity problems. The result was that municipalities were actually left with small amounts of the tax, and it was clear that there would have been much more revenues from property tax, if the tax was administered correctly.

1.2.2 Fiscal Decentralization as Driver for Property Tax Reform: 2005-2015

After the Ohrid Framework Agreement in 2001, that ended the armed conflict in Macedonia, a new Law on Local Self Government was adopted in 2002. It strengthened the powers of the municipalities that were reorganized between 2002 and 2004 from 123 to 84. A fiscal decentralization system was arranged, where local taxes became the essential source of finance for many of the newly-assigned competences. In order to accelerate activities related to the new system of local financing, a new Law on Property Taxes was adopted in August 2004.

The key change did not affect the structure of property taxes, but the systems of tax administration and tax collection. Specifically, each local authority unit in Macedonia was reorganized to reflect its fiscal autonomy, with, for example, its own tax administration department, and procedure for property tax collection. Furthermore, local councils became responsible for setting the property tax rates within a range defined by national Law. In fact, fiscal decentralization became the driver pushing forward the newly-established property tax system in Macedonia.

The local government units became responsible for property tax data collection, property evaluation and tax administration. The motivation for property tax collection, which was a missing element in the previous centralised system, was now the essential element in order to raise higher level of local revenues and to execute the local budget. The property taxes were the key to healthy local budgets and local government fiscal autonomy. All newly established local authorities during the first years of fiscal decentralization (2005 - 2007) started to build tax administration capacities, to update their property database and to enforce property tax collection in order to increase their revenue. As a result, the municipalities become more responsible and reliant on their own financial resources and the new property tax system blossomed at the local level. This outcome is illustrated by Table 16.1, where the growth of local revenues as a share of GDP is clear: from 1.7% before the fiscal decentralization, to 2.5 % in the first year of the property tax reforms and up to 5.3 % in 2014. Property taxes as the main and exclusive local taxes have achieved reasonable growth, and the tax reforms have accomplished the goal of better tax administration and improved collection rates at the local level.

Hand-in-hand with the property tax reform, a process of re-assessment of the local real estate values was going on. The core novelty was usage of an *ad valorem* tax base. It also

involved the introduction of a new methodology for property assessments in 2013. Huge revision of existing tax property values was implemented and the outcome was much higher property values, with positive effects on the collection of local tax revenues. For an instance, the property tax revenues in 2005 were 16.1 million EUR, compared to 42.8 million MKD[8] in 2014 (Table 16.1). Property taxes have thus shown growth as a share of all State revenues (from 1.0 % in 2005 to 1.8 % in 2014) and as a share of all local tax revenues (from 29.9 % in 2005 to 38.2 % in 2014).

Table 16.1: Revenues at national and local level (2005-14)

Year	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
All revenues at national level (in million EUR)	1,645.6	1,700.3	1,955.0	2,226.4	2,097.2	2,148.4	2,229.3	2,244.7	2,277.5	2,368.2
Tax revenues at national level (in million EUR)	908.3	973.6	1,136.2	1,249.5	1,154.8	1,185.8	1,271.0	1,229.0	1,258.2	1,360.7
All revenues at local level (in million EUR)	90.7	131.3	183.0	342.9	377.6	422.7	434.7	482.0	456.9	453.8
All tax revenues at local level (in million EUR)	53.7	56.5	69.1	98.8	80.2	103.9	113.6	116.1	109.2	112.0
Property tax revenue (in million EUR)	16.1	20.7	26.9	32.8	30.1	33.1	35.3	37.6	38.3	42.8
Property tax revenue as % of all state revenues	1.0	1.2	1.4	1.5	1.4	1.5	1.6	1.7	1.7	1.8
Property tax revenue as % of all local revenues	17.7	15.8	14.7	9.6	8	7.8	8.1	7.8	8.4	9.4
Property tax revenue as % of tax revenues at local level	29.9	36.7	38.9	33.2	37.6	31.9	31.1	32.4	35	38.2

Source: Association of Local Self government units in Republic of Macedonia http://www.zels.org.mk/.

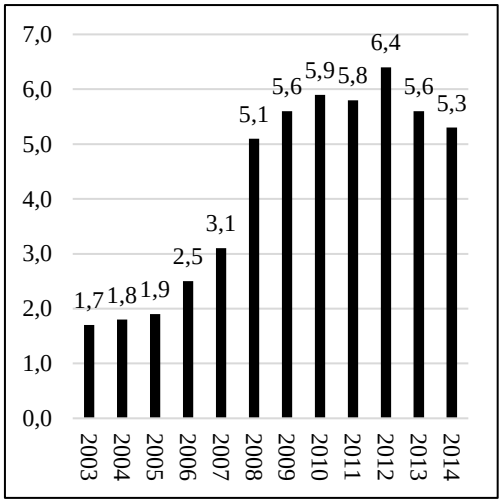
However, there is an interesting trend, illustrated by local property taxes, when compared to all local revenues (own-revenues plus State transferred grants). In particular, in 2005, property taxes as a share of all local revenues was 17.7 %, or 16.1 million EUR, but in 2014 the same share decreased to 9.4 %, but nevertheless it resulted a yield of 42.8 million EUR. Actually, the property tax collection rate was greatly increased, while the tax rates stayed unchanged, although the Law gave an opportunity for each municipality to set the tax rate between 0.10% and 0.20 % of the tax base. However, while none of the municipalities increased the tax rate, all of them increased the tax collection rate. The reason is that the local tax administration capacities were strengthened and the value of the assessed property was recalculated and accurate. Although, the citizens received higher tax bills, the atmosphere of local democracy capacity building was widespread.

[8] Macedonian Denar (1:0.016 Euro in October 2018)

Thus, expectations for better local service delivery to reflect the increased local revenues were in place. Simultaneously, other types of local revenues were introduced, such as local fees, local user charges, local contributions, donations, and other transfers. This resulted in a lower property tax share in total local revenues in later years.

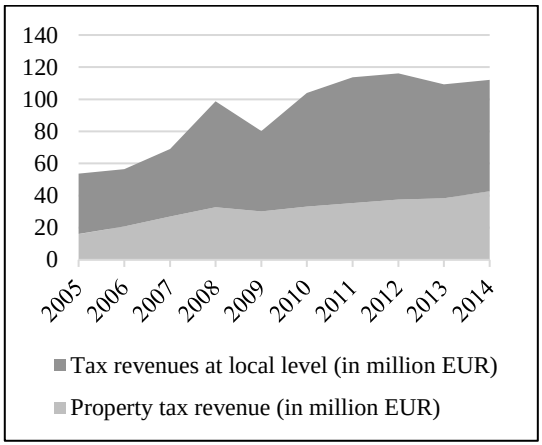
What is more interesting, is that the trend of total local tax revenues, when local fees and user charges are included, is also increasing over the years, and property taxes are also following the same trend (Figures 16:1 and 16.2).

Figure 16.1: Local revenues (as share of GDP), 2003-2014



Source: Authors' own calculation based on data from Ministry of Finance, 2015 (www.finance.gov.mk).

Figure 16.2: Property and tax revenues (2005-2014, in million EUR)



Source: Authors' own calculation based on data from Ministry of Finance, 2015 (www.finance.gov.mk).

1.3 Structural Components: The Three Pillars

The Law on Property Taxes (2004) provides the structure of the system of property-based taxes: the Real Estate Tax, the Property Transfer Tax (being a Tax on Property Sales), and the Inheritance and Gift Tax. *Differentia specifica* from many other EU legislations is the last type of the property tax. Namely, in other legislations taxation on inheritance and gifts (movable property, cash) is generally covered by personal income tax, but in Macedonia, the long tradition continues.

1.3.1 The Property (Real Estate) Tax

The Macedonian property tax is paid on all non-agricultural land, residential buildings and immovable properties occupied together with residential properties. With the legal amendments in 2008, administrative buildings, the properties used for business activities (such as factories and retail premises) also became the subject of taxation. In addition to immovable property, movable property, such as cars (over 1.8 litres of engine capacity), buses, articulated vehicles, tractors and vessels including planes are liable to property taxation.

Property tax rates range from between 0.10 % and 0.20 %, depending on the decision of the municipality Council, since local authorities have the power to set the tax rate within a State-imposed range. Generally, 90 % of the property tax rates in the 80 Macedonian municipalities are at the lowest level in the range (0.10 %), while some municipalities

have raised their rates to 0.15 % because of recent capital investment projects (3 out of 75 municipalities).

The taxpayer is a natural person or legal entity, acting as property owner, user or *usufructuary*. Taxpayers are obliged to notify the local tax authorities of any change in the property's value (new instalments), as a result of updates to the property tax base. The taxation is levied on an annual basis, with a longer period for paying the tax bills. Persons living with their families in residential buildings have tax exemption of 50% of the tax rate, with the result that most of the population is taxed by 0.05 % tax rate for their family properties.

Other tax exemptions are applied to real estate owned by the State or local authorities; foreign consular offices and international offices, on the basis of reciprocity; real property owned by the National Bank of Macedonia; the land and buildings owned by religious communities; buildings used in the course of agriculture; and facilities for water protection.

According to the new methodology for the assessment of property values (2013), official property assessors evaluate the property using property sales contracts, or if there are none, they employ novel assessment methodology, whereas the property is categorized in one of 18 zones (methodology for the assessment of property values). The property tax which is to be paid, should be always administered by the new methodology. Also, the zones differ, and so do the values and prices, reflecting the land value assessment according to the infrastructure, local service delivery and other variables important for determining the quality the municipal. For example, homes in a neighbourhood surrounded by well-maintained roads and good municipal services, implying a better approach to education or communal services, will have greater value on the market. So, the owner/property tax payer should pay a higher property tax to the municipality. However, property taxation based on location zones and access to services tends to work better in countries with less developed real estate markets.

The new *ad valorem* property tax assessment of real estate in Macedonia has contribute to significant success in improving local tax revenue collection, where each municipality has updated the data bases in the light of the work of the Commission of Assessors for Real Estate Evaluation.

The illustration of the categories of property in Macedonia is given in Table 16. 2.

Table 16.2: The structure of properties by main use category

	Arable land	Vineyard	Garden	Orchard	Permanent grassland	Agricultural land	Forest land	Water area	Built-up area
Size in 000 hectares	509	22	420	15	500	1,261	988.8	48.8	5

Source: http://www.stat.gov.mk (State Statistical Office of Macedonia).

1.3.2 Property Sales Tax

The transfer of property (in accordance with Article 19 of the Law on Property Taxes) encompasses trade based on sales, and other means of acquiring property (with or without payment), between all legal entities and/or natural persons. The transfer of securities is also considered as property sale (of movable property), but only in the case of a payment. Otherwise, the sales of securities are taxed as personal income under the Capital Gains Tax regime.

The taxpayer of the Property Transfer Tax may be a natural or legal person, and by default, is the seller of the property. If specified in the sale contract, the tax payer may be the purchaser or recipient, which occurs in most cases.

The tax base for the Property Transfer Tax is the market value of the property that is the subject of the transfer and is determined according to the new assessment methodology. In the case of an exchange of properties, the tax base is the difference in the market values of the two properties (according to the contract for exchange). In the case of bankruptcy or other legally enforced sales/transfers, the tax base is established according to the bid value received from the creditors or other interested parties.

Tax rates are determined by a municipal Council's decision (as for all Property taxes), and they vary between 2 % and 4 % of the tax base. If the property is assessed by the municipal Commission for tax purposes at an amount that is lower than the sale price in the contract, the tax base will be the higher amount, and in that case the tax payer will receive a higher sales tax bill.

The collection rate for the property sales tax in Macedonia is very high, approximately 99 %, because the buyer cannot present a valid ownership document for the purposes of registration in the Cadastre as the new owner of the property before all previous property tax arrears are paid.

Tax exemptions exist in several cases, mostly for diplomatic and consular trade based on the principle of reciprocity, or when the parties to the transaction are government or

municipal authorities. A unique tax exemption stems from the banking laws. As a consequence of non-performing mortgage loans, the banks have a portfolio of huge numbers of properties. As a result, the banks are exempted from paying property sales tax if the property (transferred on a mortgage basis) is sold within three years from the date the bank assumes ownership.

1.3.3 The Inheritance and Gift Tax

The subject of taxation is both movable and immovable property that the successors/beneficiaries receive as inheritance in accordance with the Law on Inheritance, or recipients of a gift on the basis of gift agreement.

In the case of cash and securities, the Law on Inheritance and Gift Tax, specifies that the tax obligation occurs only when the value of the inheritance or gift exceeds a one-year average salary in Macedonia. The tax base for immovable property in the case of inheritance and gifts is calculated according to the methodology for property assessments. The final value is always reduced by the debts and costs that burden the property that is subject to taxation.

The taxpayer can be any natural person or legal entity being either a resident of Macedonia who inherits a property, or receives property as a gift, or a foreign legal entity or non-resident, for the movable and immovable property located on the territory of Macedonia.

The tax rate is proportional and varies according to the order of succession (first, second or third orders of successors). Those in the first order of successors are always tax exempted, the second order of successors are taxed with tax rates in range between 2% - 3% of the tax base, and the third order of successors are taxed with tax rates in range between 4% - 5% of the tax base. Each local Council is responsible for the determination of the tax rates, within the State Law range. Common municipal practise is to adopt the lower tax rate.

Table 16.3: The Inheritance and Gift Tax Rates

Degree of succession	Tax rate (in %)
First degree	0
Second degree	2 - 3
Third degree	4 - 5

1.3.4 Property taxation in the City of Skopje

Skopje is the capital and the largest city in the Republic of Macedonia, with more than a quarter of the population of the country, as well as being the political, cultural, economic and academic centre. The City is structured into two tiers of governance (the City and ten sub-city municipalities), unlike the rest of the country which is organized in a one-tier system of local government. According to the Law on Local Self-Government, the City of Skopje and the other municipalities outside Skopje have equal competences and assignments of local revenues/taxes. However, sub-city municipalities of Skopje have lower competences and assignments that make them unequal compared to the other municipalities in the country. The irony is that the sub-city municipalities of Skopje are territorially bigger with better administrative capacities and substantially higher local revenue compared to the other municipalities outside Skopje. Even though they have superior administrative and taxation capacities, they are not permitted to administer the local taxes on their own as are the other municipalities in the country. The City of Skopje is in charge of the administration of all property taxes within its jurisdiction, and revenues are shared in different ratios between the City and the sub-city municipality. Under the City's Law (2004), all matters of local significance that are functionally indivisible and of equally significance for the entire territory of the City of Skopje are performed by the departments of the City of Skopje. Each sub-city municipality is responsible for the matters of local significance that are functionally divisible by their character and are important for the functioning of that sub-city municipality. This legal division has an impact on the sharing of local revenues and property taxes between the City and its ten sub-city municipalities.

In practice, the ten sub-city municipalities are separately responsible for urban and rural planning in their territory, in accordance with the master urban plan of the City, and undertake all technical issues and construction permits. Consequently, they receive user charges for the construction of land and fees for related services and these generate a much higher income than property tax revenues.

Skopje has a united property tax administration for the entire city, which is authorized to collect and distribute property tax revenues to the sub-city municipalities on a monthly basis, in the ratio of 50 % for the City of Skopje and 50 % for the appropriate municipality in the City of Skopje. The Council of each City sub-municipality has the authority to set the tax rate within a range determined by the Law on Property Taxation. Rates for property taxes are very similar among the sub-municipalities; however just one sub-municipal Council has determined a rate of 0.15 % for the Real Estate Tax, compared to the other City's municipalities which apply only 0.10 %.

The City has the most efficient tax administration office, with an average of 85% in property tax collection. Although the law has allowed for enforced taxation for citizens and legal entities since 2004, the City Mayor implemented these unpopular measures for

the first time in 2011. Metropolitan citizens complained about this very rigid imposition at a time of austerity. Enforced taxation is accompanied by penalties for non-payments and late payments. Namely, if the payment is proceeded by the enforcement agents, tax payers will face tremendously higher supplementary costs. After official warnings were sent from the City Council to the tax payers to fulfil their tax obligations, an additional period was given to allow for the payment of the real property taxes in Skopje. Consequently, the collection rates increased by 35 % in 2012 (Table 16.4).

Table 16.4: City of Skopje - Local Revenues

Year	2011	2012	2013	2014
Total Revenues (in million EUR)	76.2	95.9	91.4	60.9
Tax Revenues (in million EUR)	31.2	42.0	34.5	29.0
Property taxes revenues (in million EUR)	8.8	11.9	9.4	10.2
Property Tax revenues as % of total Revenues	11.57%	12.41%	10.25%	11.69%
Property Tax revenues as % of tax revenues	29.28%	28.35%	27.14%	31.81%

Source: www.skopje.gov.mk (Official Website of the City of Skopje – Budgets).

2 Evolution of the Real Estate Market

2.1 Restitution of properties denationalization

In 1945, all private properties in Macedonia were transformed or expropriated into State- and social-owned property, under the Federal Law on Nationalization. After the establishment of the new State in 1991, the Constitution required the restitution of such social and State-owned property into private property. However, the denationalization process did not start until 1998 with the adoption of the Law on Denationalization,[9] but its implementation was delayed until 2000. The Law on Denationalization, together with the Regulation on the Implementation of the Denationalization Procedure[10], regulates the procedure and the manner of restitution of the confiscated properties within the territory of the Republic of Macedonia as of 2 August 1944, in order to compensate for the historical injustice resulting from the nationalization, agricultural reform and expropriation in the post-war federal Yugoslavia.

The denationalization in the Republic of Macedonia proceeded in two ways:

- the actual restitution of the confiscated property to the former owners (natural entities or religious institutions) or their heirs who are Macedonian citizens; or

[9] The Law on Denationalization (published in the Official Gazette of RM no. 20/98), the deadline for submitting requests for restitution of properties expired on 3, December 2007.
[10] Regulation on the Implementation of the Denationalization Procedure, "Official Gazette of RM" no. 43/2000).

- the payment of a corresponding amount of compensation in cases when there is no realistic prospect of the first option.

The denationalization process lasted for over ten years and is now completed. In March 2012, the Ministry of Finance resolved the last of the 30,744 denationalization cases in a first instance procedure, for over 500,000 citizens. Most of the adopted decisions are legally valid, but the denationalization procedure is still active for those decisions which are currently undergoing an appeal procedure or have a procedure before the Administrative court. The main weakness of the procedure for the restitution of confiscated properties was the lengthy duration of the procedures, even though the process was prescribed as "urgent" under the Law.

The evaluation of the procedures shows the weak legal protection of claimants, which necessitated numerous supplements and amendments to the Law on Denationalization[11] prescribing the possibility of possession of developable land, expropriation of property which is the subject matter of denationalization or undertaking activities which prevent the restitution of the property. In this respect, negative consequences occurred when adopting urban plans for municipalities, attracting investors and the movement of investments, as well as legal uncertainty in respect of the property rights of the investors.

2.2 Privatisation

2.2.1 Privatization of companies

The privatization of companies in Macedonia started in 1989 within the former Socialist Federation, in accordance with the Law on Social Capital. The Federal legal system introduced the concept of privatization, which involved the creation of internal shareholders, which involved employees becoming owners of a large part of their enterprises, through the grant of huge discounts. After its independence in 1991, the Republic of Macedonia continued with the privatization process through four new laws:

- The Law on the Transformation of Enterprises with Social Capital (1993)[12];
- The Law on the Restructuring of part of the Enterprises with Losses in their Operations (1995)[13];
- The Law on the Transformation of Enterprises and Cooperatives with Social Capital which utilized Agriculture Land (1996)[14]; and
- The Law on the Privatization of State Capital within Enterprises (1996)[15].

[11] Since the Law took effect, the disposal and utilization of the property subject to denationalization was limited. With the amendments of 2007 this right was reduced and it only referred to the property for which the denationalization request was submitted within five years as of the day the Law on Denationalization took effect and concluding with May 7, 2003.
[12] Published in the Official Gazette of RM no. 38/1993.
[13] Published in the Official Gazette of RM no. 2/1995.
[14] Published in the Official Gazette of RM no. 19/1996.
[15] Published in the Official Gazette of RM no. 37/1996.

According to the last Report by the Privatization Agency of Macedonia, at the end of 2004, 1,600 enterprises had been through the privatization process, representing a total value of 2.3 million EUR, and 77 enterprises were still in the process of privatization. In the period that followed, parts of the health sector were also included, including pharmacies, public baths and parts of the system of primary health protection. In 2006, the distribution segment of the electricity supply enterprise of Macedonia was also restructured and privatized.

Table 16.5: Progress of privatization of companies by sectors, as of December 31st 2004

Sector	Privatized	In process
Manufacturing	495	23
Agriculture	430	14
Construction	123	5
Trade	354	21
Transport & Traffic	53	1
Finance & Services	117	9
Craft	55	1
Catering & Tourism	63	3
TOTAL	1.690	77

Source: Agency for Privatization of Macedonia, 2004.[16]

The entire process progressed through 12 models, of which, the most preferred was the management-and-employee buyout model. According to this model, 234 enterprises were privatized, generating a negligible 0.7 million EUR.

[16] The Agency for Privatization of RM stopped working in 2003. http://www.slvesnik.com.mk/issues/b4a1e404480dc6468226bc27115544cc.pdf. The data were officially transferred from the the Agency for Privatization of the Republic of Macedonia to the Ministry of Economy.

Table 16.6: Number of privatized companies by the model of privatization

Model	Companies	Employees	Equity in EUR
"Old" Yugoslav law	65	11,522	58,528,096
Employee buyout	394	16,862	76,972,494
Sale of an Ideal Part	201	25,942	326,164,028
Management Buyout	234	71,075	704,681,194
Leasing	3	-	595,839
Additional capital	27	7,620	96,739,753
Agency transfer	29	14,962	145,654,379
Conversion	96	25,940	327,920,508
Foreign equity	155	1,843	25,257,846
Private equity	143	4,854	34,428,177
Liquidations	169	1,089	58,138
Other buyouts	174	50,169	528,780,428
TOTAL	1,690	231,878	2,325,780,882

Source: Agency for Privatization of Macedonia, 2004.[17]

The main weakness of the privatization of enterprises with social capital was the failure to achieve an efficient scrutiny over the process, the use of an inappropriate methodology for evaluating the worth of the enterprises with social capital, and the lack of transparency. The transition process in Macedonia was slow partly because of weak institutional capacity and stalled economic reforms, but also due to the fact that a large number of these enterprises (for which a privatization procedure was conducted) are now closed. Some of them had significantly reduced numbers of employees and operations, with some of the enterprises undergoing a bankruptcy procedure.

2.2.2 Privatization of Construction Land

One of the most serious impediments to local economic development in Macedonia was the lack of an authority to manage and dispose of construction land owned by local governments. Specifically, they could not enter into any contract with investors, without prior State government permission. The privatization of construction land in order to expedite land sales was seen as important to the economic development of the

[17] Ibid.

municipalities, which put pressure on central government to progress this. As a result, when the decentralization process was accelerated in 2005, Macedonia began with the privatization of the State-owned construction land. The Law on Privatization and Leasing of State-Owned Construction Land regulates the privatization procedure, which terminates the State's ownership rights to construction land (see also Law on Construction Land and Law on Utilization and Disposal with Properties of the State Authorities).[18] The process is still in progress, involving numerous by-laws, often in an environment of political opposition at local levels, most prominent during such events as local elections.

2.3 The Real Estate Market

The real estate market in Macedonia is still in the early stages of its development. The market for residential and business space is more dynamic in the urban areas, whereas the market for agricultural and forestry real estate in rural areas is virtually non-existent.[19] The activities in the market for residential accommodation represent around 80 % of all transactions (50 % apartments and 30 % houses), whereas the activities in respect of business premises cover approximately 15 %, with the agricultural and forestry real estate being the remaining 5 %.

The basic factors which negatively impact on the real estate market in Macedonia are the low purchasing power of citizens, an insufficient awareness for alternative ways of housing investment, the inflexible bank credit policy as well as the absence of market transparency. Although statistics on the real estate prices are of poor quality, one can observe a clear upward trend from 2005 to 2010. As a result of the global economic crisis, recent data show that the real estate market has strong supply, but weak demand. A drop of 7.5 % was evident within the period of 2011-2014.

Table 16.7: Price indices of flats (2005-2014)

Year	Average indices (2005 = 100) of realized prices of flats	
	Macedonia	Skopje
2005	100	100.0
2006	99.2	90.4
2007	102.2	104.7
2008	123.4	125.5

[18] Zivkovska, R.,Przeska, T. Harmonization of the Property Law in Macedonia. In Proceedings Harmonization of the Civil Law in the Region of South East Europe. 2013, P. 167–191.
[19] Cadastre Agency. Feasibility Study for the Implementation of the Mass Evaluation System in Macedonia, Final Report. Skopje: Cadastre Agency, 2013.

2009	127.6	124.2
2010	129.9	140.3
2011	127.8	129.0
2012	125.6	128.4
2013	120.8	120.0
2014	120.2	117.9

Source: www.stat.gov.mk (State Statistical Office of Macedonia).

The situation regarding the price of commercial premises is completely different. There is a trend of increased demand for premium office spaces in the capital driven by foreign investors (the rental per square metre for a premium location is about 12 - 14.5 EUR, and 7 - 10 EUR outside of the central city area.

Table 16.8: Average price of new dwellings in the 2010-2014 period

Average price per 1 m^2, in MKD				
Total	Construction material costs	Construction land	Other costs	Location
Year 2014				
46 505	11 947	30 613	3 945	Total
53 878	14 222	35 288	4 368	Skopje
33 505	7 937	22 370	3 198	Other settlements
Year 2013				
46 825	11 483	32 438	2 904	Total
54 857	12 739	39 042	3 076	Skopje
39 264	10 300	26 223	2 741	Other settlements
Year 2012				
49 941	13 912	31 795	4 234	Total
58 687	19 326	34 826	4 535	Skopje
43 328	9 818	29 504	4 006	Other settlements
Year 2011				
50 131	11 518	34 852	3 761	Total
58 958	12 944	41 296	4 718	Skopje

Average price per 1 m^2, in MKD				
41 304	10 092	28 408	2 804	Other settlements
Year 2010				
52 125	14 426	33 436	4 263	Total
64 127	21 352	36 677	6 098	Skopje
44 163	9 832	31 286	3 045	Other settlements

Source: www.stat.gov.mk (State Statistical Office of Macedonia), 2017.

In 2014 the average price for one square metre of residential space was 46,505 MKD, which is 0.7 % less than in 2013. In the same year, the average price per square metre in Skopje was 53,878 MKD, which is 1.8 % less compared to 2013. In other cities in the country, it was 33,505 MKD, which is 14.7 % less compared with 2013. The average price per square metre in the second half of 2014 decreased by 8.4 % compared with the first half of the year, and in Skopje the decrease amounted to 3.4 %.

The numbers support the argument that in value-based property tax systems - as in Macedonia - property tax revenue seems to be disconnected from actual real estate prices. More precisely, although property tax revenues are increasing, real estate prices are declining at the same time. There are several explanations for this. First, the collection rate is significantly higher as a result of the improved local administrative capacities; second, the new methodology has introduced higher assessed real estate values; and third, the economic crisis affected the demand for real estate, whereas real estate supply was not affected.

Table 16.9: Completed construction works and completed dwellings in housing units built by business entities engaged in construction activities (2013)

Number of constructions		Value of completed construction works		Completed residential dwellings				NUTS [20] level 3 Statistical regions
				Total		private residential dwellings		
Total	private constructions	Total	for private constructions	Number	surface (in m^2)	Number	surface (in m^2)	
2,176	695	25,698,606	7,871,372	2,339	157,338	2,170	147,296	Total
288	101	3,784,426	239,696	2	280	2	280	Vardar
125	70	863,900	356,463	34	3,106	33	2,826	East
330	33	1,318,909	677,553	86	4,674	86	4,674	South-West
305	135	1,383,655	327,655	178	14,196	178	14,196	South-East
299	67	4,287,029	443,458	12	402	-	-	Pelagonija
62	21	730,523	166,657	151	9,099	151	9,099	Polog
81	21	597,573	165,095	106	7,759	106	7,759	North-East
686	247	12,732,591	5,494,795	1,770	117,822	1,614	108,462	Skopje

Source: Designed by the authors based on data from www.stat.gov.mk (State Statistical Office of Macedonia), 2017.

With regard to investment activities within the real estate market, in 2013 the construction companies undertook construction works with a value of 25.6 billion MKD, compared to 2012 when the value of the construction works amounted 18.4 billion MKD. There is a trend of increasing development works over the years, and most of the construction works took place within the Skopje region. In 2014, there were 2,628 construction permits granted for 5,455 residential units, with a total surface area of 476,095 m^2, which is a significant growth compared to 2013.

The analysis of the data shows that the investment activities in the real estate market are rising in all sectors which also increases the supply in comparison to the demand of residential buildings.

[20] Nomenclature of Territorial Units for Statistics – NUTS.

3 Property Data

3.1 Cadastre

The historical roots of the post-war registration of land ownership rights in the Republic of Macedonia date from 1947[21], when the Geodetic Authority of the People's Republic of Macedonia was created. In 2002, with the Law on Organization and Work of the State Administration Bodies, the Geodetic Authority was renamed in a State Authority for Geodetic Works, which continues to operate as its legal successor. In 2008, with the Law on Real Estate Cadastre,[22] the State Institute for Geodetic Works was re-established as an Agency for the Real Estate Cadastre. Within that context pursuant to the Law on the Real Estate Cadastre[23] of 2013, the real estate cadastre represents a public registry which systematically registers real estate rights, registering of unregistered real estate rights in the established real estate cadastre and the conversion of the data from the land cadastre into real estate cadastre.

The real estate cadastre registers:[24]

- ownership rights;
- sub-forms of ownership rights (such as co-ownership and joint ownership); and
- other proprietary rights (easement, lien / mortgage, right to a real burden and the right to a proprietary legal long-term lease of construction land), the right of leasing, fiduciary mortgage, as well as other rights and facts stipulated by law.

The system for registering real estate operates at two levels: the State and local levels. The State level is governed by the Real Estate Cadastre (REC) Agency, and at local levels there are cadastres established on a regional basis. The database at the local level is not updated as often as the State version, because of weak administrative local capacities in several municipalities.

There are arguments for the Cadastre Agency to become the only organization in the country that is responsible for the recording and administration of data on real estate and which should provide all State and local organizations with real estate data, data on real estate rights, information about the real estate market and real estate values, determined through the system of mass evaluation.[25]

The current law on the cadastre is devoted to calculating and registering the value of the real estate by assessing the value of the real estate and with the introduction of mass

[21] Decision of the Government of the People's Republic of Macedonia, Official Gazette of PRM" no. 25/1947 7.
[22] Decision of the Government of the Republic of Macedonia for appointing members to the Managing Board of Real Estate Cadastre Agency no. 33-2022/6.
[23] Law on the Real Estate Cadastre, Official Gazette of RM, no. 55 as of 16.04.2013.
[24] In March 2015, the Registry of Real Estate Prices and Rents became operational (pp. 15-16 of the Report).
[25] Law on the Real Estate Cadastre, Official Gazette of RM, no. 55 as of 16.04.2013.

assessment, as a model that will ensure the equitable burden of the property tax based on the realized market values of the properties. In 2015, Real Estate Cadastre Agency started the registry of real estate prices as a unified national model of the evaluation of real estate in the country.[26]

3.2 Registration of Real Estate

The process of the registration of real estate rights in Macedonia proceeded in two phases. The first phase began in the mid-1990s, when the government called on all property owners to register their rights to their property. The base for the establishment of Real Estate Cadastre Agency was the 1,700 cadastre municipalities; each parcel has its own identification number within the numeration system. In the early stage, there was no registration of buildings in the Land Cadastre. The process proceeded slowly, because the registration of real estate in the Real Estate Cadastre was based on the motivation of owners of real estate, most often in the case of registration of a mortgage on the real estate, sale or rent.[27]

The second stage began with the adoption of the Law on the Treatment of Illegally Constructed Buildings[28], with the purpose of legalizing such structures, obtaining details of the rights to their ownership and their registration in the Cadastre. It has been estimated, that there were around 300,000 buildings and parts of buildings constructed without building permits.[29] Over 350,000 requests had been submitted by 2014 for formalising the status of such illegal buildings. The second phase of development of the registry is characterized by a high level of credibility and precision of the registered real estate data, because the procedure of registration is supplemented by appropriate technical documentation provided by authorized geodesists.

3.3 Most recent reforms

In order to support the general assessment system, the amendments of the Law on Real Estate Cadastre in 2015 initiated the process of recording real estate prices. The sources are the legal contracts for real estate transactions, the value of real estate on the basis of which the tax was calculated, the rents and other data.

It is expected that this type of information that contains an assessment of the market value of real estate will facilitate the process of the taxation of the property. It will also be used for analyzing and monitoring activities in the real estate market, preparing reports on

[26] In 2016, the Registry contained and verified 25,152 transactions in total amount of 533.8 Million EUR.
[27] Cadastre Agency. Feasibility Study for the Implementation of the Mass Evaluation System in Macedonia, Final Report. Skopje: Cadastre Agency, 2013, str. 16.
[28] Law on the Treatment of Illegally Constructed Buildings, Off. Gazette of RM, 23/11, 54/11.
[29] Cadastre Agency. Feasibility Study for the Implementation of the Mass Evaluation System in Macedonia, Final Report. Skopje: Cadastre Agency, 2013.

movements on the real estate market as well as calibrating models within the framework of the general assessment system.

In support of the general assessment process, the Agency for Real Estate Cadastre in cooperation with the Chamber of Real Estate Assessors has established a database of assessments where the authorized assessors will make use of the data for their assessments. The database contains detailed real estate information that is subject to assessment in accordance with the methodology for estimating real estate in Macedonia. The database will be accessible to all administration employees and will facilitate their daily operations.

Conclusions and Future Perspectives

Due to the heterogeneity of the analysed problems, broader conclusions can be reached, with a focus on the recent reforms of the property taxation, denationalization and privatization of the properties in Macedonia in the last 15-20 years. Argumentations for improvements are given in terms of:

(1) designing a better system of property protection (registration, data collection, tax administration, improved dissemination, etc.);
(2) providing greater transparency on the real estate market; and
(3) providing higher legal certainty for business investment.

The latter reflects the country's aspirations for attracting foreign direct investment, where transparent property data and the protection of property ownership rights of current and future investors are crucial.

The property tax reform in Macedonia has had a multidimensional impact. First, it is tremendously important for the stability of local government revenue, as it stands as a main pillar in the own fiscal local resources.

Second, the property tax reform initiated other necessary changes in the area of privatization of the properties that had been previously treated as social ownership. Moreover, numerous changes and reforms in the cadastre and land valuation and data sourcing, were achieved because the property tax reform.

Third, the quality property tax reform has transformed the overall country image, both for the citizens and foreign investors. Regretfully, this reform would have occurred earlier (in the 90's when Macedonia gain its independence), but for the civil war and conflicts during that period (1990 – 1994). These processes made Macedonian policy reformers cautious with reforms and the decentralization of property tax powers, fearing too rapid a transfer of property tax assignments to the relatively immature and inexperienced local governments (1995-2000). As a consequence, the property tax system in the early period of the country's independence was only *de lege* structured in the national tax system, but

de facto without any fiscal importance (local revenues were less than 1% of GDP until 2004).

The most important changes in property taxation were established much more recently, within the fiscal decentralization process that started in 2004. Since then, the property tax system functions well and is constantly being improved. The system is based on three types of property taxes: the annual Property Real Estate Tax (with tax rates of between 0.10 % and 0.2 % from the tax base); the Property Sales Tax (with tax rates of between 2 % and 4 % from the tax base); and the Tax on Inheritance and Gifts (with tax rates of between 2 % and 5% of the tax base).

According to the law, it is *ad valorem* property taxation, and an exclusively local revenue source. Along with the many novel decentralization assignments, municipalities have also property tax authorization. Therefore they started property re-evaluation and re-assessment as soon as possible, so that municipal tax administration has improved the property tax collection rate drastically. For the duration of the reforms (2004-2008), new municipal tax administration capacities were seriously developed and all property tax databases were updated. After ten years of being responsible exclusively for local revenues including their collection by local officers, the results were very encouraging and the new property tax system thrived in the new municipalities.

The City of Skopje, a *sui generis* type of municipality, shares local powers with 10 sub-city municipalities. It has the most efficient tax administration office, with an average of 85 % collection rate (highest in the country). Although the law allowed the local authorities to enforce the execution of unpaid tax bills even at the start of decentralization in 2004, the City Mayor implemented these unpopular measures for the first time in 2011. Since then, the property tax is collection has been much more efficient. However, in order to stimulate healthier communication between local authorities and citizens, to promote partnership relations between citizens and authorities at the local level in the future, it would be better to employ various "softer" stimulations (campaigns) to encourage the tax payers to comply or to facilitate payment difficulties, as a first remedy, with tax penalties and enforced execution available as a last resort.

An important element within the process of property reform is the implementation of the new methodology for the assessment of the property values in 2013. It is operated by official property assessors, who started broadly evaluating property in 2015, using market value, special variables, and the categorization of the property into one of 18 zones as prescribed by the Law. According to the most recent data statistics, the new *ad valorem* property assessment of real estate in Macedonia has gained significant success in terms of property tax revenue collection, because now the newly constructed database makes tax evasion almost impossible. Therefore, the main recommendation is to continue with the employment of the new methodological approach, in order to generate updated value-based real estate tax bases and to ensure tax equity.

Additionally, this has a very positive impact on the local development in communities, but particularly in the economic sector. The re-evaluated properties' tax base represents the real value of the land and buildings in Macedonia, which is a determining factor for land use policies in general and in particular for further investments and economic development of the country.

The denationalization process that lasted for over ten years is finally completed. It proceeded as the restitution of confiscated property to the former owners (natural entities or religious institutions) or their heirs who are Macedonian citizens; or as a payment of a corresponding amount of compensation. Additionally, in 2005 Macedonia simultaneously began the process of the privatization of State-owned construction land. The process is still in progress, but it is a precondition *sine qua non* for the continued local economic development and management of construction land, in general. The State still owns much of the construction land, but has transferred significant numbers of land parcels for municipal management and disposal.

After twenty years, it can be concluded that the process of privatization and property reform has undergone many (sometimes painful) changes. The entire process proceeded through 12 models, of which, the most preferred was the management-and-employee buyout model. According to this model, 234 enterprises were privatized, generating a negligible amount of 0.7 million EUR. Today Macedonia, with a reformed property system, numerous fiscal exemptions and one of the lowest tax rates in south east Europe, attracts foreign capital in the domestic newly-established or privatized companies, and all of that stimulates local development and brings additional value to the existing land.

The real estate market is still developing, because of the low purchasing powers of the country's citizens, insufficient awareness of alternative ways of housing investment, inflexible bank credit policy and the absence of market transparency. In contrast, the price of construction permits is increasing and the concentration of construction activities is intensifying. In parallel, the system for registering real estate is being reformed and is now functioning on two levels, the State and the local levels. The *lege ferenda* proposal for the State Cadastre Agency is to become the only organization in the country that is responsible for the administration of data on real estate in order to support the system of mass assessment, with data being available to all stakeholders, such as municipalities, legal entities as investors, and citizens.

In summary, the Macedonian experience of property tax reform, denationalization, privatization and the transformation of the properties, especially of construction land, has not been free of political obstacles, and significant trade-offs have needed to be negotiated. There is room for creating more precise amendments in bylaws and solutions in practice, but having in mind the big picture, Macedonia is moving in the right direction.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
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Kosovo

ALBANA SHALA & HYRMETE BACA

Abstract The lack of cadastral data and information on the market prices of immovable properties are some of the challenges that affect the tax assessment of immovable properties in Kosovo. In order to avoid the payment of taxes which result from a contract of sale, declared prices are not a true reflection of market value and, therefore it has not been possible to obtain representative prices on immovable properties using sales transactions. However, to deal with this situation, notary services has been established. The low assessment of immovable properties for the property tax has impacted significantly on municipal revenues. This is particularly relevant in Pristina, the capital, where the assessed value of houses and apartments is very low, estimated at approximately half the market value of property. However, increased levels of compliance with the regulation on the assessment of properties for tax purposes, the increase in the size of the tax base and the commencement of the ProTax2 project will assist in securing the sustainability of municipal revenues and therefore, reduce the financial burden on central government in having to support municipalities.

Keywords: • Kosovo • property tax • immovable property tax • valuation • tax reform

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1 Property Tax

1.1. Historical background

Property Tax in Kosovo dates from the time when it was part of Yugoslavia around 1929. At that time property tax was presented as a "municipal tax" for the region, based on a property's size, structure, use and location. Revenue collected from this tax was, in general, used to pay for utilities. Also at the time of Yugoslavia, municipalities used to collect revenues from taxes on immovable property based on the property value which used to be evaluated by the certified evaluators within the court of law.

After the dissolution of the former Yugoslavia, and after the end of the war in Kosovo in 1999, the International Community supported Kosovo with considerable financial aid, in order to overcome the period of emergency and to functionalise domestic institutions. The United Nations Interim Mission in Kosovo, (UNMIK), in cooperation with international financial institutions decided that Kosovo should at first adopt the German Mark, and later the Euro as the country's official currency. In addition, the Central Fiscal Authority (CFA) was established to manage the overall national and municipal tax regimes. Following national elections a Ministry of Finance (MoF) was established, which gradually started to take over budgetary competences and established a Property Tax Department, which, amongst other responsibilities, is responsible for uniform assessment standards for Kosovo.

Implementation of the immovable property tax began in Kosovo from 2001. At that time there were two municipalities included in a pilot project. However, from 2002, all municipalities began to implement the property tax, although four municipalities with a Serbian majority were excluded (Leposaviq, Zubin Potok, Zveçan and North Mitrovica) as they were not liable for this type of tax.

In 2008, Kosovo was at a very important stage politically, as on the 17th February Kosovo declared its independence. The Assembly of the Republic of Kosovo approved the Law No. 03/L-204 on 07.10.2010 "On Taxes on Immovable Property in Kosovo", which superseded the UNMIK Regulation no. 2003/29 "On Taxes on Immovable Property in Kosovo". Law no. 03/L-204 was published in the Official Gazette in the Republic of Kosovo under no. 88, on 25.12.2010; however this Law provided no significant changes from the previous legislation.

The purpose of this Law is to determine the standards and procedures that municipalities should apply when administering the property tax. In addition, Administrative Instructions derived from this Law provided detail on several matters including the basis of assessment of immovable property, tax rates, and tax schedules.

1.2 Property tax position

Property tax is an annual municipal tax, revenues from which are used for the development of the municipality's infrastructure and services. The tax is applied to all immovable properties over or under the surface of land. The basis of the tax is the market value of the property in accordance with the standards and procedures approved by Law and by the Administrative Instructions. The tax assessment of the property tax is undertaken every year, and for each tax year, the market value of the property is fixed as at 31st December of the previous year.

The Property Tax Department, within the Ministry of Finance executed an area-surveying project of existing properties and identification of new properties. The project began in July 2010 and was completed in 2012. According to the Law[1], it was envisaged that municipalities would review the market value of every property within their jurisdiction every three to five years using mass assessment. This review would involve the collection of additional information on the quality of the existing properties, the verification of data on the use of properties, the identification of new properties, the development of a new valuation model based on objective criteria, and quality adjustments to ensure that the property tax treats all taxpayers equitably. Data on the quality of buildings is collected through an external inspection and data collected include, such characteristics as: construction material, construction quality, type of facade, roof style, roof material, property size (measured externally), the use of the property, access to the street, and any other additional information as required.

The tax to be paid every year is calculated by multiplying the assessed property value with the prescribed tax rate.

Property value = Building size **x** value/ per m² **x** property condition

Assessed tax = Property value x Tax rate

The property value to be taxed is the value after the deduction of an allowance for primary residence. The deduction is 10,000€.

Taxable value = Calculated value - deduction for primary residence

The property value for property tax is based on the following factors:

- The size of the building in square metres;
- Tax rate (based on the category of property);
- Assessment Zone and property use category (value/m²);
- Quality – ratio adjustment to reflect the property condition.

1.3 Structural components

[1] Law No. 03/L-204 "on Taxes on Immovable Property in Kosovo".

The following institutions and organisations[2] are exempt from the payment of the property tax:

1. Institutions of the Government of the Republic of Kosovo;
2. United Nations or any of its bodies, specialist agencies of the United Nations and of the European Union;
3. Multinational Kosovo Force (Kosovo Force (KFOR), International Civilian Office (ICO) and European Union Rule of Law Mission in Kosovo (EULEX));
4. Diplomatic representations and accredited consulates in the state of Kosovo whose regulation is under an agreement of reciprocity among the states, foreign liaison offices, governmental agencies, intergovernmental organisations or foreign donor organisations carrying out humanitarian assistance, construction works, civil administration or technical assistance within Kosovo;
5. Non-Governmental Organisations with the status of mutual public profit in accordance with the Law on Association of Non-Governmental Organisations in Kosovo;
6. Religious institutions set out by Law, the property of which is kept and used only for religious purposes; and
7. Premises which under the Law have been declared as protected cultural and historical monuments.

Exemption from taxation does not apply when:

- Property is used or is kept for the purposes of commercial activity and for the generation of income; or
- Property is owned or used by a Non-Governmental Organisation with the status that public profit is not used exclusively for the purposes of public benefit.

Buildings are split into two different categories:

- Property category; or
- Assessment or use category (primary use).

The property category defines what tax rate should be applied. Under each property category there are some assessment categories. Property is divided into six different use categories:

Residential property
Residential property includes houses, apartments and similar domestic structures. This also includes land, garages, parking lots and similar non-commercial structures.

Property for residential purposes
Property for residential purposes is a property used for the people's residence needs.

[2] Article 8.1 & 8.2 of Law No. 03/L-204 on Taxes on Immovable Property.

Commercial property
This category includes property used for commerce, retail, services, recreation, artistic and sports activities. Properties used for education or medical services are also considered to be commercial property.

Industrial property
Industrial property is property which is used for the production, processing, storage of goods, including factories, warehouses, workshops and other similar premises;

Agricultural property
Land and premises used for agricultural purposes are considered agriculture property.

Unfinished property
Immovable property under construction and which is not yet ready for occupation/use.

The assessment category determines the value per square metre of a property of average quality in an assessment zone. Different assessment categories with different values per square metre are determined by the Municipal Assessment Commission. Where municipalities have large zones these can divided into sub-zones. Tax rates vary not just with use, but from one municipality to another. The municipal assembly normally sets the tax rate on an annual basis. From 2013 tax rates may vary from 0.15 percent to 1 percent under the amendment of the Law, whilst recently, tax rates are from 0.05 percent to 1 percent. Therefore, it is within the remit of a municipality to set their own tax rates within these limitations. If the municipality wishes to execute certain projects and requires the necessary funds, it may achieve this by setting higher tax rates, but always taking into account the maximum and the minimum tax rates allowed by the legislation.

1.4 Administration

The administration of property tax is regulated by Law No. 03/L-204 "On Taxes on Immovable Property in Kosovo". Each municipality must submit to the Ministry of Finance annual regulations on tax rates imposed and the division of large zones into sub-zones. Within each municipality there is a Commission for the Assessment of Properties. A challenge initially faced by the Commission was the setting of market values because the prices declared in transaction contracts were often fictitious. These contracts typically do not exceed the amount of €10,000 as a way to avoid paying tax.

Progress in the area of assessment is now focused on training municipal officers to review transaction data held by the municipal cadastre offices in order to develop average prices/values per metre square for every class of property in each zone. The Property Tax Department of the MoF then reviews values for every class of property throughout Kosovo, to secure uniformity[3] in assessments.

[3] Source: MFE-Property Tax Department.

Property tax invoices are distributed to citizens by 31st March every year. Tax may be paid in two equal instalments on 30th June and 31st December. The property tax invoice should include the following information:

- Identification in accordance with the database on property tax;
- Taxpayer's name;
- Property address;
- Address to send the property tax invoice if different from property address;
- Value of property;
- Tax amount;
- Total tax obligation;
- Date when tax payment is due – tax payable is divided in two instalments.

Any taxpayer who fails to pay the property tax on or before the last date prescribed for payment is liable for a penalty of 5 percent of the tax liability; while any taxpayer who fails to pay the property tax within 60 days after the last date prescribed for payment is liable for an additional penalty of 10 percent of the tax liability[4].

Interest charges begin in July 1st and are applied to all accounts that remain unpaid after the 30th June deadline. The interest rate is set annually by the Property Tax Department of the MoF. Interest charges will also be added to taxes that remain unpaid after the instalment due date of 31st December. Interest is calculated monthly until the delinquent taxes are paid[5].

The Ministry of Finance is entitled to conduct annual inspections of municipalities to ensure that the assessment standards envisaged are applied, that the property tax database is effectively maintained, that the collection procedures are properly implemented and that the municipality acts in accordance with the approved regulations.

If during inspections, the municipality is found not to be materially compliant with the regulations, the Ministry of Finance can specify the nature of discrepancy and the remedial action required.

1.5 Assessment

A reassessment is required every three to five years to assess all properties in order to bring values close to the current market value. However, for new buildings, properties with a change of use, enlargement of buildings, etc., a specific assessment may be done any time between general reassessments.

The three assessment methods used when calculating the property value are:
1. Comparison of sales;

[4] Tax Regulation 2003/29, sec. 19.4.
[5] Guide for Kosovo Municipalities on Property Tax Collection. p. 5.

2. Income method; and
3. Cost of construction.

Kosovo as a former socialist country lacks information on the transaction of immovable properties. The property market in land and property is at an early stage of its development and as such does not provide sufficient information on immovable properties and property transactions on which to base tax assessments.

In the light of this and based on the fact that only buildings are taxed in Kosovo (land is still not taxed), the most appropriate method, is considered to be a comparison of sales data. Difficulties arise with this method since the majority of contracts are not reliable. There is a need to collect additional information from lawyers, real estate agencies, surveys and bank data (mortgages). Since the 2009 Law no.03/l-113 "On Expropriation of immovable property" was approved, Kosovo has undertaken several large infrastructure projects such as: highways, national roads and local roads. As a result, the Property Tax Department has been able to develop a database regarding the properties involved and information on price trends, based on which an assessment of immovable properties can be undertaken

The sales comparison method is based on the following characteristics for each specific property:

- Construction area in square metres;
- Value category (defines the value per square metre);
- Assessment zone (defines the value per square metre);
- Quality ratio/building condition.

The value is calculated through the following formulae:

Square metres x value per square metre x quality ratio

The value per square metre is defined through the value category and the assessment zone which are set by the Municipal Assessment Commission. The Quality ratio depends on the condition of the building which is determined while surveying the property. As an example:

Property characteristics:
Square metres: 40
Value category: House
Assessment zone: I
Condition: Average

The value category and assessment zone define the value per square metre to be 300.

Quality ratio for a property with average quality is 0.8.

Calculated value: 40 x 300 x 0.8 = 11,000

The building area is defined by measuring the external area of the building. If the building has more than one storey, the number of stories is multiplied with the area measured.

During the national survey which began in 2010 data were collected on the building quality. Buildings are classified in one of five ratios of quality based on the external building condition.

The quality ratios of quality are:
Very good: 1.1
Good: 1
Average: 0.8
Poor: 0.6
Unusable: 0.5

The calculated building value with a "poor" quality ratio will substantially be lower than the calculated value of a building with a "very good" quality. This means that the owner of a building with "poor" quality will pay less tax than the owner of a building with a "very good" quality ratio.

The assessment method based on income is appropriate for those properties which are typically leased, such as offices and other commercial uses.

The income method can be applied to construct an assessment model based on the analysis of typical lease conditions for different assessment zones within the municipality; and for the assessment of individual hotel properties.

The income based assessment capitalises incomes received by the owner to achieve the market value of the property. The value is achieved by dividing property incomes with the capitalisation rate or the profitability rate.

Data collection is through survey. The property tax survey teams require owners and/or lessees to provide information on what lease rent is paid and what expenditures are paid out by the owner.

By raising the awareness of taxpayers and introducing rules according to the legislation, the owners of shops have begun to declare the actual rents they receive. This has resulted in an increase in revenue for the Tax Administration of Kosovo.

The cost of construction method is infrequently used for property tax assessment, although it is primarily used for industrial premises and other properties for which the market is limited. In most municipalities the number of such properties is relatively small, and the method is applied on an individual property basis.

The method of data collection to identify the costs of construction is as follows:

- At least three construction companies are approached to determine the cost per square metre for houses, apartments, commercial and industrial properties. The cost is only for buildings and not for land.
- If a municipality wants to regulate the construction cost by quality, the construction company is required to provide the cost related to both high quality and average construction quality.

The model of the property assessment using the cost approach is shown below and illustrated in Table 17:1.

Building area in m² x Cost per m²

Less

Physical amortisation

Less

Functional amortisation

Plus

Building m² x land value in m²

Table 17.1: The Model of the Property Assessment using the Cost Approach

Example:
Factory with 5,000 m² in the assessment zone of two municipalities

- New construction cost per metre square = €400
- Building economic life = 30 years
- Effective timeline of the building life = 15 years
- Physical amortisation = 15/30= 0.5
- Functional amortisation is assessed to be 5 percent
- Land value per square metre in the assessment zone II = €15

Calculation:

New construction value	5,000 x 400	2,000,000
Less: Physical amortisation	2,000,000 x 0.50	1,000,000
balance		1,000,000
Less: Functional amortisation	2,000,000 x 0.05	100,000
balance		900,000

Plus: Land value	5,000 x 15	75,000
Market Value		**975,000**

1.6 Revenues performance

The property tax revenue performance over recent years is shown in Table 17.2

Table 17.2: Income from Property Tax. January - December 2012 - Comparison with previous year

Income from Property Tax
January - December 2012 - Comparison with previous year

Community	Billing 2012	Jan - Dec 2011 €	Jan - Dec 2012 €	Change €	%		Compared to Billing
Partesh	1,169.54	1,899	9,325	7,427	80%	↑	797%
Rranillug	21,082.76	14,477	30,464	15,988	52%	↑	144%
Novobërde	38,156.68	24,236	41,040	16,804	41%	↑	108%
Dragash	180,933.56	101,432	121,481	20,049	17%	↑	67%
Kllokot	38,435.40	30,491	36,254	5,763	16%	↑	94%
Rahovec	248,213.08	228,829	265,460	36,631	14%	↑	107%
Gjakovë	940,387.72	849,768	968,817	119,049	12%	↑	103%
Mamusha	19,072.82	11,831	13,444	1,613	12%	↑	70%
Junik	29,881.58	29,275	32,676	3,401	10%	↑	109%
Ferizaj	1,186,779.46	1,173,672	1,290,701	117,029	9%	↑	109%
Malishevë	233,804.58	161,513	176,367	14,854	8%	↑	75%
Pejë	1,123,507.74	761,941	830,665	68,725	8%	↑	74%
Vushtrri	343,148.88	295,598	319,064	23,466	7%	↑	93%
Istog	265,934.98	220,219	236,069	15,850	7%	↑	89%
Gllogoc	275,377.82	230,219	239,445	9,226	4%	↑	87%
Kaçanik	228,225.74	148,890	151,939	3,049	2%	↑	67%
Obiliq	238,292.12	235,661	240,317	4,656	2%	↑	101%
Viti	239,363.56	260,518	264,762	4,244	2%	↑	111%
Shtërpce	99,375.82	37,752	38,278	525	1%	↑	39%
Klinë	253,097.00	210,055	212,472	2,417	1%	↑	84%
Gracanice	345,374.44	345,595	349,455	3,860	1%	↑	101%

Pristinë	4,588,774.52	3,844,264	3,854,074	9,811	0%		84%
Prizren	1,366,297.36	1,232,919	1,234,038	1,119	0%		90%
Kamenicë	202,166.80	232,675	230,613	-2,062	-1%	↓	114%
Fushë Kosovë	390,895.26	382,367	375,324	-7,042	-2%	↓	96%
Shtime	98,224.06	101,156	98,548	-2,607	-3%	↓	100%
Mitrovicë	453,000.34	369,216	356,335	-12,881	-4%	↓	79%
Deçan	186,958.76	158,577	152,838	-5,739	-4%	↓	82%
Podujevë	386,128.62	322,130	296,286	-25,844	-9%	↓	77%
Suharekë	561,639.82	606,337	554,146	-52,191	-9%	↓	99%
Gjilan	1,043,168.08	1,036,996	942,878	-94,118	-10%	↓	90%
Lipjan	567,103.32	495,602	443,551	-52,052	-12%	↓	78%
Hani I Elezit	72,535.82	70,304	59,972	-10,332	-17%	↓	83%
Skenderaj	144,023.62	137,670	117,017	-20,653	-18%	↓	81%
Total	**16,410,531.66**	**14,364,082**	**14,584,116**	**220,034**	**2%**		**89%**

No of Municipalities Increased 21 ↑

No of Municipalities Decreased 11 ↓

Municipalities with over 1000 dwellings	**% increase from 2011**	
Prishtinë	0%	
Prizren	0%	
Podujevë	-9%	↓
Pejë	8%	↑
Gjakovë	12%	↑
Ferizaj	9%	↑
Gjilan	-10%	↓
Mitrovicë	-4%	↓

The data regarding the 2012 financial year demonstrates the level of the municipalities' collection of property tax which, in total, amounts to in excess of €14 million in revenue. This is an increase of 2 percent at the national level compared to the same period in 2011. Some 89 percent of the invoiced amount for 2012 (€16,410,531) was collected. However,

despite the increase in the amount of property tax collected over the previous year, 11 municipalities have shown a decrease in their revenues.

The following municipalities have demonstrated an increased percentage in the collection of property tax revenues: Partesh with an increase of 80 percent, Ranillug with 52 percent, Novobërda with 41 percent, Dragash with 17 percent, Kllokot with 16 percent, Rahovec with 14 percent.

This increase in the level of revenues raised is the result of a considerable improvement in the quality of property tax administration at the local level, including an increase in number of the collection staff, and the provision of more appropriate working conditions.

Table 17.3 shows the property tax revenue for 2013 compared to the previous year.

Table 17.3: Property Tax Revenues. January – December 2013 compared to previous year

Income from Property Tax

January - December 2013 - Comparison with previous year

	Municipalities	Jan - Dec 2012 €	Jan - Dec 2013 €	Difference €	% Increase compared to 2012	
1	Deqani	152,838	201,869	49,031	32%	↑
2	Gjakovë	968,817	1,015,025	46,208	5%	↑
3	Gllogovci	239,445	308,697	69,252	29%	↑
4	Gjilan	942,928	1,222,984	280,056	30%	↑
5	Dragash	121,481	123,542	2,061	2%	↑
6	Istog	236,069	270,935	34,867	15%	↑
7	Kaqanik	151,939	180,698	28,759	19%	↑
8	Klin	212,472	234,870	22,398	11%	↑
9	F.Kosovë	375,324	406,658	31,334	8%	↑
10	Kamenic	230,513	211,004	-19,510	-8%	↓
11	Mitrovicë	356,335	450,486	94,151	26%	↑
12	Leposaviq	-	-	-		
13	Lipjan	443,551	493,668	50,118	11%	↑
14	N.Bërd	41,040	50,594	9,554	23%	↑
15	Obiliq	240,317	253,452	13,135	5%	↑
16	Rahovec	265,460	284,945	19,485	7%	↑

17	Pej	830,665	1,083,998	253,333	30%	↑
18	Podujev	296,286	348,938	52,652	18%	↑
19	Pristina	3,854,074	4,085,151	231,077	6%	↑
20	Prizeren	1,234,038	1,479,900	245,862	20%	↑
21	Skënderaj	117,017	127,367	10,350	9%	↑
22	Shtime	98,548	116,637	18,089	18%	↑
23	Shtërpc	38,278	59,754	21,477	56%	↑
24	Suharek	554,146	556,124	1,977	0%	↑
25	Ferizaj	1,290,701	1,220,522	-70,178	-5%	↓
26	Viti	264,762	303,922	39,160	15%	↑
27	Vushtri	319,064	335,847	16,783	5%	↑
28	Zubin Potok	-	-	-		
29	Zveçan	-	-	-		
30	Malishev	176,367	167,200	-9,166	-5%	↓
31	Junik	32,676	33,583	908	3%	↑
32	Mamusha	23,144	18,978	-4,165	-18%	↓
33	Hani Elezit	50,272	82,061	31,789	63%	↑
34	Graçanicë	349,455	319,684	-29,771	-9%	↓
35	Ranillug	30,464	29,119	-1,346	-4%	↓
36	Partesh	9,089	8,953	-136	-1%	↓
37	Kllokot	36,254	32,172	-4,083	-11%	↓
	Total	**14,583,829**	**16,119,339**	**1,535,510**	**11%**	↑

For financial year 2013, an increase in the collection level is evident where municipalities in total managed to collect more than €16 million. At the national level, during the period January to December 2013, the revenue collected showed an increase of 11 percent compared to the same period in 2012.

Table 17.4: Income from Property Tax. January - December 2012 - Comparison with previous year

Income from Property Tax
January - December 2012 - Comparison with previous year

Community	Billing 2012	Jan – Dec 2014 €	Jan – Dec 2013 €	Change €	%	Compared to Billing
Prishtinë	5,393,566	4,085,151.42	5,649,336.86	1,564,185.44	38% ↑	105%
Prizren	2,117,263	1,479,899.50	1,824,232.20	344,332.70	23% ↑	86%
Ferizaj	1,696,821	1,220,522.30	1,696,572.85	476,050.55	39% ↑	100%
Pejë	1,771,575	1,083,998.28	1,405,219.13	321,220.85	30% ↑	79%
Gjilan	1,716,814	1,222,984.09	1,308,964.41	85,980.32	7% ↑	76%
Gjakovë	1,633,755	1,066,945.97	1,264,759.71	197,813.74	19% ↑	77%
Lipjan	806,526	493,668.13	721,747.60	228,079.47	46% ↑	89%
Suharekë	682,675	556,123.87	598,855.18	42,731.31	8% ↑	88%
Mitrovicë	844,954	450,485.69	547,728.67	97,242.98	22% ↑	65%
Fushë Kosovë	585,389	406,657.79	542,027.38	135,369.59	33% ↑	93%
Vushtrri	549,353	335,847.14	446,087.32	110,240.18	33% ↑	81%
Graqanice	456,673	319,684.32	437,026.73	117,342.41	37% ↑	96%
Podujevë	461,385	348,938.42	363,990.33	15,051.91	4% ↑	79%
Gllogoc	380,607	273,695.92	353,499.65	79,803.73	29% ↑	93%
Viti	342,155	303,921.98	351,727.88	47,805.90	16% ↑	103%
Obiliq	306,219	253,452.10	316,258.64	62,806.54	25% ↑	103%
Rahovec	324,050	284,944.92	301,697.93	16,753.01	6% ↑	93%
Istog	308,536	270,935.57	282,137.18	11,201.61	4% ↑	91%
Klinë	300,628	234,869.65	269,588.02	34,718.37	15% ↑	90%
Malishevë	258,185	167,200.36	246,632.95	79,432.59	48% ↑	96%
Kamenicë	281,579	211,003.61	223,774.80	12,771.19	6% ↑	79%
Kaçanik	250,901	180,697.93	217,077.16	36,379.23	20% ↑	87%
Deçan	272,123	184,949.59	204,558.46	19,608.87	11% ↑	75%
Dragash	198,466	123,542.07	147,480.30	23,938.23	19% ↑	74%
Shtime	133,383	116,636.99	140,226.84	23,589.85	20% ↑	105%
Skenderaj	156,628	127,367.23	137,957.40	10,590.17	8% ↑	88%
Shtërpce	208,250	59,754.42	102,303.18	42,548.76	71% ↑	49%
Hani I Elezit	97,203	82,060.59	92,284.99	10,224.40	12% ↑	95%

Novobërde	75,110	50,593.87	59,269.50	8,675.63	17% ↑	79%
Kllokot	54,734	32,171.57	49,403.74	17,232.17	54% ↑	90%
Junik	43,813	33,583.42	40,288.41	6,704.99	20% ↑	92%
Ranillug	35,144	29,118.90	32,455.03	3,336.13	11% ↑	92%
Mamusha	27,713	18,978.33	27,629.95	8,651.62	46% ↑	100%
Partesh	7,772	8,953.15	8,351.85	-601.30	-7% ↓	107%
Total	**22,779,948**	**16,119,339.09**	**20,411,152.23**	**4,291,813.14**	**26.63%**	**89.6%**

No of Municipalities Increased 33 ↑
No of Municipalities Decreased 1 ↓

Municipalities with over 1000 dwellings	**% increase from 2013**
Prishtinë	38% ↑
Prizren	23% ↑
Podujevë	4% ↑
Pejë	30% ↑
Gjakovë	19% ↑
Ferizaj	39% ↑
Gjilan	7% ↑
Mitrovicë	22% ↑

There was satisfactory achievement in the collection of Property Tax revenues in 2014 which was one of the most successful years regarding the total amount invoiced and revenue collected.

At the national level, during the time period from January to December 2014, some €20,411,152 million was collected, showing an increase of 26.63 percent compared to the same period in 2013, with 89.60 percent of the amount invoiced for this year being collected (€22,779,948).

The improved levels of revenues collected were due in part to the results of the municipal elections, which caused a change of approach and policies, a change of management, and an improvement in property tax administration at the local level. There was also an increase in the number of employees, the provision of more appropriate working conditions, numerous public information campaigns, as a result of which citizens and

taxpayers were informed as to where property tax revenues where invested and the resulting public benefits.

1.7 Potential reforms

Property tax revenues are one of the most important sources of revenue for municipalities. Property tax revenues are used for capital investments such as road infrastructure, utilities and green spaces/parks. These municipal expenditures demonstrate to taxpayers, for example, that their money is being invested in an appropriate manner. In order to enforce the optimum collection of revenue, municipalities have introduced several new mechanisms such as: a vehicle may not be registered or certain property rights ("possession list") may be deferred if the owner owes property tax. Municipalities have also recognised the importance of involving their citizens in public debates to help identify appropriate priorities for spending plans, and by providing citizens' with information on current and future investments to be made by the municipality.

A significant challenge has been the distribution of property tax invoices. Previously, this was done by the Post and Telecom of Kosovo. However, as a result of numerous citizen complaints that their invoices were not being distributed in time or delivered to the proper address, a particular problem in rural areas, municipal officers are now being used to deliver invoices.

A mechanism to increase future revenues was the re-survey of properties which enabled municipalities to conduct assessments based on the construction quality of buildings. This was important because, during the war many properties were damaged or destroyed, there has been an increase in construction and many of the buildings in the country are new.

Improving property tax revenue is a continuing process. The Property Tax Department amended the Law on Taxes of Immovable Properties, to increase tax rates which were (until 2013) from 0.05 percent to 1 percent, and which are currently 0.15 percent to 1 percent. Although there was an increase in the tax rate threshold, this did not achieve satisfactory results, because the majority of municipalities, including the capital Prishtina and several other cities, decreased their tax rates so as not to charge their taxpayers more. This remains a future challenge and there is an on-going recommendation for municipalities to increase tax rates, but this has turned into a political issue for these municipalities.

Increased interest in the property tax is the result of a growing interest in local autonomy[6]. Moreover, there are good reasons for taxing real property. A tax on real property may, for example, make good sense as part of a tax system as a whole, although relatively expensive to administer, in many ways the property tax scores well in terms of both

[6] Sullivan. Property taxes and tax revolts. 1995. p. 19.

efficiency and its equity aspects. Moreover, if levied at the local level a property tax may, as noted earlier, serve as a good means of financing local public services[7].

Taking into account the fact that only buildings are taxed in Kosovo, the Property Tax Department has started a project to implement the taxation of land. This will represent the first time that land is taxed in the territory of the Republic of Kosovo. This project, named Protax2[8], is a continuation of the earlier project Protax1 which operated from 2008 to 2011. Both these projects have been financed by the Swedish Agency for International Cooperation (SIDA) and Ministry of Finance of Kosovo.

This new project will involve the territory of Kosovo being divided into agricultural regions. Municipalities will be divided in zones and sub zones, reflecting such uses of the land as pastures, fields, vineyards, forests, construction land. Within the Property Tax Department the project team is working to create land use maps to inform municipalities as to the potential assessment of land for property tax purposes. Despite all of the efforts, it was anticipated that this project would be implemented in 2017. However, legislation is awaited to ensure the proper implementation of the tax on land. The new law will establish the minimum and maximum tax rates to be applied, which categories of land use will be exempt from the tax, and in such cases, whether citizens will be subsidised or be exempted from the property tax. A significant challenge remains as to how citizens will accept this new tax. The Ministry of Finance has been organising public discussions and debates in order to provide information and to educate citizens on the advantages of this project.

2 Evolution of immovable property market

2.1 Privatisation

Kosovo started with the process of privatisation[9] of Socially Owned Enterprises (SOEs) in 2002, when some 500 suitable enterprises were identified.

A problem which was encountered in this process was that the assets belonging to SOEs were not attractive to external foreign investors and only a few of these enterprises were operational. The majority of these enterprises were turned into warehouses (storage), and several located in the suburbs of towns were converted into recreational properties. Agricultural properties were acquired under this privatisation process and then sub-divided by the new owners and sold as separate parcels.

[7] Bird, R. M. Issues in fiscal decentralization. 1999. p.149.
[8] www.tatimineprone-rks.org.
[9] Mustafa, Muhamet, Rizvanolli, Artane, Hashani, Alban, Zogaj, Alban, Abdixhiku, Lumir, Aliu, Fadil, Krasniqi, Besnik, Hoxha, Durim. 2015. Privatization and post-privatization in Kosovo: Glass half empty or half full? www.riinvestinstitute.org.

2.2 Nature of property market

If an analysis is undertaken of the immovable property market in Kosovo, it will be noted that the market is affected by several factors. A key factor was the war (1999) and its effects on real estate and demographics in the subsequent years. For example, many villages were destroyed with the result that many people moved to the cities. Prishtina, as the capital of Kosovo, became the main destination for many people. This has caused overcrowding and resulted in an enlargement of the city with many rural zones on the outskirts becoming residential neighbourhoods. Therefore, in high demand after the war were single family dwellings and apartments in multi-storey blocks. There were significant price differentials between apartments owned by Albanians and those owned by different ethnic groups. The diaspora was another factor which resulted in inflated prices of dwellings/apartments because of the preponderance of cash payments. Prices for land after the war were very low because of the lack of demand and the negative effect of poor infrastructure.

Another factor that has affected property prices was the illegal construction of new collective buildings. Since 2014, because of the large number of unsold buildings, there is an over-supply which is causing a significant reduction in prices.

Whilst the price for collective buildings is constantly falling, the price for development land is increasing. Agricultural land has been divided into parcels and sold as construction land. Up until 2015 one could build anywhere, however, current legislation is attempting to control construction development, and municipalities have been developing municipal urban plans to control the rate of residential construction. According to urban plans, zones have been identified where individual and collective construction can take place along with planned green open spaces. Municipalities in association with the Cadastre Agency of Kosovo have been recording all buildings through aerial images and requiring property owners to apply for the legalisation of their premises.

3 Property data

3.1 GIS/Cadastres

Kosovo as an underdeveloped country is largely dependent on foreign capital investment, but one of the major factors to attract this investment is proper land administration and the accuracy of ownership rights.

Effective land administration, accuracy of ownership and a well-functioning cadastre is important for an effective property tax system which requires detailed information on properties for identification and assessment.

The first survey by the orthogonal and polar methods (in scales 1:500 and 1:25000) was carried out during 1930-1933. Previously, the tapija system from the ottoman period was used, which contained very limited data using outdated measurements.

After the Second World War, during 1953 and 1956, the revision of the cadastre took place. The survey by stereo-photogrammetry in Kosovo started in 1958 and was finished in 1985. The plans were to a scale of 1:1000 for urban areas and 1:2500 for rural areas.[10]

In Kosovo, unfortunately the land administration system was not developed along the same lines as in other regions of the former Yugoslavia, because of centralisation and the unequal treatment among the regions resulting from political and economic factors.

A Land Book, which contained registered real property rights to land, was never introduced into Kosovo.[11] Therefore, there was no register of ownership rights, which resulted in the absence of relevant information on property identification, legal status, mortgages, servitudes, real property boundary delimitations etc.

In 1980 a former Kosovo Assembly established an organising council for regularising land ownership and for implementing land consolidation in Kosovo. One of the main reasons for this initiative was the fact, at that time, 42 percent of the population in Kosovo worked in agriculture.

The land consolidation process was never completed, because in 1989 the autonomy of Kosovo was revoked by Serbia, and all competences that the Directorate of Geodesy of Kosovo had, were relocated from Kosovo to Serbia.

Since the Kosovo cadastre was damaged as a result of the war, considerable effort and finance was required to recover data and develop a new cadastre. Kosovo received support from western countries such as Sweden, Norway, and Switzerland and international organisations including the World Bank, USAID and SIDA. Donor finance and expertise were given to reconstruct a cadastre in the post conflict period since 1999. An extensive project included the establishing of a new 1st order network, the production of ortho-photos, a land information system, a system for property registration, the training of local employees and the provision of a institutional building. From January 2003 local staff took over the running of the Kosovo Cadastral Agency and consideration is being given to transforming the organisation into a Surveying and Mapping Authority.[12] The property tax office is often the natural home for GIS in local government, because GIS has a major impact on the way property tax assessors go about their business.[13]

[10] Tullumi, S. A short history of cadastre survey in Kosovo. 2002. p. 4.
[11] Eidenstedt, L. Legal aspect on the creation of a modern cadastre in Kosovo. 2002. p. 6.
[12] Valstad, T. The establishment of a survey and mapping authority of Kosovo. 2003. p. 1.
[13] Longley, P., Goodchild, M., Maguire, D., Rhind, D. Geographic information systems and science, 2015, p. 44.

The mapping of the land is an essential pre-condition for land management and planning. Up-to-date, reliable information is therefore needed at the management level to facilitate administrative procedures and policy making. In municipalities where there is no reliable data, the first step to develop such a database is the updating of the cadastre. Traditionally, this was only possible through field surveys registered by hand on a map. This process had always been time consuming and potentially inaccurate when performed manually. But if the maps could be converted into digital form, simple algorithms would allow areas to be measured and tabulated electronically.

The second step is then to introduce the relevant attributes of each property/entity, gathering the existing data and adding new information. For the specific purpose of property taxes, it is considered that the most relevant data is: area of the land (given automatically by the surface of each polygon), use of the land (through spatial analyses and existing land use regulations), area of construction (existing and permitted) and tax revenue of each property. The aggregation of this data will provide the key factors and variables that can be analysed using property tax models and other statistical techniques.

As the system develops, new information criteria may be added, as new data is received from other registries (e.g. construction licenses, businesses). The GIS data base is conceived as a dynamic and interactive process where all the information is stored. Tables and maps can be linked in interesting ways (e.g., clicking on a polygon in a map display can highlight the corresponding row in a table). As the payments of taxes are processed, they are introduced in the system, making the focalisation tasks much easier. The ultimate step is to connect this data base to the web site; enabling the taxpayers to process their payments through a simple bank transfer.[14]

3.2 Title registration

Any changes to property included within administrative borders of a municipality regarding its ownership can be completed in the Directory of Cadastre of the competent municipality. The Directory of Cadastre is entitled to perform activities such as recording a change of owner/user of the property, registration of rights and obligations such as servitudes and mortgages.

The Cadastre Agency of Kosovo conducts monitoring of all municipalities within the territory of Kosovo regarding the cadastre. The Cadastre Agency provides municipalities with ortho-photos and staff training.

For the transaction of a property, the documentation to be submitted to the Directory of Cadastre to transfer the ownership is:

- Statement of the right of ownership (possession list) and copy of the plan of the current owner (seller);

[14] Feruglia, N. Fiscal decentralization in Kosovo, 2007, p. 25.

- Personal Identity cards of both the seller and buyer;
- Transaction contract verified with a notary (previously these contracts were verified with municipal courts in absence of notaries in Kosovo);
- Transaction evidence through banks.

If buyers have unfulfilled obligations in relation to the property tax, then they cannot obtain the rights to the property (possession list) in their own name until the arrears have been paid in whole or in part, depending on the amount of the arrears.

There are many processes of expropriation and exchange of immovable properties from private owners to the Government of the Republic of Kosovo. These changes are recorded in the cadastre upon the receipt of the Final Decision[15] and thereafter compensation is paid to the owner.

Conclusion

The lack of cadastral data and information on the market prices of immovable properties are some of the challenges that affect the tax assessment of immovable properties in Kosovo. In order to avoid the payment of taxes which result from a contract of sale, declared prices are not a true reflection of market value and, therefore it has not been possible to obtain representative prices on immovable properties using sales transactions. However, to deal with this situation, notary services has been established.

There were significant challenges to be faced because the cadastral data (documentation and cadastral plans) was removed from Kosovo during the war in 1998-1999.[16] Many of the cadastral staff including geodesy officers and topographers also left resulting in a lack of skilled worker. After the war, Kosovo faced a real challenge to reconstruct its cadastre. This process was supported by international experts and donor agencies. After negotiations with Serbia, previously removed documents are being returned at the institutional level and also by owners themselves who travel to Serbia to obtain their personal documents.

Lack of proper ownership documents and data presents problems of transparency in the property market, where buyers hesitate to buy properties, while sellers wishing to sell often do so at relatively low prices.

The low assessment of immovable properties for the property tax has impacted significantly on municipal revenues. This is particularly relevant in Pristina, the capital, where the assessed value of houses and apartments is very low, estimated at approximately half the market value of property. However, increased levels of compliance with the regulation on the assessment of properties for tax purposes, the

[15] Law on Expropriation of immovable properties.
[16] Tullumi, S. A short history of cadastre in Kosovo. 2002. p. 4.

increase in the size of the tax base and the commencement of the ProTax2 project will assist in securing the sustainability of municipal revenues and therefore, reduce the financial burden on central government in having to support municipalities.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
M. Radvan, R. Franzsen, W. J. McCluskey & F. Plimmer

Immovable Property Tax System in the Republic of Albania

ERJONA CANAJ & IRENA LAVDARI

Abstract Currently, revenue-earning taxes and fees are the subject of much sensitive discussion for all states and decision-making authorities, particularly following the economic crises of 2009. Emphasizing the role and the importance of state budget revenues, taxes and the fees deserve the attention of all stakeholders with associated responsibilities defined by law, within a competitive economic market. For this reason, improvements in the legal framework to achieve a more effective control in and of the market is recommended. Considering the negative effects of the so-called 'black economy', its reduction and elimination is vital and should be achieved through long-term national strategies and policies The continued awareness of the public regarding the negative aspects which affect all citzens as a result of this informal sector, and the positive mutual benefits of a social partnership culture, where the partners can find a common language to discuss relevant issues of common interests is a highly desirable goal. Modernization of a range of administrative processes is key to solving many economic problems and the achievement of the desired standard of living for Albanian citizens. But yet this remains one of the many challenges that the country faces. Tax evasion, corruption, and non–formalization undermine the equity, equality and revenue of the tax system. Thus, reforms are of major importance for fiscal institutions and those who develop and implement taxation policy.

Keywords: • Albania • property tax • immovable property tax • valuation • tax reform

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Introduction

The tax system in Albania has undergone a steady and ongoing development from the beginning of the introduction of the Albanian government (1991) to date. The study and the analysis of this system is of great importance, not only for its doctrinal significance, but above all, its practical aspects. This chapter focuses on the definition and clarification of the main concepts of the tax system in the Albanian Republic, referring in particular to the taxing of real estate, and later providing a detailed analysis, based on the development of this system in Albania.

This study aims to analyze the period from the Proclamation of Independence by the Albanian Government up to date. In this early part, the study includes not only a description of the historical development, but it also seeks to analyze some of the political and economic circumstances which have affected the amount and type of taxes and the Republic's system taxation. This analysis provides information about the creation and evolution of the Albanian government's tax system, especially during the Monarchy Period, when this system was considered a modern and advanced one for that time.

In the second part, the development of reforms in the area of property rights are discussed, where compensation for loss of property rights becomes significant as the process of privatization develops.

In the third part, the Albanian system of property registration is discussed, and the role of the Registration Office of Real Estate in the registration of the property titles is presented.

The main objectives in this chapter are the analysis in the Albanian Tax System in both its legal form and in terms of its revenue collection; the study of the burden of the tax on real estate in relation to the total public revenue; the identification of the problems with reference to fees and legislation, which are considered as obstacles to the good management of the tax on real estate, and suggestions for their improvements.

1 Tax on property

1.1 Historical Framework

The tax system in Albania has a history which goes back centuries, with unexpected and strong changes in its last 100 years. This evolution of the system has provided a reflection of the economic systems installed and implemented by successive Albanian Governments. The Albanian fiscal and financial (taxation) system falls neatly into historical periods: the creation of the Albanian State and subsequent governments (1912-1944); the suspension of the tax system (1945-1990); and the reinstatement of the modern tax system (1991- 2017).

1.1.1 Historical Period 1912-1944

After the proclamation of independence and the establishment of the Albanian Government in 1912, it was necessary to create and reconstruct the State institutions through specific laws. Even though the Government made some changes and legal arrangements, in many aspects, the earlier laws imposed by the Ottomans were left in force until new laws were issued. From 1912 to 1919 the right of obligations remained in accordance with to the Ottoman Civil Code (*Mexheleja*)[1] which was recognized as the source of such legal obligations as the contract, the cause of damage, and the enrichment without reason[2]. Among the main contracts covered by this retained legislation, were the sale, donation, loan, use, warranter, hostage, rent, deposit, order, halfness (land given for agricultural works) etc. of land[3]. Up to 1925 the juridical land law continued to be that of the Ottoman Empire, which had been merged with the land law of 1856.

After the proclamation of Independence, the new government inherited an archaic tax system and the country was characterized by an unstable political situation. The efforts to rebuild the economy, its functions and activity remained incomplete, because of the First World War. The government, despite all its efforts to improve and change the tax system, was unsuccessful, because the economy had not changed and because there was no strong and stable administration.

However, there were efforts made to create a tax system which reflected the interests of the government and the consolidation of the national economy thus also making it easier for the general population. Some tax measures were taken, releaving peasantry from their burden. During this period, the collection of tax revenue in the State budget was of great importance to the newly independent State[4]. The main sources of income for the new government were direct taxes. These taxes were inherited from the previous system and directly affected the product or the income of the producer at the point of their production or creation. The inherited taxes were made up of several types of taxes, including a real

[1] See Bello H, Mexheleja- Kodi Civil Osman dhe trashëgimia juridike osmane në Shqipërinë e viteve 1912-1929', (Mexheleja- The Otoman Civil Code and the Otoman Juridical Heritage in Albania of the years 1912-1929) Zani i Naltë Nr. 2 Tiranë 2013. p. 47. http://zaninalte.al/2013/09/mexheleja-kodi-civil-osman-dhe-trashegimia-juridike-osmane-ne-shqiperine-e-viteve-1912-1929/ Also, Maho, B., „Fitimi i pronësisë mbi pasuritë e palujtshme" (Winning the ownership on the real estate), UET-PRESS, Tirane, 2009. p. 124; Also, Adriatik Mateli, „Sistemi Tatimor në Shqipëri" (Tax system in Albania), Shek. XV – vitet 12 Shek. XXI Monografi, Tiranë, 2017. p 205.

[2] As a result of which compensation should be paid.

[3] Semini M., „E drejta e Detyrimeve dhe e Kontratave", Pjesa e Përgjithshme, (The Right of Obligations and Contrats", General Part) Skanderbeg books, Tiranë, 2006. p. 36; ; Maho, B., „Fitimi i pronësisë mbi pasuritë e palujtshme" (Winning the ownership on the real estate), UET-PRESS, Tirane, 2009. p. 123.

[4] Akademia e Shkencave e Republikës Popullore të Shqipërisë, Historia e Shqipërisë, (The Science Academy in Popular Republic of Albania, History of Albania) Tiranë 1965. P. 338. As well Adriatik Mateli, „Sistemi Tatimor në Shqipëri", (Tax system in Albania), Shek. XV – vitet 12 Shek. XXI Monografi, Tiranë, 2017. p.205.

estate tax[5] called ,,*Vergjia*"[6], (being a tax on buildings and land). This was one of the types of direct taxes that had been applied during the period 1925-1929. The revenues collected from these taxes during this period were 1,178,594 ALL[7].[8]

1.1.2 The Tax System of the First Republic and Monarchy (1925-1939)

In 1925, the regime took the first steps towards the quick increase of State income, by implementing measurements to collect overdue taxes for 1912-1924. The campaign for the collection of debt, started in the beginning of 1925[9] with the issuing of State orders which required the urgent collection of the outstanding taxes.

Immediately, the administrative reorganization was completed, and the country was divided into prefectures; each prefecture having two or more sub-prefectures, which included some municipalities. During this period, the reorganization of the State administration created the opportunity to increase the budget income, which were mostly achieved by the collection of current and overdue taxes. The only new instrument to increase the budget income was the improvement in the tax legislation, and the increase in the yield of the existing taxes[10].

The fiscal, economic and political change was characterized by the shift towards an ,,open door" policy towards the foreign capital and banks. The government offered 23 percent of Albanian land to foreign companies as a concession.[11] The most important positions were won by the Italian financial groups, which resulted with the creation of the National Albanian Bank, based in Rome. The bank was created as a credit and issuance bank, and was required to give to the Albanian Government 10 percent of its profits. Foreign companies enjoyed huge tax reliefs as well as exceptions from the taxes they were required to pay. The rent paid for land with a concession was 1.5 golden francs per hectare, while the tax payment was 5-6 percent. In addition to tax relief, those foreign companies which operated in Albania were excluded from certain taxes, for example, from State control and Customs duties.[12]

The tax system used by the Albanian government at this time, essentially, retained and improved on a part of the Ottoman fiscal system, while borrowing from the West some contemporary elements of their tax systems. Thus, Albania improved on the existing

[5] See Duka F., Shekujt Osman në Hapësirën Shqiptare, (Otoman centuries in the Albanian Territory) UET, Tiranë, 2009.
[6] See Thengjilli P., Historia e Perandorisë Osmane (The History of Otoman Emperors) Tiranë 1997. As well Maho, B., Fitimi i pronësisë mbi pasuritë e palujatshme (Winning the ownership on the real estate), UET-PRESS, Tirane, 2009. p. 125.
[7] Adriatik M., „Sistemi Tatimor në Shqipëri", (Tax system in Albania) Tiranë 2016, p. 132-133.
[8] Albanian Lek (1 Albanian Lek = 0.0080 Euro.
[9] See Haxhi Sh., Financat e Shqipnis (1839-1934), (The Albanian Finances1839-1934) Tiranë 1935. p. 220.
[10] *Ibid.*
[11] *Ibid.*
[12] *Ibid.*

system and added new methods in the area of taxes and fees. Also, during this process, the foundations for retaining evidence and the documentation for taxes were laid, where the necessary financial expertise existed.

The outcome of this fiscal reform was clearly seen by the increase in the income collected from the population in taxes and fees in the financial year 1928-1929[13]. Receipts were 27.66 million golden francs, which was the amount of the income collected in the financial year 1924-1925.[14] The taxes and fees were doubled during the Italian invasion (1939), when the structure of taxes and fees had remained unchange from the Monarchy period.

On 1 December 1928 „The Founding Charter of the Albanian Kingdom" was declared and in „The State Finance", the basic principles of taxation were estalished. One of these principles is that „Tax is an obligation".[15] Special importance was given to the administration of tax collection through the strengthening of the financial apparatus and the improvement of the methods of taking taxes so as to ensure the maximum amount of revenue.

1.1.3 Historical period 1945 – 1990

This period starts with the end of the Second World War and finished with the fall of the communist system in Albania. The government which emerged from the Second World War, followed the policy of eliminating the inherited tax system, and establishing, as a political objective, the creation of a new tax system. From 1945 until 1976, the role of the tax system was to weaken the private property sector[16]. Between 1977 to 1990, the role of the tax system was to completely eliminate private property. The tax politic of the Albanian government was based on the principles of communist classics in relation to State taxes and fees. Accordingly, the power of taxation was initially used as a political and economic instrument to impose heavy progressive taxes on the rich (up to 80 %), with the aim of ensuring their economic weakness; the limitation of capitalism, in order to weaken the economic power of the middle class (bourgeois); and to create the new system of socialism in production.

The post-war government aimed to achieve changes in the structure of the budgetary revenue through a reform of the tax legislation in favour of the State sector, and the reduction of revenue from the private sector. These taxes were to be continued until the complete elimination of the private property when the structure in favour of the revenues taken from the State sector of the economy could be changed. As in other former communist countries, the existence of socialist property, both in the cities and in the villages of Albania was sanctioned by the Constitution. Private property and private

[13] Adriatik M., „Sistemi Tatimor në Shqipëri", (Tax system in Albania) Tiranë 2016, p. 163.
[14] *Ibid.*
[15] „Statuti Themeltar i Mbretërisë Shqiptare", Tiranë 1927. Fq. 24.
[16] Adriatik M., „Sistemi Tatimor në Shqipëri", (Tax system in Albania) Tiranë 2016, p.163.

activities were not permitted by the Constitution[17]. As far as the economic was concerned, the Albanian model was characterised by the elimination of all forms of private property through the total nationalisation of industry and the collectivisation of agriculture; total dependence on a centralised system of planning and management, and hence the complete abolition of the role of market as a distributor of resources; and the excessive application of the principle of fully relying on domestic resources and maintaining economic independence that lead to the almost hermetic isolation of the economy[18].

The tax system included both central and local taxes, as a result of which income poured in the state budget, on time and showing a high collection rate.[19]

In accordance with the Constitution, by 1976, through the tax system, the objective of the complete elemination of private property was realized.[20] The government, with its tax policy and the economic and political systems, announced Albania to be the only country in the world without taxes and fees. However, the Albanians did pay taxes and fees, but these were inherent (and therefore camouflaged), in the centralized prices of the goods and services suplied by the State and the agricultural sector of the economy.[21]

1.1.4 Period 1991-2017

In Albania, with the declaration of the 4th Albanian Republic, the first legal acts for the creation of a modernised tax system began in 1991 and were implemented with its proclamation in January 1992, and later with the law „Tax on the Income" in 14 July 1992. At that time, the parliament approved a package which created the necessary legal basis for future taxes and fees. In doing so, it also created the necessary fiscal instrument, which sought to ensure public revenue and to prevent the crises then facing Albania.

The Albanian economy was going through a period of transition from a centralized economy, which resulted from the former communist regime, to a market economy. From this point of view, the beginning of transition found Albania as a communist country with similar features to the other countries of the so-called eastern bloc, and particularly with the such countries referred within south-east Europe.

However, Albania presented some distinctive features that distinguished it from other ex-communist countries. From an economic, political, social and cultural point of view, Albania was the least prepared country to undertake radical reforms towards market economy. Albania was the only country of the communist bloc not to have undertaken

[17] See the Constitution of the Republic of Albania, 1976, article 16.
[18] See Kule DH., Haderi S., "Macroeconomic Consolidation: Achievements and Challenges", See file:///C:/Users/Dell/Downloads/Macroeconomic_Consolidation_Achievements_and_Challenges.pdf.
[19] Dervishi K., Historia e Shtetit Shqiptar 1912- 2005, (The History of the Albanian Government 1912- 2005) Shtëpia Botuese 55, p. 304. As well Maho, B., Fitimi i pronësisë mbi pasuritë e palujatshme (Winning the ownership on the real estate), UET-PRESS, Tirane, 2009. p. 112.
[20] *Ibid.*
[21] Adriatik M., „Sistemi Tatimor në Shqipëri", (Tax system in Albania) Tiranë 2016, p.163.

any major economic and political reforms that would stimulate the economy, such as the decentralisation of decision-making, increasing the role of the market, or the democratisation of the country. The model used by Albania over 45 years had relied on the rigorous application of Marxist ideology and Stalinist practices[22].

The tax legislation, which was implemented in 1992, can be considered as the foundation of Albania's modern tax system[23]. The new tax system was designed based on the collection of tax revenue in direct and indirect imposts. Direct taxes included a tax on profit, a tax on small businesses, and fees, while indirect taxes included a tax on turnover, (which was later replaced by VAT), custom taxes and excise duties. Recently, up to 2017, the fiscal policy has been based at various levels of administration: at the central level the two main agencies are the central tax administration and the custom's administration; and at local level, the local tax administration net.[24]

1.2 The legal framework of the tax on the real estate in the Republic of Albania

1.2.1 The use of the tax system in the Republic of Albania[25]

The municipalities and tax organs of central government implement their fiscal rights and responsibilities for local taxes, in accordance to the Law nr. 8560, date 22. 12. 1999 ,,For the tax procedures in the Republic of Albania", as amended, and for any other compulsory act for the tax system in the Republic, as long as these do not contradict this Law and the Law nr.8652, date 31. 7. 2000 ,,For the organization and functioning of local government".

The tax organs of the central government, undertake responsibility for the whole administration of the central tax system, under the control and assessment acts for related issues or for those which affect the administration of national taxes and fees. The tax offices of the municipalities inform and support the tax offices of central government, if required by the latter.

At the municipalities' request, the tax organs of the central government support their activities for the administration of local taxes. The parties can collaborate on the basis of a mutual understanding or under an agreement approved by a directive of the Minister of

[22] See Kule DH., Haderi S. "Macroeconomic Consolidation: Achievements and Challenges", See file:///C:/Users/Dell/Downloads/Macroeconomic_Consolidation_Achievements_and_Challenges.pdf.
[23] Although there were minor reforming developments in 1991, the entire stabilising and structural reform started in mid-1992, after the introduction of democratic forces. In Albania the programme of stabilisation which was applied relied on the standard package consisting of price liberalisation, the fiscal policy aimed at reducing and controlling the budget deficit, the restrictive monetary policy through the control of the increase of money supply, and the liberalisation of foreign trade which provided the convertibility of current accounts.
[24] See Maho, B., Fitimi i pronësisë mbi pasuritë e palujatshme (Winning the ownership on the real estate), UET-PRESS, Tirane, 2009. p. 119. As well Adriatik M., „Sistemi Tatimor në Shqipëri", (Tax system in Albania) Tiranë 2016, p. 427.
[25] See Law Nr. 9632, date 30. 10. 2006 „For the local taxes system" as amended.

Finance. The solution of any disagreement between the municipalities and the tax organs of central government, on issues related to the competence of the jurisdiction on local tax, is achieved amicably; but if not, the parties can seek resolution in the court[26].

A register of local taxes and of local tax-payers is created for each municipality.

1.2.2 Common rules for local taxes[27]

With the exception of those cases which are clearly defined as exceptions to this Law, the municipality council:

a) establishes detailed categorization (distribution) of property uses, in accordance with local circumstances, within the minimum categories of the tax base, as defined in this Law;
b) decides on the level of the tax, within the limits defined by Law, for each use category and sub-category of this tax base;
c) defines the number of instalments for the payment of taxes and their time limits, as well as the conditions for any tax relief or tax reduction in cases of (otherwise) full payment, or time limits for the fiscal obligations;
c) decides:
   i) the duties and the responsibilities of the tax office;
   ii) the manner of tax collection, including the appointment of a fiscal agent and their mutual obligations;
   iii) cases of local police interference, in support of the administration of local taxes;
   iv) the rules of reporting, documentation and controlling of local taxes;
   v) the criteria and the procedures of the municipality's relationship with tax-payers, including their right to complain; and
   vi) the ways of implementing the sanctions for administrative violation.

1.3 Tax on real estate[28]

1.3.1 Definition and types[29]

All physical and legal persons, locals or foreigners, owners or users of real estate, in the territory of the Republic of Albania, are subject to the property tax, regardless of their level of real estate usage. There are exceptions recognised by the Law. Accordingly, the owner (and any co-owner) are subject to the tax on property according to the part they own, or, for properties without ownership documents, it is the user of the real estate who is liable for the tax. The taxes on property include:

- taxes on buildings;
- the tax on agricultural land; and

[26] See Art. 4/6 of the Law Nr. 9632, date 30.10.2006 „For the local taxes system" as amended.
[27] See Art. 5 of the Law Nr. 9632, date 30.10.2006 „For the local taxes system" as amended.
[28] See Art. 4 of the Law Nr. 9632, date 30.10.2006 „For the local taxes system" amended.
[29] See Art. 20 of the Law Nr. 9632, date 30.10.2006 „For the local taxes system" amended.

- the tax on land plots.

Within three months after this law took effect[30], regional offices of the Registration of the Real Estate, offered to municipalities the electronic register of data on the property within their jurisdiction[31].

1.3.2 Common rules of the tax on real estate[32]

The taxes are imposed as an annual obligation of the tax-payer. If the taxable property is created, alienated, or removed within this period, the tax-payer's obligation is estimated proportionally, and only for the period of the ownership right. The municipal council decides on the level of the tax to be used for each minimal category of the base of the tax[33]. When, for a minimal category of the base of the tax, the municipality council agrees sub-categories, it also decides the level of the tax for each sub-category. The municipal council also determines the relief or exclusion from tax payment for:

a) persons whose income is below the set minimum, according to the criteria defined in national legislation; and
b) tax-payers, whose property is damaged by *force majeur*, up to 75 percent of its value. In this case, the relief or exclusion is temporary and the time limit is decided by the municipality council with reference to the damage caused.

1.3.3 Tax on buildings[34]

The base of the tax on buildings is the surface of the building in square metres (or a part of it), above or under the land level, and for each floor. The surface owned by the tax-payer is defined according the documents which support this ownership. In case of the absence of the ownership documents, the user of the building provides a self-declaration of the surface of the building, to the municipality in which the building is located. For each use category of the buildings, the municipality council can approve sub-categories which are within the territory it covers[35].

Even the tax-payers who own or use buildings within the territories approved as "tourist villages", are subject to the tax on buildings. The surface of the building, owned or in use,

[30] Law No. 9632, date 30.10.2006 „For the local taxes system" entered into force on 1 January 2007.
[31] See Article 2 of Law no. 33/2012 On Immovable Property Registration, sanctioning that "Immovable Property Registration System is administered by the Immovable Property Registration Office".
[32] See Art. 21 of the Law Nr. 9632, date 30. 10. 2006 „For the local taxes system" amended.
[33] See Decision No.59 date 30.12.2015 "On the Local Taxes and Tariffs System in the City of Tirana" at http://www.dpttv.gov.al/taxweb/DocumentFile/Legjislacioni/Vendim%20Nr.59%20date%2030.12.2015%20Sistemi%20i%20taksave%20dhe%20tarifave%20vendore%20.pdf.
[34] See Art. 5 of the Law Nr. 9632, date 30. 10. 2006 „For the local taxes system" amended.
[35] See Decision of the City Council of Tirana, No.59 dated 30.12.2015 On the "Local Taxation and Tariff System in the City of Tirana". With this decision the City Council has decided to approve subcategories of buildings located within the territory of the Municipality of Tirana. Thus, Subchapter II "Other Buildings", includes: Buildings for Trade and Services, Production Buildings, Buildings Comprising More than One House, Ownership or Use of Buildings In Sites Adopted as Tourist Areas. These categories are revised annually.

is defined based on the documents which show its ownership or usage. Tax-payers who own more than one building pay the tax on the building which is their main residence, while for all other buildings in their ownership, the tax is doubled that imposed for the zone in which such buildings are located.

The level of the tax is decided in Lek per square metre. The obligation for the tax is estimated as a function of the level of the tax with the taxable base. The revenue raised by the taxes on the buildings belongs entirely to the municipality, in which the property is located.

The following are excluded from the tax on buildings:
a) State properties and the properties of local government, which are used for non-profit-making purposes;
b) buildings occupied as dwellings, which are used by the lessee, but not privatised[36];
c) buildings used by religious communities; and
d) buildings in State ownership.

[36] The government has ruled out from the obligation to pay the new tax, citizens residing in social housing, as well as religious community buildings. There are also excluded "residential buildings, which are used by the leased tenant of unrealized rent". Article 9 of Law no. 9235, date 29.07.2004, "On Restitution and Compensation of Property", as amended, has also become subject to unconstitutional encounters at the Constitutional Court. This article is intended for the purpose of regulating the former tenant's rent leased to third parties by the State before the entry into force of the Law no. 7652, dated 23.12.1992, "On the Privatization of State Housing". The Constitutional Court with the decision N.11, date 27.08.1993, stressed that this court would take in the context of the conflict of interests between tenants and expropriated subjects (expropriations occurring during 1945 up to 1976), where the objective would be a way of resolving the ownership of occupied objects by tenants. The resolution is based on the fact that for tenants who reside in State-owned flats, there is a possibility to privatize them, while for tenants residing in private property (expropriated), and this status is maintained in the future. So they will remain tenants. Family members living in these buildings will not pay taxes. The obligation of these entities to lease their apartments to former owners is a guaranteed obligation. The State assumes the obligation to find alternative housing opportunities for this social group.

Table 18.1: The minimal categories of the building, for the effect of the taxable base[37]

Municipalities			
	Zone 1	**Zone 2**	**Zone 3**
Minimal categories of buildings	**Tiranë** **Durrës**	**Vlorë** **Fier** **Sarandë** **Pogradec** **Korçë** **Elbasan** **Berat** **Lushnjë** **Gjirokastër** **Shkodër** **Kavajë** **Lezhë**	**All other municipalities**
Annual ALL/m2			
I. Residential buildings			
Buildings before 1993	**15**	**10**	**5**
Buildings during and after 1993	**30**	**12**	**6**
II.Other buidings			
For trade and other	**200**	**150**	**100**
services	**50**	**30**	**20**
III. Buildings in use or ownership, in approved territories as tourist villages.	**400**	**400**	**400**

Note I: The indicative levels of the tax, shown in the chart, are effective for the buildings in the urban zones (municipalities), as well as for the buildings in all zones (urban and rural) of Section III of the Table „Buildings in use or in ownership, in territories approved as touristic villages".

[37] The Tables are integrated within the text of Law No.9632, dated 30.10.2006 On the Local Tax System, as amended. See for more details http://www.financa.gov.al/files/userfiles/Legjislacioni/Historiku_Tatimor/8.pdf.

Note II: In rural zones (communes), the indicative level of the tax for each category of the building, (Section III excluded) is as much as one half of the respective indicative level of the minimal category of the building in the municipal centre of the district, where the commune is located.
Note III: For the buildings owned by construction companies, intended for sale, but not yet sold, the tax reflects the proposed use of the building. Mortgaged environments are:

- Residential apartments, which will be subject to the tax on buildings[38] as in the category ,,Residential buildings"; and
- Business building, which will be subject to the tax on buildings in the category "Other buildings for trade and services".

The municipal or commune council can approve sub-categories of construction, for each minimal construction category in the territory of the respective municipality or commune. The tax level is defined in terms of Lek per square metre. The tax obligation is estimated by multiplying the tax level with the taxable base.

1.3.4 Tax on agricultural land[39]

The tax base for agricultural land is the surface of the agricultural land, in hectares, in either the use or ownership of the tax-payer. The surface is defined according to the documents which certify ownership. Where such ownership documents are absent, the user of the agricultural land provides a self-declaration of the agricultural land surface, within the commune where this land is located.

The minimal categories of agricultural land are shown in an annex attached to this Law. For each minimal category of agricultural land, the municipality council may approve sub-categories. The tax level is defined in terms of Lek per hectare. The tax obligation is estimated by multiplying the tax level with the taxable base. The indicative levels of the tax for each minimum level of the tax base, are prescribed by Law. The agricultural lands which are planted with fruit trees and / or vines are excluded from the tax on agricultural land for the first five years of planting [40]. The tax collected is paid into the budget for the municipality where the taxable property is located.

[38] Taxes for these surfaces vary from the proposed use. So normally a residential home is taxed less than a Building used as a Business.
[39] See Art. 22 of the Law Nr. 9632, date 30. 10. 2006 ,,For the local taxes system" amended.
[40] See Decision of the City Council of Tirana, No.59 dated 30.12.2015 "On the Local Taxation and Tariff System in the City of Tirana".

Table 18.2: Minimal Categories and Indicative Levels of the Tax on Agricultural Land

CLASSIFICATION ACCORDING TO DISTRICTS[41]			
1	**2**	**3**	**4**
Tiranë, Durrës, Kavajë, Krujë, Lezhë, Lushnjë, Fier, Vlorë, Sarandë	**Shkodër, Elbasan, Berat, Korçë, Delvinë, Kurbin, Peqin, Kuçovë**	**Gjirokastër, Përmet, Pogradec, Librazhd, Dibër, Mat, Skrapar, Mallakastër, Devoll, Tepelenë**	**Bulqizë, Has, Kukës, Tropojë, Pukë, Mirditë, Malësi e Madhe, Gramsh, Ersekë**

Land value in Lek per hectare (annual)

Classification of land[42]				
I	5 600	4200	2800	1400
II	4 900	3500	2100	1200
III	4 200	2800	1400	1100
IV	3 600	2300	1350	1000
V	3 000	1900	1250	900
VI	2 400	1600	1200	800
VII-X	1 800	1400	1100	700

[41] Tables are integrated within the text of Law No.9632, dated 30.10.2006 "On the Local Tax System", as amended. See for more details http://www.financa.gov.al/files/userfiles/Legjislacioni/Historiku_Tatimor/8.pdf.
[42] The Classification by categories of agricultural land is done by the structures of the Ministry of Agriculture and Food. See Law No.8752, date 26.3.2001 On the Establishment and Functioning of Land Management and Protection Structures".

The municipality or the commune council can approve sub-categories for each minimal category of agricultural land. The tax level is defined in terms of Leck per hectare. The tax obligation is estimated by multiplying the tax level with the taxable base.

1.3.5 Tax on land plot[43]

The tax base of land is its surface area, in square metres, in the use and / or the ownership of the tax-payer. The surface area is defined according to the documents which certify its ownership. Where these ownership documents are absent, the user of the land provides a self-declaration of the surface area of the land in use, within the municipality where this land is located. For each minimal category of the land, the municipality council can approve sub-categories. The tax level is defined in terms of Lek per square metre.The tax obligation is estimated as a multiple of the tax level with the taxable base. The indicative levels of the tax, for each minimal category of the tax base are shown in Table 18.3. The collected tax is paid into the budget for the municipality, in the territory of which the property is located.

Because of the tax-payer's obligation to pay the taxes, the municipality tax offices accepts documents that certify the ownership, from the registration offices of real estate. For this reason, the registration offices of real estate, provide data, without payment, to the municipalities where these units of real estate are registered. The registration offices of real estate informthe municipalities of new registrations and of any changes in the properties' condition, on a regular three monthly basis. Because of the tax-payer's obligation to pay the tax, if the property is not registered, the municipale tax office may be in a position to verify ownership. Also relevant may be the decisions of the Commission on Property Returns and Compensation, the decisions on privatization or other documents, issued by relevant State organs, in accordance to the respective legislation[44].

Where such ownership documents are absent, the municipal council determines the size of the taxable surface, based on the decision of the Commission which verifies real estate[45]. The municipalities set up the Commission for verifying real estate, in cases of an absence of legal documentation[46]. The duties and functions of this Commission are defined by a decision of the municipal council. These registration offices do not register or de-register any real estate, building or agricultural land, if the ownership documentation is not accompanied by a municipal certificate, which confirms receipt of

[43]See Art. 23 of the Law Nr. 9632, date 30. 10. 2006 „For the local taxes system" amended.
[44] See Art. 23/1 of the Law Nr. 9632, date 30. 10. 2006 „For the local taxes system" amended.
[45] *Ibid.*
[46] In the cases of lack of documentary evidence of the above ownership for objective reasons, the tax offices of the municipalities / communes for the determination of the taxable base provide data through self-declaration. These data will be used temporarily, up to the registration of property by immovable property registration or property verification by property verifications commissions. See *Local Income Manual 2011*, http://www.aam.org.al/wp-content/uploads/2016/12/Manual-p%C3%ABr-t%C3%AB-ardargat- local-SHBSH.pdf.

the relevant tax payment since this law came into effect[47]. If a property is located in more than one municipality territory, regardless of the location of the residential land of the owner, each municipality treats the part of the property which is in its territory as a separate property and imposes the legal impost on it[48].

Table 18.3: Indicative level of the Tax on Land Plots (Private Not Public) [49]

Municipality classification	**The annual value of the tax in Lek/m2 for residential purposes**	**The annual value of the tax in Lek/m2 for business purposes**
	I[50]	
Bashkia Tiranë Bashkia Durrës Bashkia Kavajë Bashkia Krujë Bashkia Lezhë Bashkia Lushnjë Bashkia Fier Bashkia Vlorë Bashkia Sarandë	**0.56 Lek/m^2**	**20 Lek/m^2**
	II[51]	
Bashkia Shkodër Bashkia Elbasan Bashkia Berat Bashkia Korçë Bashkia Delvinë Bashkia Kurbin Bashkia Peqin Bashkia Kuçovë	**0.42 Lek/m^2**	**18 Lek/m^2**
	III[52]	

[47] See Art. 24/3 of the Law Nr. 9632, date 30. 10. 2006 „For the local taxes system" amended
[48] *Ibid.*
[49] These Tables are integrated within the text of Law No.9632, dated 30.10.2006 On the Local Tax System, as amended. See for more details http://www.financa.gov.al/files/userfiles/Legjislacioni/Historiku_Tatimor/8.pdf
[50] Classification by districts, First category "I".
[51] Classification by districts, Second category "II".
[52] Classification by districts, Thirst category "III".

Bashkia Gjirokastër Bashkia Përmet Bashkia Pogradec Bashkia Librazhd Bashkia Dibër Bashkia Skrapar Bashkia Mallakastër Bashkia Devoll Bashkia Tepelene	**0.28 Lek/m^2**	**15 Lek/m^2**
	IV[53]	
Bashkia Bulqizë Bashkia Kukës Bashkia Tropojë Bashkia Pukë Bashkia Mirditë Bashkia Malësi e Madhe Bashkia Gramsh Bashkia Ersekë Bashkia Has **All other municipalities**	**0.14 Lek/m^2**	**12 Lek/m^2**

1.4 Tax on the transfer of ownership rights in real estate

The tax on the transfer of ownership rights in real estate is imposed on buildings and all real estate properties at the point of transfer. The tax is paid by the person who transfers the right of ownership, in advance of registration, in accordance with the law. The base of the tax on the transfer for buildings is the surface area of the construction, whose ownership is transferred. For the purpose of the taxable base, the relevant building categories are shown in Table 18.4. The tax is defined in terms of Lek/m^2 of the tax base. The tax obligation is estimated as a function of the tax level with its base.

The base of the tax on the transfer of the right of ownership to other real estate properties is the sale value[54]. The level of the tax is a percentage of the sale price and the norm is 2 percent[55].The tax obligation is estimated as a function of the tax level with its base. The

[53] Classification by districts, Forth category "IV".
[54] See Law no. 81/2016 "On Reassessment of Immovable Property", amended by Law No. 14/2017, date 16.2.2017.
[55] See Art. 24/1 of the Law Nr. 9632, date 30. 10. 2006 ,,For the local taxes system" amended.

collection of this tax is the responsiblity of the Real Estate Registration offices, which, in the role of tax collection agents, retains 3 percent of the collected amount with the balance paid into the budget account of the municipality in the territory where the property is located, not later than the 30th of the following month[56].

Table 18.4: Levels of Property Transfer Tax on Buildings[57]

Municipalities[58]			
	Zone 1	**Zone 2**	**Zone 3**
Building categories	**Tiranë** **Durrës**	**Vlorë** **Fier** **Sarandë** **Pogradec** **Korçë** **Elbasan** **Berat** **Lushnjë** **Gjirokastër** **Shkodër** **Kavajë** **Lezhë**	**All other municipalities**
ALL/m2			
I.Residential buildings	**1 000**	**300**	**100**
II. Other buildings for business and services	**2 000**	**700**	**300**
III.Other buildings	**1 500**	**500**	**200**

Notice: All other administrative units implement the level of the tax for Zone 3.

1.4.1 Exemption from payment of the tax on the transfer of the right of ownership for real estate[59]

Excluded from the payment of the tax on transfer of the right of ownership for estate are the following:

[56] See Art. 28/4 of the Law Nr. 9632, date 30. 10. 2006 „For the local taxes system" amended.
[57] This Table is integrated within the text of Law No.9632, date 30.10.2006 On the Local Tax System, as amended. See for more details http://www.financa.gov.al/files/userfiles/Legjislacioni/Historiku_Tatimor/8.pdf.
[58] Column "Municipalities" means all municipalities divided by zones (zone 1.2 3).
[59] See Art. 29 of the Law Nr. 9632, date 30. 10. 2006 „For the local taxes system" amended.

a) The National Housing Authority, the Finance Ministry, and local and central governing organs; as well as
b) persons, who are the subject of the tax on their personal income[60]; and
c) subjects, which donate real estate property, when the direct assignees (beneficiaries) are:
   i) institutions and public and State entities, whether central or local;
   ii) religious communities or non-profitable organizations, where the donation is related to that part of the activity which is non-profitable. In this case, after receipt of a certificate from the municipality council, the donor to be excluded from the tax, registers the donated real estate property[61].

2 Reform in the area of property rights

As a result of long-term internal migration, and the lack of any official mechanism for the allocation of land to such migrants, a considerable number of individuals occupy and have built on land without permission[62]. Furthermore, the lack of the urban planning control has made it easy to extend existing buildings, which are now considered to be illegal[63].

Thus, today, illegal constructions all over the country are estimated to affect more than 350.000 structures, which over time have been the object of numerous informal sale transactions. These transactions are made without the appropriate ownership documentation, and for this reason, the origial rights of ownership are not formally notified to the new owner. There is therefore no legal protection for current "owners", whose properties are "informal" from the legal (planning) point of view.

Such issues are disturbing for Albania because they mean that most of the assets of our country are not included in legal registers, in transaction markets, in the credit market, nor in the market of territory development. These irregularities undermine the juridical security principle, a principle which is fundamental to the legal system regarding the rights to and in real estate property. For this reason, the new Law nr.7698[64] has been adopted to:

a) regulate and compensation owners of property rights lost as a result of dispossession, nationalization, or confiscations previously undertaken[65];

[60] Law No. 8438, dated 28.12.1998 "On Income Tax".
[61] The tax exemption certificate in this case is taken only on the property that will be donated to the institutions provided for in Article 61 of Law No. 9632, dated 30.10.2006 On the Local Tax System, as amended.
[62] During the second half of 1990, Albania experienced internal migration of the population that affected the country's demographic changes. See: "Identifying the most affected areas of migration and return migration to Albania", See http://www.qbz.gov.al/ligje.pdf/taksa%20sistemi/ligji%20per%20sistemin%20e%20taksave%20vendore.pdf.
[63] See Maho, B., Fitimi i pronësisë mbi pasuritë e palujatshme (Winning the ownership on the real estate), UET-PRESS, Tirane, 2009. p. 119.
[64] See Law No. 7698 "On the Restitution and Compensation of Property to Former Owners".
[65] See Article 41 of the Constitution of the Republic of Albania of 1998, as amended.

b) create and administer the compensation fund out of which compensation will be paid to former owners of such properties.

The legislation also established the procedure for defining such treatment and finalising the payment process, as well as the administrative organs responsible for undertaking the process. Its main purpose is:

a) to complete the process through the identifcation of and payment of compensation to the dispossessed owners of the properties, in accordance to this Law; and
b) to correct the regulation and award of compensation to dispossessed owners[66], to make the final decisions as to compensation, as well as completing the compensation process, within the time limits defined, through the administration of the compensation fund[67].

In the post-1990 period, a wave of sporadic construction was observed that did not meet any legal criteria[68], which resulted in major problems for the country. Because of the need for more living accommodation and the desire to speed up their provision, the number of illegal constructions within urban areas became uncontrollable by the State authorities.

To legalise such a situation the first step was taken by adopting Law no. 9209, dated 23.03.2004, "On the legalization of additions to constructions", which aimed to legalize those constructions that involved a surface area larger than the approved project by the Territorial Adjustment Council. A second law was adopted following this goal. The new law no. 9304, dated 28.10.2004, "On the legalization and urbanization of informal zones", which aimed to achieve the legalization of the whole the otherwise illegal construction. This Law was extended to include illegal constructions in informal areas as well as their urbanization in order to integrate these areas into the country's territorial and infrastructural development and improve living conditions within them. The final solution to this problem was the adoption of another law which is considered as innovatory for Albania. The Law no. 9482, dated 03.04.2006 “On Legalization, Urbanization and Integration of Illegal Constructions” is an exception to the general rule of civil law, that landowners are the owners of everything on and below their land[69]. This Law regulates and defines the ways in which the owner of a new building may become the owner of the land under it, where previously this was not the case. Another peculiarity of this Law is its material object, that of legalizing buildings that are established without the permission of the competent State body. Legalization of these illegal buildings first of all resolved a number of socio-economic problems related to such constructions. Secondly, their legitimisation has led to the inclusion of these properties into the property (transactional)

[66] See Article 1 of Law no. 133/2015, "On the Treatment of Property and the Completion of the Property Compensation Process".
[67] See Article 2 of Law no. 133/2015, "On the Treatment of Property and the Completion of the Property Compensation Process".
[68] Maho, B., E drejta e pronesise ne Shqiperi, (The property right in Albania) in Jus&Justicia n.4, Tirane 2010.
[69] Article 173 of the Civil Code sanctions that "The planting, as well as the buildings of any other work located on or below the surface of the land, belong to its owner, unless otherwise provided in this Code and other legal provisions.

markets as well as the credit market. Third, the legalization of illegal constructions brought evidence of these properties and their taxation status on the basis of of the law to the notice of the relevant authorities[70].

2.1 Legalization, Urbanization, Intergration Agency of Informal Zones and Constructions (ALUIZNI)

With the aim of resolving this major issue in the real estate sector, the process of legalization of land title is treated by the authorities as an effective tool towards reducing the number of urban and economic problems, which resulted from the existence of illegal constructions and the illegal occupation of land[71]. This process intends to make formal all these illegal constructions, to legally transfer the land ownership to those who 'own' the buildings constructed on such land, and to extend the ambit of the urban planning regulations into the so-called informal zones. For this reason, a national centralized professional agency has been created to manage the legalization process.

The Legalization, Urbanization, Integration Agency of Informal Zones and Constructions (ALUIZNI) was created by an amendment to the Legalization Law. As a large organization, with operating costs covered by the State budget, the ALUZMI is mandated to progress the legalization applications as well as co-ordinate the process at the national level[72]. Based on the results of aerial photography undertaken in 2006, the agency has regularized the status for about 80 percent of the constructions built before 2006[73], and legalization permits have been granted for some 52,000 properties, which are also included in the process of real estate registration. Also, the process is underway for the preparation of the legal-technical documentation for about 100,000 informal properties.
There are 127 informal zones and constructions which are recognised by the National Council of Territorial Regulation (KKRT), comprising some 120,000 properties.[74] About 80,000 of these informal constructions have been approved by the local councils of the territorial regulation, included as informal residential blocks or treated as separate buildings and extended buildings which were initially legally built.[75] The legalization law is applied only for buildings constructed before May 2006, whose applications for legalization were presented prior to 15 November 2006. The ongoing legalization process

[70] Law Nr. 9632, date 30. 10. 2006 „For the local taxes system" amended.
[71] *Ibid.*
[72] Article 7 of the Law no. 9482, date 03.04.2006 On Legalization, Urbanization and Integration of Constructions without Permission" states that "All subjects possessing illegal constructions are obliged to declare them from 60 days after the entry into force of this law (a building without permission and a building plot) at the office building of the respective unit".
[73] Summary report on the progress of legalization of illegal constructions (2013-2014) See http://www.aluizni.gov.al/raportestatistika/.
[74] "Strategjia Ndërsektoriale Reforma në fushën e të drejtave të pronësisë 2012 – 2020", (The inter-sectorial Strategy the Reform in the area of property rights 2012 – 2020) Ministria e Drejtësisë, Republika e Shqipërisë, Qershor 2012.
[75] For details see "Strategjia Ndërsektoriale Reforma në fushën e të drejtave të pronësisë 2012 – 2020", (The inter-sectorial Strategy the Reform in the area of property rights 2012 – 2020) Ministria e Drejtësisë, Republika e Shqipërisë, Qershor 2012.

does not include the great number of informal buildings built after that date. Thus, to prevent other illegal constructions in the same locations, a new legalization process should be introduced to focus on illegal constructions undertaken after 2006[76].

2.2 Property Restitution and Compensation

In addition to the legalization and privatization processes discussed above, another issue dealt with by the Albanian government is the return of property and compensation to their former owners.[77] Law nr.7698, date 15 April 1993, ,,On Restitution and Compensation to Former Owners", is the first adopted law, focussing on the restitution of and compensation for land.[78]
After its adoption, (and identified as the first phase), many of the subject properties were returned to their former owners or their descendants, based on the legal documents that proved their ownership. In the case of agricultural land, the ownership was well known to those who had worked it.

In the second phase of the process, the main objective was the payment of compensation in respect of the properties, whose return was not possible. From a political point of view, the Law "On Restitution and Compensation of Property"[79], adopted in 2004 has a similar approach to that adopted by other countries in Central and South-Eastern Europe. However, the demand to compensate former owners with the current sale value has been difficult to implement because of the high fiscal costs involved[80].

[76] See Article 2, of the Law Nr. 9482, date 3.4.2006 "On Legalization, Urbanization and Integration of Constructions without Permission" (Amended by law 62/2015, dated 11.6.2015, FZ no.11) (updated) that stipulates: "This law shall apply for illegal constructions built up until 27.6.2014, with residential, economic or other socio-cultural functions, and available from registered individuals or legal entities, including illegal constructions for which entities have not completed the self-declaration procedure for legalization, according to the deadlines set forth in this law".
[77] Xh. Zaganjori – E. Canaj, *E drejta e pronës në aspektin e nenit 1 te Protokollit 1 të Konventës Europiane të të drejtave të njeriut dhe impakti i vendimeve të GJEDNJ-së në Shqipëri,* (The property right in aspect of law 1 of Protocol 1 of the European Convention of Human Rights and impact of the decisions of the ECtHR in Albania) Revista Jus&Justicia, n.3, Tirane 2009. p. 35.
[78] See for more details on the argument Xh. Zaganjori – E. Canaj, *E drejta e pronës në aspektin e nenit 1 te Protokollit 1 të Konventës Europiane të të drejtave të njeriut dhe impakti i vendimeve të GJEDNJ-së në Shqipëri,* (The property right in aspect of law 1 of Protocol 1 of the European Convection of Human Rights and impact of decisions of the ECtHR in Albania) Revista Jus&Justicia, n.3, Tirane 2009. p. 35.
[79] Law No. 9235, dated 29.07.2004.
[80] Report no. 62519-AL "Governance in the Protection of Immovable Property Rights in Albania: A Challenging Challenge? World Bank Information Document, Second Edition, April 2012. See http://documents.worldbank.org/curated/en/735421468003297969/text/625190EGR0ALBA00Property0Rights0ALB.txt.

2.3 The Agency for the Return of Property and Compensation and the Agency for Property Treatment[81]

From 2008, in Albania, the Agency for the Return of Property and Compensation (AKKP) has been the authority responsible for the administration of the restitution and compensation processes in Albania,[82] such functions having previously been the competence of central government and local committees.

These changes were aimed at increasing the efficiency and the speed of the process, however, the expectations have not been realized. The AKKP also manages the Physical Compensation Fund and regularly verifies its legal situation. Up to now, more than 25,200 compensation decisions have been taken, of which 16,000 gave only the right of the compensation for identified land. In total, there are 55,283 hectares of land which have been identified as subject to compensation, of which 7,333 hectares are land plots, 43,100 hectares are agricultural land, 4,000 hectares are forest land and 850 hectares are combined cases for compensation. As a result of the Law 133/2015, this institution is now called the Agency of Property Treatment and continues its responsiblity for awarding compensation to the former legal owners of real estate.[83]

2.4 The exact identification of the real estate

The national authorities often face difficulties in accurately idenfying the real estate which is the subject of compensation because they are properties within local government units, and are not well defined in the existing territorial plans, in the regulating plans for coastal areas, despite their recent digitalization.[84] Consequently, the payment of compensation to the expropriated persons is not well advanced, and this is also because of the lack of a stable compensation scheme.

Among the main challenges the authorities are facing now is the poor quality of the data, which is mainly the result of the digitisation scheme in process. The improvements in the data quality would significantly facilitate the identification of relevant land parcels and would increase the credibility of the land registers. The amendments made to the Law on Restitution and Compensation of Property, define a new criteria for land evaluation and have extended the time limit for the return of such property and compensation to 2014.[85]

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[81] Law no. 133/2015 "On the Treatment of Property and the Completion of the Property Compensation Process", Article 5 sanction that "Property Treatment Agency (ATP)" is a public legal entity, subordinate to the Minister of Justice, which carries the assigned responsibilities with this Law and Legislation in Force".

[82] See Maho, B., Fitimi i pronësisë mbi pasuritë e palujatshme (Winning the ownership on the real estate), UET-PRESS, Tirane, 2009. p. 119.

[83] Valiable at http://www.atp.gov.al/.

[84] E.Canaj, *Respektimi i te drejtave dhe lirive themelore ne Shqipëri si kriter integrimi. Përsëri (dhe ende) mbi të drejtën e pronës,* (The respect of the basic rights and freedoms in Albania as integration criteria. Again on the property rights) Jus&Justicia, nr. 8. pp. 93-103.

[85] Strategjia Ndërsektoriale Reforma në fushën e të drejtave të pronësisë 2012 – 2020, (The inter-sectorial Strategy the Reform in the area of property rights 2012 – 2020) Ministria e Drejtësisë, Republika e Shqipërisë, Qershor 2012.

2.5 The Albanian system of property registration

In 1994, the Law on the Registration of Immovable Property was adopted, as a result of which a new system of property registration was introduced, based on land parcels. The Registration Office of Real Estate (ZRPP) was created, as the managing authority responsible for the process of the administration of property registration. Because of the lack of any data regarding the legal interest of owners or users of real estate on a national scale in advance of the initial systematic registration, by 2010, the ZRPP estimated that some 60-70 percent of all properties had been registered,[86] covering about 83 percent of the rural cadestral zones, but only for 25 percent of the urban zones.[87]

2.6 The Registration Office forReal Estate

The Registration Office for Real Estate is a budgetary institution under the control of the Minister of Justice. The object of the activity of the Registration Office for Real Estate is to register the ownership titles and of other real property rights based on legal documents, which prove ownership, as well as the preparation, maintenance and administration of real estate property registers, indicative maps of the registred parcels and the documentation which prove the ownership rights and other rights over real estate.[88] The Registration Office for Real Estate comprises both a central office and regional offices. These offices are juridical physical persons. The Central Office (Headquarters) for Real Estate Registration, manages, organizes, and controls the activity of the regional offices throughout the Albanian Republic.[89] The Central Office (Headquarters) is led by the Chief Registrar and in his absence, by one of his vice-chief registrars.[90]

The local real estate registration offices practice their activity in the designated territory of the real estate registration zone, as defined by the Council of Ministers. In the local offices are held:

- registers of the real estate;
- indicative maps of the registration for the zone;
- relevant legal decisions, administrative acts, contracts, acts and other documents, imposed according to law, and which have a juridical influence over the real estate

[86] „Final Assessment Report on the Situation of Property Rights in Albania.", - EC EURALIUS Project. 2010.
[87] See J.Gerxhi – S.Bana, *Nje veshtrim i pergjithshem mbi praktiken e rregjistrimit te pasurive te paluajtshme si domosdoshmeri per garantimin e te drejtave te individeve mbi pronen*, (A general view on registration practce of the real estate as a necessity to guarantee the right of the individuals on the property) Revista JUS&JUSTICIA, nr. 3, Tirane, 2009 . p.143.
[88] Art. 2 of Law No. 7843, date 13. 7. 1994, "On Immovable Property Registration" as amended by Law no. 9701, date 2. 4. 2007.
[89] Art. of Law No. 7843, date 13. 7. 1994, „On Immovable Property Registration" as amended by Law no. 9701, date 2. 4. 2007.
[90] See J.Gerxhi – S.Bana, *Nje veshtrim i pergjithshem mbi praktiken e rregjistrimit te pasurive te paluajtshme si domosdoshmeri per garantimin e te drejtave te individeve mbi pronen*, (A general view on registration practce of the real estate as a necessity to guarantee the right of the individuals on the property) Revista JUS&JUSTICIA, nr. 3, Tirane, 2009 . p.145.

in that locality or that, according to the law, must be registered in the registers of the real estate; as well as

- other registrations, necessary for the activity of the local offices of the real estate, including the filmic and electronic information.[91]

Member of the public have the right to view, take information and copies of documents, which are in the Registers. These include cards, indicative maps of registration deposited with an application for registration, and the documentation kept and administered by local offices of the real estate registration.[92] The registration office has its own seal, and each issued document from this office has to display the mark of its seal.[93] The real estate Register has different cards for real estate in public ownership, and for real estate in private ownership.[94] The registration of real estate gives to the person registered either as an individual, co-owner, or as a family representative, the right to own real estate property, in accordance with the law.[95]

2.7 The property tax, as an instrument for stimulating the efficient use of property

From an economic prespective, real estate represents a main asset for economic development, which plays a determinant role in the function of all markets in the country. For this reason, the insurance of ownership title documents is important, not the least for the improvement of territorial planning and related strategic decision-making. In addition, the property rights should also encourage owners to take responsibility for the most efficient use of their property, in accordance with the regulating land use plan for the territory. There are cases when an investor has not been able to locate suitable land to invest in, because of the property disputes or the owners' negligence. By contrast, there are large areas of underused or disused land. In order to establish an appropriate, well-organized system of land useage, authorities may need to consider encouraging or imposing a system of property uses without neglecting the effect of taxes on property as a stimulating instrument to achieve the efficient use of land.

An effective and efficient system of taxation on property can also achieve social and economic objectives, including a stable and predictable source of revenue, transparency in the processes of tax estimation, local authority administation of revenue and the collection of taxes. Such measures, mainly under the supervision of local authorities,

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[91] See Maho, B., Fitimi i pronësisë mbi pasuritë e palujatshme (Winning the ownership on the real estate), UET-PRESS, Tirane, 2009. p. 122.
[92] Art. 3 of Law No. 7843, date 13. 7. 1994, „On Immovable Property Registration" as amended by Law in Nr. 9701, Date 2. 4. 2007.
[93] Sadushaj M., „The Notary", Tiranë, 2009. p. 43.
[94] *Ibid.*
[95] For more details see J.Gerxhi – S.Bana, *Nje veshtrim i pergjithshem mbi praktiken e rregjistrimit te pasurive te paluajtshmesi domosdoshmeri per garantimin e te drejtave te individeve mbi pronen*, (A general view on registration practce of the real estate as a necessity to guarantee the right of the individuals on the property) Revista JUS&JUSTICIA, nr. 3, Tirane, 2009 . p.144.

would also encourage the efficient use of land and property, and discourage land speculation which are often a result of a failure to use economic resources efficiently. A well-conceived taxation system would also improve the quality of data regarding private property, thus allowing for private property development and strategic analyses, which are achievable for State organizations based on a cadastral agency. Under the stimulating objective of the efficient use of the property, the improved image of municipalities, and an increase in confidence and trust in the administration systems of real estate can be acheived, through transparent public information and education about taxes which are vitally important for its well-functioning. The owners and occupiers of the properties have to be informed and must understand the importance of their responsibilities and obligations resulting from rights in real estate property.

Conclusion

Currently, revenue-earning taxes and fees are the subject of much sensitive discussion for all states and decision-making authorities, particularly following the economic crises of 2009. Emphasizing the role and the importance of state budget revenues, taxes and the fees deserve the attention of all stakeholders with associated responsibilities defined by law, within a competitive economic market. For this reason, improvements in the legal framework to achieve a more effective control in and of the market is recommended. Considering the negative effects of the so-called 'black economy', its reduction and elimination is vital and should be achieved through long-term national strategies and policies The continued awareness of the public regarding the negative aspects which affect all citzens as a result of this informal sector, and the positive mutual benefits of a social partnership culture, where the partners can find a common language to discuss relevant issues of common interests is a highly desirable goal.

Modernization of a range of administrative processes is key to solving many economic problems and the achievement of the desired standard of living for Albanian citizens. But yet this remains one of the many challenges that the country faces. Tax evasion, corruption, and non–formalization undermine the equity, equality and revenue of the tax system. Thus, reforms are of major importance for fiscal institutions and those who develop and implement taxation policy.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
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Property Tax Efficiency in Turkey

MEHMET ALPERTUNGA AVCI

Abstract The property tax system in Turkey that has proven itself in terms of modern taxation principles is facing some structural problems. Foremost among those structural problems is the issue of the determination of the tax value. This problem, that causes increasing tax losses, can be resolved with the introduction of a new tax valuation methodology. At this point the current tax valuation method should be terminated and a commission consisting of academicians and representatives from the real estate market should determine the taxable value. In this way, property tax losses and evasions will be reduced and municipalities' revenues will be increase markedly. Currently, in Turkey, some of the newly established metropolitan municipalities have a lower level of development compared to other metropolitan municipalities. If the relevant provisions related to property tax are applied without discrimination among all metropolitan municipalities, it is difficult to acquire property in the newly established metropolitan municipalities. This will also create the problem of migration to more attractive locations within the country. In this context, the relatively low-rated property tax application, which is limited to a certain period of time, will be useful in order to prevent this. Thereby, internal migration problems will be solved efficiently, and interregional differences of development will be reduced in the medium term. Consequently, in parallel with the continued development in the real estate sector, there is a real possibility of experiencing a marked development in property tax efficiency over the next decade.

Keywords: • Turkey • property tax • immovable property tax • valuation • tax reform

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Introduction

The application of the property tax is a nominal, objective, continuous, *ad valorem*, special, fixed, and direct asset tax, and has typically been a feature of local taxation in Turkey. The tax is levied on the value of the Turkish real properties, such as buildings and lands. Although the application of the property tax is considered as an extension of the power of local authorities, the scope of the power of local authorities is limited to that of collecting taxes. According to the Turkish Constitution, taxes, fees, duties, and other such financial obligations are imposed, amended, or revoked by law, and such is constitutionally within the direct and exclusive authority of the Turkish Grand National Assembly (TBMM). In fact, the responsibility of local authorities to collect the property is delegated from central government.

Within Turkey, there are several problems in relation to the property tax. Firstly inter-regional developmental differences have directly affected the levels of tax revenue and therefore also the quality and quantity of the local services provided. In other words, the municipal services' quality in economically developed regions' is higher than that in the underdeveloped regions, because of the differences in tax efficiency. In this respect, property tax efficiency also varies depending on inter-regional disequilibrium. If a comparison is made in terms of the yield of the collected property tax across the country, it is clear that the developed regions have collected more property tax revenue than the underdeveloped regions.

Secondly there is an imbalance between the market value and the tax value of properties. The 'market value' (or market price) refers to the monetary value of the property that consumers pay to buy and owners accept to sell. In other words, market value can also be defined as the equilibrium price of property demand and property supply. This is the price accepted by both the seller and the buyer for the purchase and sale of the property. The market value of the property is determined directly by the free market. The 'tax value' can be defined as the monetary value of the property based on the declaration of the taxpayer and/or determination of the tax valuation commissions. The tax value is the basis for the property tax base. This value is usually a "fair value" in the taxation period. The procedure for determining the tax value of building and land is laid down by the relevant provisions of the Property Tax Law and other relevant statutory rules and orders.

In addition, buildings of different ages are taxed similarly without any specific discrimination and separation in relation with their market value and their tax value. These situations directly affect the property tax revenue performance. In this respect, in order to prevent problems arising from inter-regional developmental differences and to improve the revenue performance of the property tax, all properties should be recorded at the Land Registry and a property tax common data recording and processing system should be established. In this way, property tax losses and evasions will be reduced, municipalities' revenues will be increase remarkably, and a common standard will be established at the point of the tax valuation.

This study aims to present the Turkish property tax system and the real estate market in the light of the current official data, focusing on its historical development, structural components and the legislation underpinning the Turkish property taxation system which is primarily discussed in the context of the theoretical framework.

Later, the revenue performances of the property tax - based on official data sets from 2006 to 2015 - are provided in order to make a comparison between different property taxes, such as the building tax and the land tax. Additionally, these data sets have also been used to measure the share of local tax revenues at the national level. Property tax systems and performances are directly associated with the Turkish Real Estate Market. Therefore, the structure of the Turkish Real Estate Market, which is the third largest market in the world in terms of the number and the value of the projects completed and carried out in the domestic and foreign markets, is discussed in the light of the national macro-economic indicators, applications to construct housing, international direct investments inflow, and real estate sales.

1 Property Tax

1.1 Historical Overview

In Turkey, the development of the taxation of real estate followed a different process from that experienced in Western Countries.[1] In particular, the pre-republican Turkish financial system had been largely influenced by the Islamic faith. This influence also continued during the early republican period up to the beginning of the 1930s.[2] As a result, the historical development of the property taxes in Turkey can be examined in terms of the Pre-Republican Period and Post-Republican Period.

1.1.1 Pre-Republican Period

Turkish economic and social life developed under the influence of the Islamic faith and the immortal Turkish customs, and, as a result, the first form of property tax was based on such principles and practice. As a result of this influence, in the pre-republican period, properties were taxed according to the religious and customary principles of the country. In particular, the land ownership regime was a major influence on the formation of property taxes. In the Ottoman Empire, the land ownership regime, (*Timar* (Fief) System), was classified into four categories: *mirî* (crown), *vakıf* (endowment), *metrûk* (derelict), and *mevâd* (dead) lands.[3] *"The Timar System, born of conditions peculiar to the Middle Ages, had been supplanted in seventeenth century by a gun-bearing army of mercenaries*

[1] Mutluer, M. K. Vergi Hukuku-Genel ve Özel Hükümler (Tax Law-General and Special Provisions). 3. Baskı (Edition). Ankara: Turhan Kitabevi, 2011. p. 597.
[2] Edizdoğan, N., Çetinkaya, Ö. Gümüş, E. Kamu Maliyesi (Public Finance). 5. Baskı (Edition). Bursa: Ekin Basım Yayın Dağıtım, 2013. p. 134.
[3] Varcan, N. Maliye Tarihi (Fiscal History). Eskişehir: Birlik Ofset, 1996. p. 28-29.

and a central treasury shifting to taxes paid in cash."[4]. This reformist transformation in the seventeenth century had emerged as a necessary consequence of the emergency of the Ottoman Empire into a vital empire of its own age.

The *Timar* System led to the establishment of the main form of land ownership in the Ottoman Empire, reflecting the fact that the State made land grants to individuals in return for military service[5]. This system of land ownership was classified in three categories: *hass, zeâmet*, and *timar*[6].

Hass or *hassa* can be defined as a farm or vineyard allocated to the direct control of a *timar*-holder. Those *prebends* (parts of domains) belonged to a member of the elite or to the Sultan (monarch). The elite were composed of *şehzade* (a prince of the blood), *vezîr* (government official of the highest rank), *beglerbegi* (the governor-general of a *beglerbegilik*), and *sancakbegi* (governor of a *sancak*). The *beglerbegilik* was the largest administrative units within the Ottoman Administrative System. All other administrative units stand under the *beglerbegilik.* As a natural consequence of this system, the *sancaks* were the subdivisions of the *beglerbegilik* and were directly controlled by the central authority. The *timar* system was implemented mainly in *sancaks.*

Zeâmet was a large military fief within the *timar* system yielding a yearly revenue from 20,000 to 100,000 akça (Ottoman silver coin). The holder of a *zeâmet* called a *zâim* (being the commanders of units of *timariot sipahis* (cavalry forces) acted as the head of local police forces (*subaşı*). *Zâims* had full authority over their *zeâmets* and over Islamic and customary taxes.

Timar can be defined as a *prebend* (parts of domains) acquired through a sultanic diploma, consisting, as a rule, of State taxes in return for regular military service, the amount of which conventionally was below 20,000 akça. A *timar* was composed of a section assigned for the private use of the cavalry (*sipahi*) and a section cultivated as peasant farms. The *sipahi* was commissioned to collect taxes, such as the tithe and farm tax. Poll taxes and extraordinary levies were raised by agents appointed by the central authority.[7]

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[4] İnalcık, H. The Ottoman State: Economy and Society, 1300-1600. In İnalcık, H., Quataert, D. (ed.) An Economic and Social History of the Ottoman Empire Volume I: 1300-1600. Cambridge: Cambridge University Press, 1997. p. 25.

[5] Sen, B.D. Comparative Evolution of Institutions: Property Rights on Land in the Ottoman Empire and Modern Turkey. Birckbeck College. http://www.google.com.tr/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCMQFjAA&url=http%3A%2F%2Fwww.ehs.org.uk%2FdotAsset%2F76d3af00-aa76-4f3b-b156-d0cf55592a98.doc&ei=t4iEVdilAoO7swH054CgBw&usg=AFQjCNH2W1gIxru8FH3d9JEQPuS3VI0PwA&bvm=bv.96339352,d.bGg, 18.03.2015.

[6] Varcan, N. Maliye Tarihi (Fiscal History). Eskişehir: Birlik Ofset, 1996. p. 29.

[7] İnalcık, H. The Ottoman State: Economy and Society, 1300-1600. In İnalcık, H., Quataert, D. (ed.) An Economic and Social History of the Ottoman Empire Volume I: 1300-1600. Cambridge: Cambridge University Press, 1997. pp. xlvi-xlvii-li-lii; Somel, S.A.. Historical Dictionary of the Ottoman Empire. Oxford: The Scarecrow Press, 2003. pp. 41-115-256-298-321-330.

Thus, in summary:
(1) Sultan and/or a member of the elite were granted direct control over a *Hass*;
(2) Mid-level officials, such as *subaşı* and *defterdar* (heads of state and the provincial treasury) were granted direct control over a *Zeâmet*; and
(3) finally *sipahis* (cavalryman) were rewarded with a *Timar*.

As a result of this classification, the those who are granted *hass, zeâmet* or *timar* are required to take part in military campaigns and contribute auxiliary horsemen in proportion to the land size and their annual income. As a requirement of the *Timar* System, *hass, zeâmet* and *timar* owners constitute a part of Ottoman Army and are rewarded by the revenue from taxes paid by the *reâyâ* (managed class) resident in the areas they control.[8] *Reâya* can be defined as the taxpayers and the productive class of the Ottoman Empire. This class, consisting of merchants, artisans, and peasants, were outside the ruling military class. [9]

The *Timar* System was repealed as a result of the reforms made in the first half of the eighteenth century.[10] However, it should be noted that, the *Timar* System constitutes the first phase of the property tax system in Turkey.
As a reflection of the Islamic faith in the financial system, *tekâlif-i şeriye* (religious taxes) had constituted the vast majority of State revenues in the Ottoman Empire. Within the framework of the property tax, these taxes were classified into three categories: *zakat*, *aşar,* and *haraç.* [11]

"Taxation on commercial commodities is interpreted in Islamic Law as part of zakat or obligatory property tax and its rate is determined as one-fortieth of the merchandise[12] for Muslims, one-tenth for the people from the "Abode of War", and 5 percent for non-Muslim subjects. For Muslims, however, religious intention for this type of zakat is necessary."[13]

[8] Varcan, N. Maliye Tarihi (Fiscal History). Eskişehir: Birlik Ofset, 1996. P. 29-30. As well Sen, B.D. Comparative Evolution of Institutions: Property Rights on Land in the Ottoman Empire and Modern Turkey. Birckbeck College. http://www.google.com.tr/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCMQFjAA&url=http%3A%2F%2Fwww.ehs.org.uk%2FdotAsset%2F76d3af00-aa76-4f3b-b156-d0cf55592a98.doc&ei=t4iEVdilAoO7swH054CgBw&usg=AFQjCNH2W1gIxru8FH3d9JEQPuS3VI0PwA&bvm=bv.96339352,d.bGg, 18.03.2015.
[9] Somel, S.A.. Historical Dictionary of the Ottoman Empire. Oxford: The Scarecrow Press, 2003. P. 239.
[10] Varcan, N. Maliye Tarihi (Fiscal History). Eskişehir: Birlik Ofset, 1996. P. 60.
[11] Aksoy, Ş. Kamu Maliyesi (Public Finance). 4. Baskı (Edition). İstanbul: Filiz Kitabevi, 2011. P. 168.
[12] i.e. commodities or goods.
[13] İnalcık, H. The Ottoman State: Economy and Society, 1300-1600. In İnalcık, H., Quataert, D. (ed.) An Economic and Social History of the Ottoman Empire Volume I: 1300-1600. Cambridge: Cambridge University Press, 1997. p. 198.

The Islamic property tax *zakat*, which is one of the most important and obligatory religious taxes[14], is divided into five groups: *zekât-ı sevaim, zekât-ı nükûd, zekât-ı âşır, zekât-ı rikâz,* and *zekât-ı hariç*. These taxes was levied on different economic goods, mechandises and animals. In this respect, zekât-*ı sevaim* was levied on the grass-feeding and edible animals; *zekât- nükûd* on gold and silver; *zekât-ı aşır* on merchandise; *zekât-ı rikâz* on mines and treasure troves; and *zekât-ı hariç* on the products of irrigated fields. [15]

Conquered lands which were distributed among the Muslim conquerors, or lands acquired in peace were subject to the aşar (*öşür*). [16] In this context, the payment of the *aşar* was made on the products of the lands that were located within the conquered countries and which belonged to the Muslim population[17]. In this regard, the *aşar* is classified into six categories: *resmi dönüm, resmi çiftbozan, resmi tapu, resmi bahçe, resmi aşiyap,* and *resmi ihtisap*. *Resmi dönüm* was levied on the cotton-growing fields, *resmi çiftbozan* was levied on the farmers who did not cultivate their land and who engaged in jobs outside farming, *resmi tapu* was levied on State-owned lands used as threshing floors and building-sites, and *resmi bahçe* was levied on orchards.[18]

The *Haraç* was *"a combined land-peasant tax levied from a non-Muslim possessor of state-owned agricultural land"*. [19] In other words, this was a type of property tax levied from the lands belongs to the non-Muslims in conquered lands.[20] *"If pre-conquest non-Muslim cultivators were allowed to continue cultivating such lands, they had to pay on their harvest a haraç rated from one-fifth to two-thirds, depending on the circumstances".* [21]

As an extension of the westernization movements in the second half of the 19th century, there was a significant change in the property system which revolutionized the system

[14] Pelin, İ. F. "Verginin Tarihsel Evrimi ve Batı ile Doğu Arasında Bu Hususta Muvazilik (The Historical Evolution of Taxes and Parallelism Between West and East)". İstanbul Üniversitesi Hukuk Fakültesi Mecmuası (Istanbul University Law Faculty Journal). Vol. 4, November 1934. p. 405.
[15] Edizdoğan, N., Çetinkaya, Ö. Gümüş, E. Kamu Maliyesi (Public Finance). 5. Baskı (Edition). Bursa: Ekin Basım Yayın Dağıtım, 2013. p. 135.
[16] İnalcık, H. The Ottoman State: Economy and Society, 1300-1600. In İnalcık, H., Quataert, D. (ed.) An Economic and Social History of the Ottoman Empire Volume I: 1300-1600. Cambridge: Cambridge University Press, 1997. p. 113.
[17] Mutluer, M. K. Vergi Hukuku-Genel ve Özel Hükümler (Tax Law-General and Special Provisions). 3. Baskı (Edition). Ankara: Turhan Kitabevi, 2011. p. 598.
[18] Edizdoğan, N., Çetinkaya, Ö. Gümüş, E. Kamu Maliyesi (Public Finance). 5. Baskı (Edition). Bursa: Ekin Basım Yayın Dağıtım, 2013. p. 135.
[19] İnalcık, H. The Ottoman State: Economy and Society, 1300-1600. In İnalcık, H., Quataert, D. (ed.) An Economic and Social History of the Ottoman Empire Volume I: 1300-1600. Cambridge: Cambridge University Press, 1997. p. xlvii.
[20] Mutluer, M. K. Vergi Hukuku-Genel ve Özel Hükümler (Tax Law-General and Special Provisions). 3. Baskı (Edition). Ankara: Turhan Kitabevi, 2011. p. 598. As well Edizdoğan, N., Çetinkaya, Ö. Gümüş, E. Kamu Maliyesi (Public Finance). 5. Baskı (Edition). Bursa: Ekin Basım Yayın Dağıtım, 2013. pp. 134-135. As well Aksoy, Ş. Kamu Maliyesi (Public Finance). 4. Baskı (Edition). İstanbul: Filiz Kitabevi, 2011. p. 168.
[21] İnalcık, H. The Ottoman State: Economy and Society, 1300-1600. In İnalcık, H., Quataert, D. (ed.) An Economic and Social History of the Ottoman Empire Volume I: 1300-1600. Cambridge: Cambridge University Press, 1997. p. 113.

and brought Ottoman Empire (so also Turkey) closer to European practices. With these changes there was a significant shift in the understanding of taxation within the Ottoman Empire. In this context, after the declaration of the *Tanzimat Fermanı* (Imperial Rescript of Gülhane) in 1839, religious taxes were adapted to the conditions of the day and the properties became taxed in the light of modern taxation approaches.

The first contemporary land tax in the Ottoman Empire was established in 1858 with the *Arazi Kanunname-i Hümayun* (Imperial Land Code) which incorporated the *aşar* tax. The Property Tax Law was established in 1886, and buildings and lands were taxed according to its provisions until 1910. After the declaration of the Second Constitutional Period, it was proposed to split property taxes into the land tax and the building tax. As a result of this proposal, buildings and lands were taxed under the *Musakkafat (Building) Tax Law* of 1910.[22]

1.1.2 Post-Republican Period

In the early Republican period, the aşar tax practice was continued on the grounds of tax efficiency. However, as a result of the dominant view which emerged in the İzmir Economic Congress, this tax was repealed in 1925.[23] Also, the Property Tax Law and Musakkafat Tax Law were repealed, and the Land Tax Law No. 1833 and Building Tax Law No. 1837 were enacted in 1931.[24] Within the scope of these new laws, an administrative tax base determination method for assessing the tax base was accepted, and the responsibility for tax collection was given to special provincial administrations.

In 1963, the Real Estate Purchase Tax Law No. 198 was enacted in order to tax the transfer of properties. In 1970, Land Tax Law and Building Tax Law were repealed as a result of practical difficulties in their operation, such as tax erosion[25] and an incomplete cadastre; and the Property Tax Law No. 1319 was enacted to replace these laws. As a result, the building tax and the land tax were collected under a single legislative instrument. In 1971, in order to assess tax base, the tax declaration (return) and administrative control method was adopted instead of the administrative tax base method. The tax declaration and administrative control method differs from the administrative tax base method at a basic principle. This principle can be defined as the *"ex officio tax calculation principle"*. According to the administrative tax base method, the tax base is

[22] Mutluer, M. K. Vergi Hukuku-Genel ve Özel Hükümler (Tax Law-General and Special Provisions). 3. Baskı (Edition). Ankara: Turhan Kitabevi, 2011. p. 598. As well Aksoy, Ş. Vergi Hukuku ve Türk Vergi Sistemi (Tax Law and Turkish Taxation System). 6. Bası (Edition). İstanbul: Filiz Kitabevi, 2010. -. 344. Also Varcan, N. Maliye Tarihi (Fiscal History). Eskişehir: Birlik Ofset, 1996. p. 62.
[23] Varcan, N. Maliye Tarihi (Fiscal History). Eskişehir: Birlik Ofset, 1996. pp. 95-96.
[24] Mutluer, M. K. Vergi Hukuku-Genel ve Özel Hükümler (Tax Law-General and Special Provisions). 3. Baskı (Edition). Ankara: Turhan Kitabevi, 2011. p. 598.
[25] In a tax system taxpayers have a right to minimize their tax liability by every legal means. As a result of this, "*tax avoidance*" is permissible but "*tax evasion*" is not. However, both tax avoidance and tax evasion erode tax revenues. According to the tax doctrine, this phenomenon is recognised as the concept of "*tax erosion*" (Lanning, G.F. "Tax Erosion and the Bootstrap Sale of a Business". University of Pennsylvania Law Review. Vol. 108, No. 5, March 1960. p. 634).

directly assessed by the relevant municipality, which is accepted by the affiliated tax office. However, in the tax declaration and administrative control method, the tax base is assessed in connection with the declaration of the taxpayers. In other words, the tax declaration and administrative control method is a natural consequence of the obligation to give notice. According to this method, firstly the taxpayers calculate their own tax base in accordance with the relevant provisions of the tax laws. Secondly, taxpayers declare this calculated tax base to the relevant municipality via a tax declaration. Thirdly, the relevant municipality makes the necessary controls on the declaration given by the taxpayers. Finally, the related municipality assesses the tax base in connection with the tax declaration and its own controls. After these revisions, the Real Estate Purchase Tax Law was repealed in 1982 on the grounds that it reduce the volume of real estate sales.[26]

Property taxes were collected by central government from 1970 to 1986. However, with a change in the legal arrangement (Law No. 3239) in 1985, the authority for property tax collection was transferred to the municipalities.[27] In other words, property tax became a local tax on wealth in the form of real estate through this arrangement.

The property tax had been based on declaration method from 1971 to 2002. However, the declaration method was abandoned in 2002 on the grounds that it caused increased red tape and a loss of time and wasted administrative effort. After 2002, the *municipal notification method* came into force as a method of establishing the tax base in relation to the property tax. According to the municipal notification method, declaration duty on taxpayers was only limited to the notification. More clearly, the taxpayers give notice to the relevant municipality in cases of the emergence of the reasons which change the tax value of the building, or when they build a new building. With the application of this method, taxpayers no longer need to give a declaration or to give a notice except these cases. [28]

Today, the property system is supported by the property tax which is a local tax. After the tax collection authority has transferred the funds collected to the municipalities, tax efficiency has become the main problem that must be resolved. The main reason underlying this problem is the difference between the economic development in different regions in the country. Undoubtedly, this problem cannot be resolved by the local authorities alone. The resolution of this problem requires clear co-operation between both central and local governments. Additionally, establishing a common tax valuation

[26] Öncel, M., Kumrulu, A., Çağan, N. Vergi Hukuku (Tax Law). 21. Bası (Edition). Ankara: Turhan Kitabevi, 2012. pp. 357-362. As well Edizdoğan, N., Çetinkaya, Ö. Gümüş, E. Kamu Maliyesi (Public Finance). 5. Baskı (Edition). Bursa: Ekin Basım Yayın Dağıtım, 2013. pp. 302-303. As well Aksoy, Ş. Vergi Hukuku ve Türk Vergi Sistemi (Tax Law and Turkish Taxation System). 6. Bası (Edition). İstanbul: Filiz Kitabevi, 2010. p. 331.
[27] Bilici, N. Vergi Hukuku (Tax Law). 29. Baskı (Edition). Ankara: Seçkin Yayıncılık, 2012. p. 290. As well Aksoy, Ş. Vergi Hukuku ve Türk Vergi Sistemi (Tax Law and Turkish Taxation System). 6. Bası (Edition). İstanbul: Filiz Kitabevi, 2010. p. 331.
[28] Öncel, M., Kumrulu, A., Çağan, N. Vergi Hukuku (Tax Law). 21. Bası (Edition). Ankara: Turhan Kitabevi, 2012. p. 362-363.

standard, constituting a simple property tax law, and developing a common property data recording/processing system can be ranked among the others issues to be tackled.

Accordingly, this chapter explains the Turkish property tax system, tax revenue performance, potential reforms, and the situation regarding the real estate market. All theoretical information is supported by the current official data sets that take into account annual monetary and proportional changes. This study demonstrates that the Turkish real estate market is expanding and strengthening, and this situation also encourages belief in the market's future. Despite all the structural problems, the property tax system is evolving in line with the development in the real estate market and tax efficiency has been increasing consistently.

1.2 Position of the Property Tax

In modern taxation, taxes are subject to a variety of classification (refer Table 19.1). According to this multi-directional classification, property tax can be categorised as a nominal, objective, continuous, *ad valorem*, special, fixed, direct, and asset tax in the Turkish taxation system. Wealth taxes are especially important for the evaluation of the property tax. Therefore, wealth taxes are classified into three categories: direct wealth tax, wealth transfer tax, and wealth increase tax. Given the nature of the property tax, it is included in as a direct wealth tax.[29] In the Turkish taxation system, the property tax is a municipal tax levied on the value of real property being lands and buildings.[30]

Table 19.1: Classification of Taxes – Position of Property Tax

Classification	**Tax Type**	**Position of Property Tax**
According to the instruments used in the tax payment	Real	
	Nominal	√
According to the objects that are subject to taxation	Head	
	Asset	√
According to the taxpayers' personal situation	Subjective	
	Objective	√
According to the implementation time	Temporary	
	Continuous	√
According to the economic resources	Income	
	Wealth	√

[29] Öner, E. Vergi Hukuku ve Türk Vergi Sistemi (Tax Law and Turkish Taxation System). 3. Baskı (Edition). Ankara: Seçkin Yayıncılık, 2014. p. 473.
[30] Şenyüz, D., Yüce, M., Gerçek, A. Türk Vergi Sistemi (Turkish Taxation System). 11. Baskı (Edition). Bursa: Ekin Basın Yayın Dağıtım, 2012. p. 363.

Classification	Tax Type	Position of Property Tax
	Consumption	
According to the tax base	Ad Valorem	√
	Specific	
According to the tax scope	Special	√
	Uniform	
According to the tax tariff	Fixed	√
	Progressive	
	Regressive	
According to the tax nature	Direct	√
	Indirect	

Source: Edizdoğan, N. Çetinkaya, Ö. Gümüş, E. Kamu Maliyesi (Public Finance). 5. Baskı (Edition). Bursa: Ekin Basım Yayın Dağıtım, 2013. pp. 263-269.

1.3 Structural Components

1.3.1 Legal Base

Within the Turkish constitution, everyone is under an obligation to pay taxes according to their financial resources, in order to meet the cost of public expenditure. Taxes, fees, duties, and other such financial obligations are imposed, amended, or revoked by law.[31] According to the constitutional provision, the Property Tax Law No. 1319 regulates both the building tax and the land tax within the framework of the property tax.[32] The Property Tax Law is composed of three sections:

- First Section: Provisions relating to the building tax;
- Second Section: Provisions relating to the land tax; and
- Third Section: Common provisions for both building tax and land tax.

It is important to note that, both taxes are substantially identical apart from some technical differences.[33] In the next part of the study, property tax is introduced and discussed as a single tax.

[31] Türkiye Cumhuriyeti Anayasası (Constitution of the Republic of Turkey). Law No. 2709. Official Gazette: 20 October 1982, Art. 73.
[32] Emlak Vergisi Kanunu (Property Tax Law). Law No. 1319. Official Gazette: 11 August 1970.
[33] Öncel, M., Kumrulu, A., Çağan, N.. Vergi Hukuku (Tax Law). 21. Bası (Edition). Ankara: Turhan Kitabevi, 2012. pp. 358-359.

1.3.2 The Subject of Property Tax

In the Turkish taxation system, property tax is levied on the value of Turkish real properties such as buildings and lands.[34] A property located within the boundaries of Turkish Republic, which belongs to a Turkish citizen or a foreigner, is the subject of the property tax.[35]

A building, which is the subject of the building tax, includes fixed constructions on the land and sea.[36] As a multifaceted concept, the building is subject to a triple distinction in itself:

- according to its use: residences, offices, meeting halls and theatres etc.;
- according to its construction: reinforced concrete carcass, steel carcass, masonry structure, and wooden structure; and
- according to the type and quality of the material: luxury construction, first-class and third class construction.[37]

This distinction directly affects the buildings tax base. Ancillaries (such as a garden, court, and terrace) are taxed together with the building. A building under construction, is not subject to the building tax.[38] However, if a building, such as an illegal structure, is constructed on someone else's land or on State-owned land without permission, it becomes subject to building tax.[39]

According to land tax, land that is used in agricultural production and building plots that are available for construction are subject to the land tax.[40] Additionally, both lands within the boundaries of municipality and in contiguous (urban) regions are subject of the land tax.[41]

1.3.3 Exemptions and Exclusions

In the Turkish taxation system, some of the buildings and lands are permanently or temporaryly exempt from the property tax. In this respect, the exemption from the

[34] Emlak Vergisi Kanunun (Property Tax Law). Law No. 1319. Official Gazette: 11 August 1970. Art. 1-12.
[35] Şenyüz, D., Yüce, M., Gerçek, A. Türk Vergi Sistemi (Turkish Taxation System). 11. Baskı (Edition). Bursa: Ekin Basın Yayın Dağıtım, 2012. p. 363.
[36] Emlak Vergisi Kanunun (Property Tax Law). Law No. 1319. Official Gazette: 11 August 1970. Art. 2. Also Şenyüz, D., Yüce, M., Gerçek, A. Türk Vergi Sistemi (Turkish Taxation System). 11. Baskı (Edition). Bursa: Ekin Basın Yayın Dağıtım, 2012. p. 363.
[37] Pehlivan, O. Vergi Hukuku (Tax Law). Trabzon: Murathan Yayınevi, 2012. p. 283.
[38] Vergi Usul Kanunu (Tax Procedure Law). Law No. 213. Official Gazette: 10 January 1961, Art. 305. As well Şenyüz, D., Yüce, M., Gerçek, A. Türk Vergi Sistemi (Turkish Taxation System). 11. Baskı (Edition). Bursa: Ekin Basın Yayın Dağıtım, 2012. p. 364.
[39] Öncel, M., Kumrulu, A., Çağan, N.. Vergi Hukuku (Tax Law). 21. Bası (Edition). Ankara: Turhan Kitabevi, 2012. p. 360.
[40] Şenyüz, D., Yüce, M., Gerçek, A. Türk Vergi Sistemi (Turkish Taxation System). 11. Baskı (Edition). Bursa: Ekin Basın Yayın Dağıtım, 2012. pp. 363-364.
[41] Bilici, N. Vergi Hukuku (Tax Law). 29. Baskı (Edition). Ankara: Seçkin Yayıncılık, 2012. p. 292.

property tax can be classified into two categories: buildings and lands within the scope of a permanent (total) exemption; and buildings and lands within the scope of a temporary (partial) exemption.

A) Buildings and Lands within the scope of a Permanent Exemption: Some of the buildings and lands are permanently exempt from the property tax because of their status. The public interest criterion, in the selection of buildings and lands within the ambit of a permanent exemption, is taken into account (Table 19.2).

Table 19.2: Buildings and Lands with a Permanent Exemption

Buildings and Lands Owned by Public Bodies and Socially Beneficial Organizations	**Buildings Used in Agricultural Production on Land/Sea**	**Other Buildings and Lands**
• Buildings and lands owned by special budget administrations (such as universities, state theatres, state opera and ballet, civil aviation, academy of science, justice academy, state dormitories etc.).	• Machinery and tool stores.	• Prayer houses (such as mosque, church, and synagogue).
• Buildings and lands owned by local governments.		• Cemeteries
• State-owned buildings.		• Power lines and poles.
• Buildings and lands owned by local administration associations, agricultural credit cooperatives, agricultural sales cooperatives, agricultural credit and sales cooperatives associations.	• Warehouses, haylofts, trailer garages, corrals, sheds, poultries, greenhouses etc.	• Fuel pipelines.
• Military clubs and canteens.		• Real estates relating to the construction of fuel pipelines.
• Lands owned by Housing Development Administration.		• All kinds of weirs
• Buildings owned by amateur sports clubs.	• Agricultural workers and guards buildings, cabins and barracks.	• Dams, irrigation and drying facilities.
• Shipyard buildings.		• Buildings used for transportation such as docks, piers, railways, railroads, bridges, tunnels, airports.

Buildings and Lands Owned by Public Bodies and Socially Beneficial Organizations	Buildings Used in Agricultural Production on Land/Sea	Other Buildings and Lands
• Places operated without profit for purpose such as hospitals, poorhouses, dormitories, libraries.		• Mission buildings and residences owned by foreign governments.
•	• Service buildings owned by agricultural credit and sales cooperatives.	• Buildings owned by representatives of the international organizations.

Source: Emlak Vergisi Kanunu (Property Tax Law). Law No. 1319. Official Gazette: 11 August 1970. Art. 4 -14.

Buildings and lands beyond the boundaries of a municipality and contiguous regions are not subject to the property tax. However, these properties should not be used in commercial, industrial, or tourism activities in order to benefit from the permanent exemption.[42]

B) Buildings and Lands within the scope of Temporary Exemption: The temporary exemption applied to buildings falls into two main categories:

i. Newly-constructed buildings: One quarter of the taxable value of newly constructed flats is exempt from the building tax for five years following the year in which they are built.[43] In other words, this exemption applies for five years from the budget year following the budget year when construction was completed.[44]

ii. Tourism promotion exemption: Buildings used as establishments associated with tourism are exempt from the building tax for five years following the budget year in which they are built or allocated for tourism activities.[45]

In addition to the temporary exemption for buildings, some of the lands are also included within this exemption. Firstly, the lands which are outside the State forests and afforested by human effort are exempt from the land tax for fifty years. Secondly improved lands (such as improved swamp areas, arid zones, peat moors, stony areas, and bushes) are exempt from land tax for ten years. Lastly, lands that are turned into woodland, vineyards, or orchards are exempt from the land tax for up to fifteen years.[46]

[42] Emlak Vergisi Kanunun (Property Tax Law). Law No. 1319. Official Gazette: 11 August 1970. Art. 4/u-14/g.
[43] Pehlivan, O. Vergi Hukuku (Tax Law). Trabzon: Murathan Yayınevi, 2012. p. 287. As well Emlak Vergisi Kanunun (Property Tax Law). Law No. 1319. Official Gazette: 11 August 1970. Art. 5.
[44] General Directorate of Revenue Policies (Gelir Politikaları Genel Müdürlüğü). Turkish Tax System in General. p. 26, http://www.gep.gov.tr/tmp/_Gep1.pdf, 18.03.2015.
[45] Bilici, N. Vergi Hukuku (Tax Law). 29. Baskı (Edition). Ankara: Seçkin Yayıncılık, 2012. p. 291. As well Emlak Vergisi Kanunun (Property Tax Law). Law No. 1319. Official Gazette: 11 August 1970. Art. 5. As well Pehlivan, O. Vergi Hukuku (Tax Law). Trabzon: Murathan Yayınevi, 2012. p. 287.
[46] Emlak Vergisi Kanunun (Property Tax Law). Law No. 1319. Official Gazette: 11 August 1970. Art. 15.

The exclusion of land is a typical example of property tax exemptions. In this context, some of 10,000 TRY[47] (2,200 Euros) of the total tax value of the land (except building plots), which is within the jurisdiction of municipalities and contiguous areas, is excluded from the land tax.[48]

1.3.4 Tax Base and Rate

Property tax is effectively an *ad valorem* tax. In this context, the property tax base is equal to the value of the buildings and land determined every four years in accordance with the Property Tax Law.[49] In other words, "the tax base for the building/land tax is the value of the building/land. The tax value is the value recorded at the Land Registry."[50]

The applicable tax rate varies depending on the classification of the property.

- Firstly, the building tax rate is determined as normal, incremental or decremented, according to the nature and location of the buildings and the status of the taxpayers.[51] Residential premises are taxed at 0.1% and other buildings are taxed at 0.2% of their value.[52] "These rates are increased by 100% within the frontiers of metropolitan municipalities and contiguous regions as defined by law."[53] In connection with the social state principle, various factors influence the determination of the tax rate (Table 19.3).

[47] Turkish Lira.
[48] Emlak Vergisi Kanunun (Property Tax Law). Law No. 1319. Official Gazette: 11 August 1970. Art. 16. As well Kızılot, Ş., Taş, M. Vergi Hukuku ve Türk Vergi Sistemi (Tax Law and Turkish Tax System). Ankara: Yaklaşım Yayıncılık, 2009. P. 339.
[49] Emlak Vergisi Kanunun (Property Tax Law). Law No. 1319. Official Gazette: 11 August 1970. Art. 7. As well Kızılot, Ş., Taş, M. Vergi Hukuku ve Türk Vergi Sistemi (Tax Law and Turkish Tax System). Ankara: Yaklaşım Yayıncılık, 2009. P. 340.
[50] General Directorate of Revenue Policies (Gelir Politikaları Genel Müdürlüğü). Turkish Tax System in General. P. 26, http://www.gep.gov.tr/tmp/_Gep1.pdf, 18.03.2015.
[51] Şenyüz, D., Yüce, M., Gerçek, A. Türk Vergi Sistemi (Turkish Taxation System). 11. Baskı (Edition). Bursa: Ekin Basın Yayın Dağıtım, 2012. P. 374.
[52] Emlak Vergisi Kanunun (Property Tax Law). Law No. 1319. Official Gazette: 11 August 1970. Art. 8.
[53] General Directorate of Revenue Policies (Gelir Politikaları Genel Müdürlüğü). Turkish Tax System in General. P. 26, http://www.gep.gov.tr/tmp/_Gep1.pdf, 18.03.2015.

Table 19.3: Building Tax Rates

Nature of Tax Rate	Nature of the Building	Location of the Building	Status of the Taxpayer	Tax Rate (%)
Normal	Residential Premises	-	-	0.1
1.1. Normal	Other Buildings	-	-	0.2
Incremental	Residential Premises	Within the frontiers of metropolitan municipalities and contiguous regions	-	0.2
Incremental	Other Buildings	Within the frontiers of metropolitan municipalities and contiguous regions	-	0.4
Decremented	Residential Premises (in case of having only one residence which does not exceed 200 square meters)	-	Individuals without any income	0
		-	Individuals who receive salary only from Social Security Institutions.	0
		-	Veterans, widows and orphans of martyrs.	0

Source: Şenyüz, D., Yüce, M., Gerçek, A. Türk Vergi Sistemi (Turkish Taxation System). 11. Baskı (Edition). Bursa: Ekin Basın Yayın Dağıtım, 2012. p. 374.

- Secondly, within the framework of the land tax, lands that are especially used in agricultural production are taxed at 0.1% and building plots that are available for construction are taxed at 0.3% of their taxable value (Table 19.4). Additionally, land tax rates are increased by 100% within the jurisdictions of metropolitan municipalities and contiguous areas.[54]

[54] Emlak Vergisi Kanunun (Property Tax Law). Law No. 1319. Official Gazette: 11 August 1970. Art. 18. Also General Directorate of Revenue Policies (Gelir Politikaları Genel Müdürlüğü). Turkish Tax System in General. p. 26, http://www.gep.gov.tr/tmp/_Gep1.pdf, 18.03.2015.

Table 19.4: Land Tax Rates

Nature of Tax Rate	Nature of the Land	Location of the Land	Tax Rate (%)
Normal	Ground	-	0.1
Incremental	Building Plot	-	0.3
	Ground	Within the frontiers of metropolitan municipalities and contiguous regions	0.2
	Building Plot		0.6

Source: Şenyüz, D., Yüce, M., Gerçek, A. Türk Vergi Sistemi (Turkish Taxation System). 11. Baskı (Edition). Bursa: Ekin Basın Yayın Dağıtım, 2012. p. 375.

1.3.5 Tax Liability

In principle, owners or beneficial owners are subject and liable to property tax on their properties within the boundaries of the Turkish Republic. Individuals, who own properties in the form of joint-ownership, are personally liable for the property tax in proportion to their shares of the property ownership. Additionally, owners are severally responsible for the tax in case of co-ownership.[55] Real persons and legal persons can become taxpayers of the property tax.[56]

There are two ways by which the tax liability can be terminated. Firstly, if any building, which is subject to building tax, becomes unusable as a result of such factors as destruction by fire or demolition, the building tax will no longer be levied. Secondly, the land tax liability is terminated and building tax liability begins, if a building is constructed on land, which has been subject to land tax. However, in this case, the land tax liability continues until the construction is complete.[57]

1.4 Administration (Assessment, Demands and Collection)

Since 2002, the notification method has constituted the basis of property tax calculation. Notification by the taxpayer, which indicates the overall condition of the relevant building

[55] Şenyüz, D., Yüce, M., Gerçek, A. Türk Vergi Sistemi (Turkish Taxation System). 11. Baskı (Edition). Bursa: Ekin Basın Yayın Dağıtım, 2012. p. 365. Also Emlak Vergisi Kanunun (Property Tax Law). Law No. 1319. Official Gazette: 11 August 1970. Art. 3-13.
[56] Aksoy, Ş. Vergi Hukuku ve Türk Vergi Sistemi (Tax Law and Turkish Taxation System). 6. Bası (Edition). İstanbul: Filiz Kitabevi, 2010. p. 331.
[57] Şenyüz, D., Yüce, M., Gerçek, A. Türk Vergi Sistemi (Turkish Taxation System). 11. Baskı (Edition). Bursa: Ekin Basın Yayın Dağıtım, 2012. pp. 368-369.

or land, is submitted to the municipality where the property is located.[58] Under this process, taxpayers are required to notify the municipality of any of the following events[59]:

- the construction of new buildings;
- the destruction by fire or demolition of existing buildings;
- the making of improvements (such as extension, installation of an elevator, or central heating) to the existing buildings;
- the transformation of a residential building into office accommodation;
- changes in the nature of the land's usage (such as afforestation, or desertification);
- a change of taxpayer;
- the unification of fragmented lands; or
- an increase or decrease in market value of the property under free market conditions.[60]

Taxpayers give notice to the relevant municipality (being also the affiliated tax office) of any of the above events which alter the tax value of the building, or if they construct a new building. With the application of this method, taxpayers no longer need to give a declaration or to give a notice except for the above events. The information within the notification is used automatically in the assessment period. Depending on the nature of the taxpayers' notification, the relevant municipality amends the property tax assessment.[61] However, if the taxpayer does not notify the municipality within the required period, property tax will be assessed directly by the administration.[62] In this case, two processes are followed while property tax is being assessed directly by the tax office. In the first process, the valuation commission, which exists within the structure of the relevant municipality, determines or modificates the tax value of the property; and in the second process, the relevant municipality assesses the property tax in accordance with the modified tax value.

It is desirable to have a good relationship between the taxpayers and the tax office at the point of tax assessment. However, just like every debt-receivable relationship, it is possible that disputes and conflicts may arise between the tax office and the taxpayer.[63] The tax disputes and conflicts arise as a result of many different factors. Some issues may arise from within the tax office (such as the use of an unlawful tax procedure, an inaccurate tax assessment, and the imposition of unfair tax penalties); and by the

[58] Şenyüz, D., Yüce, M., Gerçek, A. Türk Vergi Sistemi (Turkish Taxation System). 11. Baskı (Edition). Bursa: Ekin Basın Yayın Dağıtım, 2012. p. 372.
[59] Kızılot, Ş., Taş, M. Vergi Hukuku ve Türk Vergi Sistemi (Tax Law and Turkish Tax System). Ankara: Yaklaşım Yayıncılık, 2009. p 339.
[60] Bilici, N. Vergi Hukuku (Tax Law). 29. Baskı (Edition). Ankara: Seçkin Yayıncılık, 2012. pp. 294-295. See also Emlak Vergisi Kanunun (Property Tax Law). Law No. 1319. Official Gazette: 11 August 1970. Art. 33.
[61] Şenyüz, D., Yüce, M., Gerçek, A. Türk Vergi Sistemi (Turkish Taxation System). 11. Baskı (Edition). Bursa: Ekin Basın Yayın Dağıtım, 2012. p. 369. As well Kızılot, Ş., Taş, M. Vergi Hukuku ve Türk Vergi Sistemi (Tax Law and Turkish Tax System). Ankara: Yaklaşım Yayıncılık, 2009. p. 339.
[62] Emlak Vergisi Kanunun (Property Tax Law). Law No. 1319. Official Gazette: 11 August 1970. Art. 32.
[63] Karakoç, Y. Genel Vergi Hukuku (General Tax Law). 6. Bası (Edition). Ankara: Yetkin Yayınları, 2012. p. 700.

taxpayers (such as the provision of misleading or low tax assessment declaration, tax delinquency, a violation of the tax rules, and a default in tax obligations).[64] For such purposes, administrative and legal remedies have been developed for the settlement of the tax disputes and conflicts.[65]

Administrative remedies include tax conciliation, tax error corrections, and the application for supervisory authority.[66] Administrative remedies have been developed in order to resolve the tax disputes and conflicts and to ensure reconciliation between the taxpayers and the tax office through orderly procedures. In this way, such remedies aim to resolve disputes before they become contentious. Initially then, the aim is to resolve any tax disputes through administrative channels. However, this may not always be possible, in which case tax disputes and conflicts become an issue of contention. In this case, legal remedies are applied in order to resolve tax disputes arising from the tax assessment and the other taxation processes. [67] In Turkey, all administrative actions are subject to judicial review as a requirement of the rule of law. This requirement is constitutionally guaranteed. According to article 125 of the Constitution of the Turkish Republic; *"Recourse to judicial review shall be available against all actions and acts of administration (…)"*. Therefore, all taxation actions and acts of the tax office are subject to this provision.[68] Judicial review of such activities is conducted under the tax jurisdiction. The tax jurisdiction can be defined as the resolution method of the tax conflits.[69] The conflicts arising from the tax disputes are terminated with a decision and judgement of the tax jurisdiction.[70]

Property tax is assessed and demanded annually and automatically by the related municipality based on the tax values of buildings and lands at rates varying from 0,1% to 0,3% (Table 19.4). Thus, property tax is assessed on the date of assessment and the tax payable is notified by post to the taxpayer.[71] Taxes are paid annually in two equal

[64] Kızılot, Ş. Vergi İhtilafları ve Çözüm Yolları (Tax Disputes and Remedies). 5. Baskı (Edition). Ankara: Yaklaşım Yayınları, 2003. p. 36-46. As well Bilici, N. Vergi Hukuku (Tax Law). 29. Baskı (Edition). Ankara: Seçkin Yayıncılık, 2012. p. 129.
[65] Karakoç, Y. Genel Vergi Hukuku (General Tax Law). 6. Bası (Edition). Ankara: Yetkin Yayınları, 2012, p.700.
[66] Öncel, M., Kumrulu, A., Çağan, N. Vergi Hukuku (Tax Law). 24. Bası (Edition). Ankara: Turhan Kitabevi, 2015. pp. 197-198. See also Şenyüz, D., Yüce, M., Gerçek, A. Vergi Hukuku – Genel Hükümler (Tax Law – General Provisions). Bursa: Ekin Basın Yayın Dağıtım, 2014. pp. 254-277.
[67] Karakoç, Y. Genel Vergi Hukuku (General Tax Law). 6. Bası (Edition). Ankara: Yetkin Yayınları, 2012. pp.700-701-769.
[68] Öner, E. Vergi Hukuku ve Türk Vergi Sistemi (Tax Law and Turkish Taxation System). 3. Baskı (Edition). Ankara: Seçkin Yayıncılık, 2014. p. 219.
[69] Yüce, M. Türk Vergi Yargısı (Turkish Tax Jurisdiction). Bursa: Ekin Basım Yayın Dağıtım, 2012. P. 47; As well Aksoy, Ş. Vergi Hukuku ve Türk Vergi Sistemi (Tax Law and Turkish Taxation System). 6. Bası (Edition). İstanbul: Filiz Kitabevi, 2010. p. 89.
[70] Öncel, M., Kumrulu, A., Çağan, N. Vergi Hukuku (Tax Law). 24. Bası (Edition). Ankara: Turhan Kitabevi, 2015. p. 185.
[71] Şenyüz, D., Yüce, M., Gerçek, A. Türk Vergi Sistemi (Turkish Taxation System). 11. Baskı (Edition). Bursa: Ekin Basın Yayın Dağıtım, 2012. p. 377. See also Kızılot, Ş., Taş, M. Vergi Hukuku ve Türk Vergi Sistemi (Tax Law and Turkish Tax System). Ankara: Yaklaşım Yayıncılık, 2009. p. 341.

instalments, the first instalment being due at any during the period from March through to the end of May, and the second instalment in November.[72] Additionally, the Ministry of Finance has the authority to change the payment month depending on the characteristics of the regions.[73] Payment can be made by different including at banks, by cheque, online, and in cash[74].

1.5 Revenue Performance

It is possible to measure the revenue performance of property tax by comparing the local revenues and taxes with central revenues and taxes at the national level. As shown in Table 19.5, property tax revenues show a steady improvement year on year. Additionally, almost half of all local tax revenues come from the property tax. According to the data for 2012, property tax revenue is 61% of tax revenues at local level. However, the property tax revenues' share is relatively low in relation to all revenues at the local level. The property tax revenue, as a percentage of all State tax revenues and all State revenues is not significant within the general administration framework.

All revenues at the local level in TRY 109 billion (USD 36 billion or EURO 32 billion). In the same year, TRY 12 billion (USD 4 billion or EURO 3 billion) of the all revenues received at the local level have been composed of the tax revenues at local level. In connection with this, TRY 6 billion (USD 2 billion USD or EURO 2 billion) of the TRY 12 billion comprised total property tax revenue (Table 19.5).

In 2016, 55% of the tax revenues at the local level are property tax revenue. In contrast, 6% of all local revenues are from property tax revenue (Table 19.5).

It is important to state that, in 2012, the property tax revenue was reached the highest share within the tax revenues at the local level. This increase was directly influenced by the tax amnesty which is introduced by the *"Law on the Restructuring some of the Public Receivables and the Emending to the Social Insurance and General Health Insurance Law and to the Other Certain Laws and Statutory Decrees"* No 6111. This law is known as the *"Bag Law"*. According to this law, if the unpaid or incompletely paid property taxes are paid by the taxpayers in accordance with the provisions of this law and other related laws, the tax penalties, interests, and late fees for these taxes will be subject to the tax amnesty as of 2012[75].

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[72] General Directorate of Revenue Policies (Gelir Politikaları Genel Müdürlüğü). Turkish Tax System in General. p. 26, http://www.gep.gov.tr/tmp/_Gep1.pdf, 18.03.2015. See also Erol, A. Türk Vergi Sistemi ve Vergi Hukuku (Turkish Taxation System and Tax Law). Ankara: Yaklaşım Yayıncılık, 2009. p. 376.

[73] Emlak Vergisi Kanunun (Property Tax Law). Law No. 1319. Official Gazette: 11 August 1970. Art. 30.

[74] General Directorate of Revenue Policies (Gelir Politikaları Genel Müdürlüğü). Turkish Tax System in General. Ankara, 2016. p. 30, http://www.gib.gov.tr/sites/default/files/fileadmin/taxation_system2016.pdf, 11.03.2018

[75] Bazı Alacakların Yeniden Yapılandırılması ile Sosyal Sigortalar ve Genel Sağlık Sigortası Kanunu ve Diğer Bazı Kanun ve Kanun Hükmünde Kararnamelerde Değişiklik Yapılması Hakkında Kanun (Law on the Restructuring some of the Public Receivables and the Emending to the Social Insurance and General Health

Table 19.5: Comparative Property Tax Revenue Performance

		Currency	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Propery Tax Types	Building Tax	(Million TRY)	956	989	1,231	1,346	1,860	2,433	2,510	2,756	3,564	4,232	4,893
		(Million USD)	668	760	692	870	1,240	1,457	1,400	1,449	1,629	1,556	1,620
		(Million EURO)	531	556	649	626	935	1,047	1,089	1,091	1,226	1,402	1,465
	Land Tax	(Million TRY)	441	475	486	508	809	1,032	1,944	1,091	1,429	1,649	1,836
		(Million USD)	308	365	273	328	539	618	1,084	574	653	606	608
		(Million EURO)	245	267	257	236	407	444	843	432	492	546	182
Total Property Tax Revenue		(Million TRY)	**1,396**	**1,464**	**1,717**	**1,854**	**2,669**	**3,464**	**4,454**	**3,847**	**4,993**	**5,882**	**6,729**
		(Million USD)	**976**	**1,125**	**966**	**1,199**	**1,779**	**2,074**	**2,485**	**2,023**	**2,282**	**2,162**	**2,227**
		(Million EURO)	**776**	**823**	**906**	**862**	**1,342**	**1,492**	**1,933**	**1,523**	**1,718**	**1,949**	**2,015**
All Tax Revenues at Local Level		(Million TRY)	**3,378**	**3,691**	**4,190**	**3,776**	**5,904**	**6,901**	**7,250**	**8,213**	**9,292**	**10,853**	**12,244**
		(Million USD)	**2,360**	**2,836**	**2,357**	**2,441**	**3,935**	**4,133**	**4,045**	**4,320**	**4,247**	**3,990**	**4,053**
		(Million EURO)	**1,876**	**2,076**	**2,210**	**1,756**	**2,968**	**2,972**	**3,146**	**3,252**	**3,197**	**3,596**	**3,666**
All Revenues at Local Level		(Million TRY)	**31,725**	**35,474**	**38,842**	**42,477**	**53,582**	**63,416**	**69,263**	**83,376**	**87,171**	**97,706**	**109,374**
		(Million USD)	**22,168**	**27,256**	**21,844**	**27,458**	**35,713**	**37,974**	**38,641**	**43,852**	**39,843**	**35,921**	**36,202**
		(Million EURO)	**17,625**	**19,950**	**20,489**	**19,757**	**26,934**	**27,306**	**30,056**	**33,016**	**29,997**	**32,372**	**32,749**
Property Tax Revenue as % of Tax Revenues at Local Level			*41.34*	*39.67*	*40.98*	*49.10*	*45.21*	*50.19*	*61.43*	*46.84*	*53.74*	*54.20*	*54.96*
Property Tax Revenue as % of All Local Revenues			*4.40*	*4.13*	*4.42*	*4.37*	*4.98*	*5.46*	*6.43*	*4.61*	*5.73*	*6.02*	*6.15*
Tax Revenues at National Level		(Million TRY)	**141,863**	**156,499**	**172,251**	**176,141**	**216,109**	**260,262**	**285,695**	**334,445**	**361,940**	**418,694**	**470,431**
		(Million USD)	**99,128**	**120,244**	**96,869**	**113,860**	**144,038**	**155,846**	**159,383**	**175,902**	**165,431**	**153,930**	**155,707**
		(Million EURO)	**78,813**	**88,011**	**90,861**	**81,926**	**108,633**	**112,066**	**123,973**	**132,435**	**124,550**	**138,720**	**140,856**
All Revenues at National Level		(Million TRY)	**263,622**	**283,446**	**313,051**	**329,943**	**389,743**	**472,469**	**535,776**	**625,350**	**691,236**	**799,173**	**904,305**
		(Million USD)	**184,208**	**217,782**	**176,051**	**213,280**	**259,766**	**282,916**	**298,899**	**328,905**	**315,942**	**293,811**	**299,315**

Insurance Law and to the Other Certain Laws and Statutory Decrees). Law No. 6111. Official Gazette: 25 February 2011. Art. 5(1)-c.

(Million EURO)	**146,457**	**159,402**	**165,131**	**153,462**	**195,915**	**203,440**	**232,492**	**247,629**	**237,868**	**264,779**	**270,765**
Property Tax Revenue as % of All State Tax Revenues	*0.98*	*0.94*	*1.00*	*1.05*	*1.24*	*1.33*	*1.56*	*1.15*	*1.38*	*1.40*	*1.43*
Property Tax Revenue as % of All State Revenues	*0.53*	*0.52*	*0.55*	*0.56*	*0.68*	*0.73*	*0.83*	*0.62*	*0.72*	*0.74*	*0.74*

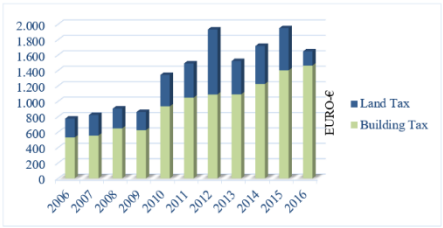
Source: www.kalkinma.gov.tr; www.bumko.gov.tr; www.muhasebat.gov.tr.

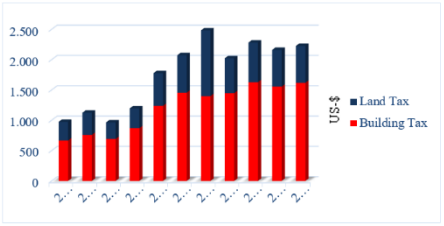
Considering the revenue performance of the different types of property tax, the building tax seems more profitable than the land tax. In this context, TRY 4.8 billion (USD 1.6 billion or EURO 1.4 billion) of the total TRY 6.7 billion (USD 2.2 billion or EURO 2 billion) property tax revenue has been raised from the building tax. Similarly, TRY 1.8 billion (USD 608 million or EURO 182 million) of the total property tax revenue has been generated from the land tax in 2016 (Figure 19.1). The growth in the construction sector, over the past decade, has been particularly influential in the emergence of this situation. However, the low share of the land tax within property tax revenues does not mean that this tax is insignificant or irrelevant. The main point to be noted here is that the building tax, which is directly related to the real estate market, has a higher revenue potential than the land tax. The high potential of the buildings to create added value in the economy and the remarkable increase of the market value of the buildings is an irrefutable fact of the Turkish real estate market. This situation makes the building tax more important and relevant than the land tax for local authorities.

The revenue performance of the property tax is following a stable course as the TRY-denominated currency. Although this stability has a nominal meaning, it can be seen that this stability is not protected in real terms. More clearly, when the revenue performance of the property tax is analyzed in Euro and US Dollar terms, it seems that this performance has fluctuated over years. For instance, looking at the charts for 2016 (Figure 19.1), it can be seen that the property tax revenues in TRY-denominated currency has increased compared to the previous year. However, when compared to the revenue performance of the property tax in terms of US Dollars and Euro, it shows a decrease in terms of the USD-denominated and a very low increase in terms of the Euro-denominated currencies. This situation is the direct result of the depreciation of the TRY against these currencies after 2014. The TRY had followed a stable course against the US Dollar and Euro until 2014. However, in 2014 the TRY depreciated by 24% against the US Dollar and 15% against the Euro. Subsequently, in 2015 it depreciated by 11% against the US Dollar and 10% against the Euro. As a natural consequence of these depreciations, although the revenue performance of the property tax show a steady increase in TRY, the revenue has fluctuated in terms of US Dollars and the Euro.

As of 2012, the tax amnesty introduced by Law No. 6111 increased the revenue performance of the property tax in TRY, US Dollars and in Euro.

Figure 19.1: Revenue Performance of the Property Tax Types by Currencies (Million TRY-EURO-USD)





It would be beneficial to mention the percentage (annual) changes in property tax yield in order to measure the efficiency of the property tax. As shown in Table 19.6 and Figure 19.2, in 2010 a dramatic increase (in terms of all currencies) occurred in property tax revenues. A similar increase is also experienced in revenues both at the local level and at the national level (general administration). However, in 2013, there was a marked decrease in land tax revenues. As a result of the development of the construction sector, the transformation of the taxable lands to completed constructions directly affected this shift. Thus, as a result, land tax revenues shifted to building tax revenues. At this point, the following question may be come to mind: Why did the building tax revenues did not increase markedly in the same year? The answer of this question is quite clear: the newly constructed building exemption from taxation.

Table 19.6: Comparative Property Tax Revenue Performance - Percentage (%) Change

	Currency	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**
Building Tax	By TRY	5.6	3.5	24.4	9.3	38.2	30.8	3.2	9.8	29.3	18.8	15.6
	By USD	-1.1	13.8	-8.9	25.7	42.5	17.5	-3.9	3.5	12.4	-4.5	4.1
	By EURO	-2.0	4.8	16.7	-3.6	49.3	12.0	4.0	0.2	12.4	14.3	4.5
Land Tax	By TRY	10.2	7.7	2.4	4.5	59.3	27.5	88.4	-43.9	31.0	15.4	11.3
	By USD	3.2	18.5	-25.0	20.1	64.2	14.5	75.5	-47.1	13.9	-7.2	0.2
	By EURO	2.2	9.1	-3.9	-7.9	72.1	9.2	89.9	-48.8	13.9	11.1	-66.7
	By TRY	**4.9**	**4.9**	**17.3**	**8.0**	**44.0**	**29.8**	**28.6**	**-13.6**	**29.8**	**17.8**	**14.4**

	Currency	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Total Property Tax Revenue	By USD	**-1.7**	**15.3**	**-14.1**	**24.1**	**48.4**	**16.6**	**19.8**	**-18.6**	**12.8**	**-5.2**	**3.0**
	By EURO	**-2.7**	**6.1**	**10.0**	**-4.8**	**55.6**	**11.2**	**29.6**	**-21.2**	**12.8**	**13.4**	**3.4**
All Tax Revenues at Local Level	By TRY	**-71.7**	**9.3**	**13.5**	**-9.9**	**56.4**	**16.9**	**5.0**	**13.3**	**13.1**	**16.8**	**12.8**
	By USD	**-73.5**	**20.2**	**-16.9**	**3.6**	**61.2**	**5.0**	**-2.1**	**6.8**	**-1.7**	**-6.0**	**1.6**
	By EURO	**-73.7**	**10.6**	**6.5**	**-20.5**	**69.0**	**0.1**	**5.9**	**3.4**	**-1.7**	**12.5**	**2.0**
All Revenues at Local Level	By TRY	**54.8**	**11.8**	**9.5**	**9.4**	**26.1**	**18.4**	**9.2**	**20.4**	**4.6**	**12.1**	**11.9**
	By USD	**45.0**	**23.0**	**-19.9**	**25.7**	**30.1**	**6.3**	**1.8**	**13.5**	**-9.1**	**-9.8**	**0.8**
	By EURO	**43.6**	**13.2**	**2.7**	**-3.6**	**36.3**	**1.4**	**10.1**	**9.8**	**-9.1**	**7.9**	**1.2**
Tax Revenues at National Level	By TRY	**17.3**	**10.3**	**10.1**	**2.3**	**22.7**	**20.4**	**9.8**	**17.1**	**8.2**	**15.7**	**12.4**
	By USD	**9.9**	**21.3**	**-19.4**	**17.5**	**26.5**	**8.2**	**2.3**	**10.4**	**-6.0**	**-7.0**	**1.2**
	By EURO	**8.8**	**11.7**	**3.2**	**-9.8**	**32.6**	**3.2**	**10.6**	**6.8**	**-6.0**	**11.4**	**1.5**
All Revenues at National Level	By TRY	**23.3**	**7.5**	**10.4**	**5.4**	**18.1**	**21.2**	**13.4**	**16.7**	**10.5**	**15.6**	**13.2**
	By USD	**15.6**	**18.2**	**-19.2**	**21.1**	**21.8**	**8.9**	**5.6**	**10.0**	**-3.9**	**-7.0**	**1.9**
	By EURO	**14.4**	**8.8**	**3.6**	**-7.1**	**27.7**	**3.8**	**14.3**	**6.5**	**-3.9**	**11.3**	**2.3**

Source: www.kalkinma.gov.tr; www.bumko.gov.tr; www.muhasebat.gov.tr.

Figure 19.2: Local Taxes and Revenues - Percentage Change by Currencies (%)

In comparison with the annual change in total property tax revenues and tax revenues at the national level, it is clear that property tax revenues increased more than the general administration revenues until 2013. This situation changed in 2013 as a result of the newly-constructed building exemption. However, in 2014 and 2015, property tax revenues increased more than general administration revenues again (Figure 19.3).

Figure 19.3: Total Property Tax Revenues and Tax Revenues at National Level – Percentage Change by Currencies (%)

1.6 Potential Reforms

It should be remembered that property tax rates are increased by 100% within the boundaries of metropolitan municipalities and contiguous regions. This provision, which was introduced by Article 8 of the Property Tax Law, applies to all metropolitan municipalities without exception. Today in Turkey, the number of metropolitan municipalities has reached thirty, with thirteen of them established in 2012.[76] However, some of these newly-established metropolitan municipalities are not as physically and economically developed compared to others. If the relevant provision is applied without exception among all metropolitan municipalities, it will be difficult to acquire property within any of the newly-established metropolitan municipalities. Consequently, in the following years, inter-regional differences in terms of development will increase even

[76] On Dört İlde Büyükşehir Belediyesi ve Yirmi Yedi İlçe Kurulması ile Bazı Kanun ve Kanun Hükmünde Kararnamelerde Değişiklik Yapılmasına Dair Kanun (Fourteen Metropolitan Municipalities and Twenty-Seven Districts Establishment and Amendment at Several Laws and Decree Law). Law No. 6360. Official Gazette: 06 December 2012, Art. 1.

more. In this context, the relatively low-rated property tax application, limited to a certain periods of time, will be useful in order to prevent this.

It should also be noted that, in order to minimize development disparities among the local administrations (especially municipalities), there are two complementary mechanisms in the Turkish Public Finance System: the financial and technical support mechanism, and the direct financial support mechanism from the general budget revenues.

Firstly, the financial and technical support mechanism is connected with the İller Bank. The İller Bank was established in 1933 (under name of the Municipal Bank) in order to mediate the funding transferred from the central budget to the municipalities for urban planning and infrastructure investments[77], to provide financial resources for the main public services within the city planning and construction, and to award loans.[78] Because of the rapid population growth, increasing rural-urban migration and urbanisation, in 1945 the fields of activity of the Municipal Bank were expanded to include all local administrations (such as municipalities, special provincial administrations, and villages), its services were expanded to include financial and technical support, and its organizational structure was revised under the name of "İller Bank".[79]

Thus, today, the İller Bank is a development and investment bank and a joint stock company having legal personality. Municipalities and special provincial administrations are the partners of the Bank. The Bank is a related establishment of Ministry of Environment and Urban Planning, and its main objectives are:

- to meet the financial requirements of the local administrations;
- to develop projects in accordance with local needs;
- to render consultancy services for local administrations; and
- to implement all kinds of development and investment banking functions.

In order to achieve these objectives, the Bank offers different types of loans and provides the services of research, project development, consultancy, and technical assistance to the local administrations.[80] According to the Municipal Law No. 5393 and Special Provincial Administration Law No. 5302 municipalities and special provincial administrations use investment loans and cash loans from the İller Bank.[81] These loans can be in the form of

[77] İlbank. 2015-2019 Strategic Plan. As Accepted by the Board of Directors in Decision No. 30/588 Dated 28.11.2014. Ankara: İller Bank, 2014, pp. 33-34.
[78] Çetinkaya, Ö. Mahalli İdareler Maliyesi (Local Administrations Finance). 4. Baskı (Edition). Bursa: Ekin Pub., 2014. p. 205.
[79] İlbank. 2015-2019 Strategic Plan. As Accepted by the Board of Directors in Decision No. 30/588 Dated 28.11.2014. Ankara: İller Bank, 2014, pp. 33-34.
[80] The Main Agreement of İller Bank J.S.C. Turkish Trade Registry Gazette: 16.03.2011.
[81] Belediye Kanunu (Municipality Law). Law No. 5393, Official Gazette: 03 July 2005. Article 68/b. See also İl Özel İdaresi Kanunu (Special Provincial Administration Law). Law No: 5302, Official Gazette: 04 March 2005. Article 51/b.

project loans, cash support loans, cash loans, and non-cash loans, when they are classified by type. Loans are allocated over short-, medium- and long-terms.[82]

Secondly, the direct financial support mechanism involves giving local authorities a share of the general budget revenues. Thus, each year a share of the general budget tax revenues is given to the municipalities on a regular basis and at certain rates over the sum. These shares are determined based on the population of local administrations and the development index. Population distribution and density within the local authorities is the most and major factor in determination of these shares. The second factor affecting these shares is the development index. The development index, which is directly defined by the Ministry of Development, consists of indicators based on such as education, health, employment, industry, agriculture, construction, infrastructure, finance and demography. In the development index, municipalities are divided into five groups from the most developed municipalities to the least developed municipalities. 23% of the shares deducted from the general budget tax revenues are allocated to the first group, 21% to the second group, 20% to the third group, 19% to the fourth group, and 17% to the fifth group. Depending on the population and the development index and according to the Law on the Giving Share from the General Budget Tax Revenues to the Municipalities and Special Provincial Administrations No. 5779, the tax revenue shares are calculated on a monthly basis by the Ministry of Finance and are transferred to the local administrations by the İller Bank[83].

In order to improve the revenue performance of the property tax, all properties should be recorded at the Land Registry and a common property tax data recording and processing systems should be established. In this way, property tax losses and evasions will be reduced, municipalities' revenues will be increase markedly, and a common standard will be established at the point of the tax valuation.

Today, some of the problems awaiting solutions occur at the point of tax valuation. Firstly, the tax valuation method(s) do not adequately comply with the principle of fair taxation. In order to protect and maintain the principle of fair taxation, when determining the tax value of the property, the purpose to which the property is put, the taxpayers' ability to pay, justice in the distribution of income and wealth, and the personal and family status of the property owners, should be taken into account.

Secondly, there is an imbalance between the market value and the tax value of the property. Therefore, when calculating the tax value of the property, the market value directly must be taken into account.

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[82] The Main Agreement of İller Bank J.S.C. Turkish Trade Registry Gazette: 16.03.2011. Art. 6-13; See also İlbank. 2015-2019 Strategic Plan. As accepted by the Board of Directors in Decision No. 30/588 Dated 28.11.2014. Ankara: İller Bank, 2014, p. 37.

[83] İl Özel İdarelerine ve Belediyelere Genel Bütçe Vergi Gelirlerinden Pay Verilmesi Hakkında Kanun (Law on the Giving Share from the General Budget Tax Revenues to the Municipalities and the Special Provincial Administrations). Law No: 5779, Official Gazette: 02 July 2008. Art. 1-2-4-5.

Lastly, new and old buildings located in the same locality are taxed using the same methodology without any discrimination. These and other problems, that cause both tax losses and undermine the principle of equity in taxation, can be solved with a new tax valuation method. At this point, the current tax valuation method, which is carried out by municipalities (accepted as the affiliated tax office), should be terminated and a commission consisting of academicians and representatives from the real estate market should determine tax value.

As a requirement of modern taxation, the level of clarity in the wording of the tax legislation directly affects tax efficiency. In other words, tax efficiency is directly proportional to the simplicity, comprehensibility and comprehensive coverage of the tax laws. In this regard, the Ministry of Finance is currently conducting a study of potential reform in the framework of tax laws.

Currently, a new regulation known as the "Rent Tax" (on the real estate market) is on the agenda of the Ministry of Finance. This regulation, originally termed "capital gain share", aims to ensure that local governments get a share from the windfall profits which result from zoning plan changes. In order to realise a capital gain share, either an increase in value should occur in the building or a land should be zoned for construction. Such a measure is also aimed at preventing the unjust enrichment which result from changes in the zoning plans as a result of the capital gain share.

2 Evolution of Real Estate Markets

The economic development of the Turkish Republic has been led by the construction sector, because of the strong interrelationship between the construction sector and economic development. Particularly, in the framework of the transition to a free market economy, the post-1980 period has been important for the development of the real estate market in Turkey. Since the 1980s, the construction industry, and hence the real estate market, has gone through many phases. The growth of the construction industry slowed after 1988 because of rising interest rates and increasing costs, and growth in the construction industry during most of the 1990s remained well below its potential. [84]

1998 offered a brief period of improvement that was negated by the 1999 earthquakes and the crises that followed. Both earthquakes and economic crises directly affected the construction sector. The sector shrank by 12.7% in 1999 over the previous year. After the 1999 earthquakes, housing loans, public tenders and the mandatory Earthquake Insurance and Building Control System were introduced. With the support of these arrangements and precautions, the construction industry showed a 5.8% growth in 2000 over the previous year. The 2001 economic crisis caused serious economic contraction, and the construction industry and real estate market did not regain their former strength for another four years.

[84] TOKİ (Republic of Turkey Prime Ministry Housing Development Administration). Building Turkey of the Future: Corporate Profile 2010/2011. Ankara. 2011. p. 6.

The "Transition to the Strong Economy Programme", which was a government initiative to strengthen and to stabilize the economy, was introduced after the 2001 economic crisis in order to reconstitute the economic structure. The programme has had a direct impact on the development of the construction sector. From 2004 to 2010, the Turkish construction industry has grown 18% on average.[85]

The 2008 global financial crisis also adversely affected the Turkish economy and the construction sector. By the end of 2008, while the economy grew only 0.66%, the shrinkage in the construction sector reached 8.1%.[86] However, by the end of 2010, the construction sector was the fastest growing sector in Turkey with a percentage increase of 18.3% compared to the 2009 (Table 19.7). The construction sector maintained its growth in 2011. However, by 2012, the growth rate in the construction sector dramatically dropped to 0.6% as a reflection of the slow down in the GDP growth rate. Although the GDP growth rate slowed down by 2.1% in 2012 right after the global financial crisis, Turkey record around a 4.2% GDP growth rate in 2013. As of 2015, the GDP has grown by 4% on average, the size of the construction sector reached TRY 85.9 billion (USD 31.6 billion or EURO 28.4 billion) and its annual growth rate has been 1.7%.

Today, the Turkish construction sector's share of GDP has reached 4.6%. Additionally, the increase in population indicates that the sector is still growing. Indeed, the population growth rate was around 13.4% in 2015 (Table 19.7). The construction sector is directly connected with the population growth rate. The increase in the population naturally accelerates the migration from the villages to the cities and increases the demand for housing.

Today's Turkish construction sector is internationally renown and it is the third largest construction sector in the world behind the United States and China.[87]

[85] TOKİ (Republic of Turkey Prime Ministry Housing Development Administration). Building Turkey of the Future: Corporate Profile 2010/2011. Ankara. 2011. p. 6.
[86] TOKİ (Republic of Turkey Prime Ministry Housing Development Administration). Building Turkey of the Future: Corporate Profile 2010/2011. Ankara. 2011. p. 6.
[87] TOKİ (Republic of Turkey Prime Ministry Housing Development Administration). Building Turkey of the Future: Corporate Profile 2010/2011. Ankara. 2011. p. 6.

Table 19.7: Construction Sector in the light of the Main Economic and Social Indicators

	Currency	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Construction Sector	(Million TRY) (1)	28,694	35,849	41,013	44,658	36,578	45,670	57,751	62,157	69,557	79,765	85,883
	(Million US$)	21,401	25,050	31,512	34,540	23,644	30,439	34,582	34,676	36,584	36,458	31,574
	(Million EURO)	17,187	19,916	23,065	23,556	17,013	22,957	24,867	26,972	27,544	27,449	28,454
Percentage Change in Construction Sector		9.34	18.5	5.7	-8.1	-16.1	18.3	11.5	0.6	7.4	2.2	1.7
Contruction Sector as % of GDP		4.42	4.73	4.86	4.70	3.84	4.16	4.45	4.39	4.44	4.56	4.40
GDP	(Million TRY) (1) (2)	648,932	758,391	843,178	950,534	952,559	1,098,799	1,297,713	1,416,798	1,567,289	1,748,168	1,953,561
	(Million US$)	483,992	529,932	647,846	735,190	615,746	732,357	777,074	790,404	824,321	799,031	718,216
	(Million EURO)	388,691	421,328	474,181	501,397	443,051	552,341	558,781	614,799	620,623	601,578	647.248
Percentage Change in GDP		8.40	6.9	4.7	0.7	-4.8	9.2	8.8	2.1	4.2	3.0	4.0
Population (x 1000)		-	70,230	70,586	71,517	72,561	73,723	74,724	75,627	76,668	77,696	78,741
Annual Growth Rate of Population (‰)		-	13.2	13.0	13.1	14.5	15.9	13.5	12.0	13.7	13.3	13.4

(1) At 1998 Basic Prices.
(2) GDP as Purchaser's Prices.
Sources: www.kalkinma.gov.tr, www.tuik.gov.tr.

The Turkish real estate market can not be limited to domestic projects and activities. Thus, it is useful to take a special look at the overseas projects undertaken by Turkish contractor companies. These projects include both housing projects and engineering works (such as dams, bridges, power plants, tunnels, and subways) that require intensive technical knowledge and capital adequacy. Turkish contractor companies have undertaken a total of 8,996 projects worth USD 344 billion in 117 countries from 1972 to mid-2017. According to the Top 250 International Contractors List prepared by the Engineering News Record, Turkey took the second place (after China) with sixty companies. While the international contracting market has declined by 14% in the last 3 years, the total market share of Turkish firms has increased since 2013. In this context, the total market share of Turkish firms has been 3.8% in 2013, 4.3% in 2014, 4.6% in 2015, and 5.5% in 2016.[88]

Turkish contractor companies have undertaken a total of 4,078 overseas projects worth TRY 408 billion (USD 214 billion or EURO 164 billion) from 2008 to 2016. Although

[88] Dalkılıç, B., Aşkın, M. Gayrimenkul ve Konut Sektörüne Bakış (Overview of the Real Estate and Housing Sector). Emlak Konut Gayrimenkul Yatırım Ortaklığı A.Ş. (Emlak Konut Real Estate Investment Company). 2017, pp. 36-37.

the international markets were adversely affected by the 2008 crisis, Turkish contractor companies achieved the highest number of projects in 2008 and 2010. While the average value of an overseas project was TRY 47 million (USD 37 million or EURO 25 million) in 2008, the average value of a plant has been TRY 216 million (USD 71 million or EURO 64 million) as of 2016. In this context, from 2008 to 2016, the value of a project increased by 350% in TRY, 93% in USD, and 156% in terms of EURO (Table 19.8).

Table 19.8: Overseas Projects Undertaken by the Turkish Contractor Companies

Year	Project Unit	Total Value of the Overseas Projects			Average Value of the Overseas Projects			Percentage Change in Overseas Projects (%)		
		(Million TRY)	(Million USD)	(Million EURO)	(Million TRY)	(Million USD)	(Million EURO)	(By TRY)	(By USD)	(By EURO)
2008	642	30,813	23,832	16,253	47.99	37.12	25.32	-	-	-
2009	507	31,336	20,256	14,575	61.81	39.95	28.75	1.70	-15.01	-10.33
2010	624	35,045	23,358	17,617	56.16	37.43	28.23	11.84	15.31	20.87
2011	556	39,108	23,418	16,840	70.34	42.12	30.29	11.59	0.26	-4.41
2012	543	54,406	30,352	23,609	100.20	55.90	43.48	39.12	29.61	40.20
2013	423	57,079	30,021	22,603	134.94	70.97	53.43	4.91	-1.09	-4.26
2014	344	58,775	26,864	20,225	170.86	78.09	58.80	2.97	-10.52	-10.52
2015	259	63,140	23,213	20,919	243.78	89.63	80.77	7.43	-13.59	3.43
2016	180	38,929	12,885	11,656	216.27	71.58	64.76	-38.35	-44.49	-44.28
TOTAL	**4,078**	**408,631**	**214,199**	**164,296**						

Source: Dalkılıç, B., Aşkın, M. Gayrimenkul ve Konut Sektörüne Bakış (Overview of the Real Estate and Housing Sector). Emlak Konut Gayrimenkul Yatırım Ortaklığı A.Ş. (Emlak Konut Real Estate Investment Company). 2017, p. 38.

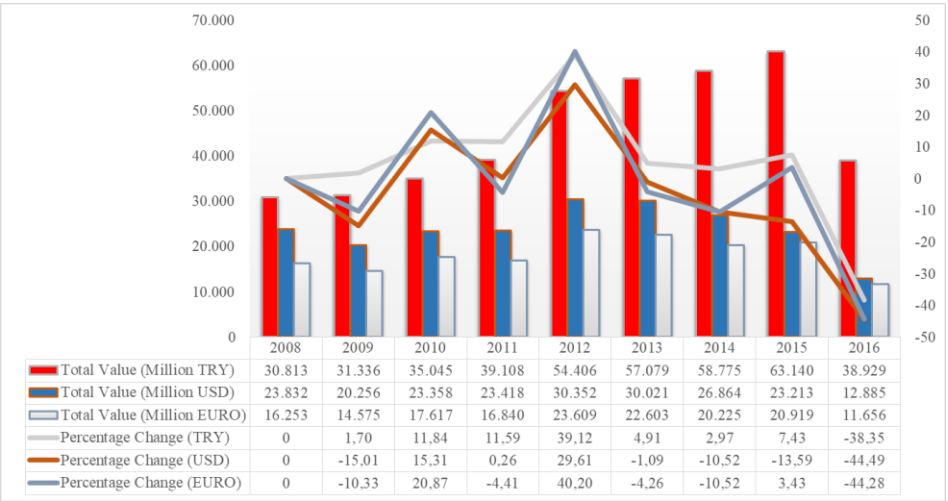
The percentage change in the value of overseas projects undertaken by the Turkish contractor companies is also worthy of consideration. From 2008 until 2016, this change had always been positive in terms of TRY. In 2012, compared to the previous year, the value of projects increased by 39% in terms of TRY, 30% in USD and 40% in Euro.

Because of the uncertainties in the world economy, the turmoil in the overseas contracting industry, and geopolitical and political developments, Turkish contracting projects experienced a shrinkage in 2016 compared to the previous year[89]. In this context, this

[89] Dalkılıç, B., Aşkın, M. Gayrimenkul ve Konut Sektörüne Bakış (Overview of the Real Estate and Housing Sector). Emlak Konut Gayrimenkul Yatırım Ortaklığı A.Ş. (Emlak Konut Real Estate Investment Company). 2017, p. 39.

shrinkage was 38%. In contrast, the total market share of the Turkish contractor companies increased by 5.5% in 2016 compared to the previous year, as shown above (Figure 19.4).

Figure 19.4: Percentage Change and Value Relationship in Overseas Projects - by Currencies (%)



	2008	2009	2010	2011	2012	2013	2014	2015	2016
Total Value (Million TRY)	30.813	31.336	35.045	39.108	54.406	57.079	58.775	63.140	38.929
Total Value (Million USD)	23.832	20.256	23.358	23.418	30.352	30.021	26.864	23.213	12.885
Total Value (Million EURO)	16.253	14.575	17.617	16.840	23.609	22.603	20.225	20.919	11.656
Percentage Change (TRY)	0	1,70	11,84	11,59	39,12	4,91	2,97	7,43	-38,35
Percentage Change (USD)	0	-15,01	15,31	0,26	29,61	-1,09	-10,52	-13,59	-44,49
Percentage Change (EURO)	0	-10,33	20,87	-4,41	40,20	-4,26	-10,52	3,43	-44,28

When the relationship between the project units and the average market value is taken into consideration, from 2008 until 2016, there has been a remarkable increase in both the project quantity and the average market value of the projects. This increase was not only in terms of TRY but also in USD and EURO. The highest unit-based increase occurred in 2012. It should also be noted that there was a dramatic increase in the average market value between 2011 and 2015 (Figure 19.5).

Figure 19.5: Unit and Average Value Relationship in Overseas Prjects - by Currencies

2.1 Housing Development in Turkey and Housing Development Administration (TOKİ)

Today's Turkey still needs solid, dependable and affordable housing for its citizens, in spite of the fact that the housing needs in Turkey show a gradual increase every day. The private sector seeks projects with the greatest profit margins. However, many citizens simply cannot afford what private sector companies are offering, in the light of the current level of interest rates. The Housing Development Administration (TOKİ) is working to fill the gap between what the private sector can do and the needs of citizens.[90]

The TOKİ is a public legal entity affiliated to the Prime Ministry, and it is a non-profit government administration. Constitutionally The Republic of Turkey is a social State[91]. As a requirement of the social state principle, the 1982 Constitution affirms that:

[90] TOKİ (Republic of Turkey Prime Ministry Housing Development Administration). Building Turkey of the Future: Corporate Profile 2010/2011. Ankara. 2011. p. 7.
[91] The 'social state' is a state model that produces social security and justice policies for individuals in economic and social spheres (Türk Dil Kurumu (Turkish Linguistic Society). Türkçe Sözlük (Turkish Dictionary). Ankara: Türk Dil Kurumu Yayınları, 2011, p. 2144).

"The State shall take measures to meet the need for housing within the framework of a plan that takes into account the characteristics of cities and environmental conditions, and also support community housing projects." [92]

Thus, the Constitution has made it the right of every Turkish citizen to enjoy safe, modern housing. This provision also makes the State responsible for actively promoting housing projects in the fulfillment of this goal.[93] In accordance with this provision, the Housing and Public Partnership Directorate was established as an autonomous institution to assist in developing public housing projects. The Law on the Promotion of Savings and the Acceleration of Public Investments No. 2983 established the Housing Development and Public Participation Administration to offer planning advice and the Mass Housing Law No. 2985 set out the principles and determined the framework to guide the provision of housing as well as to provide credit opportunities. The Law also created a Mass Housing Fund for housing production outside of the general budget. The Mass Housing Fund operated for 17 years until 2001. In 1990, the Housing Development and Public Participation Administration was split into two organisations, one of which the Housing Development Administration (TOKİ) and other is the Public Participation Administration.[94]

The 58th Turkish Parliament created the Emergency Action Plan for Housing and Urban Development in January 2003. According to this plan, and over the four successive years, Parliament passed 19 legal documents to give TOKİ the necessary organisational authority to transform the housing landscape. A total of 64.5 million square metres of land was transferred to TOKİ's portfolio to develop projects to provide public housing. TOKİ was transferred from the Ministry of Public Works and Settlements, becoming an autonomous administration directly under the control of the Prime Ministry in 2004. In order to ensure TOKİ had the necessary authority to undertake large urban renewal projects, Parliament gave the Administration the legal powers it needed.[95]

"The ability to expropriate private land for the public good when necessary, to modify any scaled zoning plan, as long as the environment and necessary social utilities were left intact, and the ability to work together with local administrations to identify, plan, finance and build urban projects, were several of the most important legal tools with which TOKİ was entrusted. Since TOKİ began work in 1984, approximately 500,000 housing units

[92] Türkiye Cumhuriyeti Anayasası (Constitution of the Republic of Turkey). Law No. 2709. Official Gazette: 20 October 1982, Art. 57.
[93] TOKİ (Republic of Turkey Prime Ministry Housing Development Administration). Building Turkey of the Future: Corporate Profile 2010/2011. Ankara. 2011. p. 8.
[94] TOKİ (Republic of Turkey Prime Ministry Housing Development Administration). Building Turkey of the Future: Corporate Profile 2010/2011. Ankara. 2011. p. 8-34.
[95] TOKİ (Republic of Turkey Prime Ministry Housing Development Administration). Building Turkey of the Future: Corporate Profile 2010/2011. Ankara. 2011. P. 7-8-9.

and an impressive variety of social and economic facilities, such as hospitals and schools, have been built. "[96]

Today's TOKİ, is a public institution operating in the areas of greatest need as part of the provision of residential accommodation and urban development policies. These areas can be categorized as public housing, urban renewal and the transformation of slums, resource development projects and the development of property with infrastructure.[97]

As of June 2016, TOKİ housing implementations reached a total of 720,738 units; and of these, 602,959 housing applications are included within the scope of social housing. The share of social housing, within the total housing applications, is 84.93 % (Table 19.9). In this context, 591,736 housing units have been sold and 574,046 unit houses have been delivered to memebers of the public. The value of the implementations and projects that are under construction total TRY 76.94 billion (being some USD 25.47 billion or EURO 23.03 billion). In addition to housing applications, TOKI's operations include social facilities such as schools, universities, sports halls, hospitals, health care centers, libraries, stadiums, trade centers, community centers, and industrial estates comprising 8,350 units. To this end, 900,000 people were employed within the framework of TOKİ applications.[98]

Table 19.9: Distribution of TOKİ Housing Applications

Type	**Units**	**%**
Low and Middle Income Groups	304,048	42.83
Poor Income Groups	148,565	20.93
Transformation of Slums	106,865	15.05
Disaster Housing Applications	37,734	5.31
Agriculture Village Applications	5,747	0.81
Total Social Housing	***602,959***	***84.93***
Fund Raising (TOKİ)	19,624	2.77
Fund Raising (EGYO(1)+EPPY(2))	87,297	12.30
Total Fund Raising	***106,921***	***15.07***
TOTAL	**709,880**	**100**
Projects under evaluation phase	2,036	
Dated Procurements	8,822	
GENERAL TOTAL	**720,738**	
June Procurements: The number of houses	5,238	

[96] TOKİ (Republic of Turkey Prime Ministry Housing Development Administration). Building Turkey of the Future: Corporate Profile 2010/2011. Ankara. 2011. P. 9.
[97] TOKİ (Republic of Turkey Prime Ministry Housing Development Administration). Building Turkey of the Future: Corporate Profile 2010/2011. Ankara. 2011. P. 10.
[98] TOKİ Konut Üretim Raporu (TOKİ Housing Production Report). http://www.toki.gov.tr/AppResources/UserFiles/files/ozet.pdf, 12.06.2016.

Type	Units	%
Housing Applications: 01 January 2016 to 07 June 2016	21,127	

(1) EGYO: Emlak Konut Real Estate Investment Company. An affiliate of TOKİ.
(2) EPPY: Real Estate Planning Construction Project Management and Trading Co. (Emlak Planlama İnşaat Proje Yönetimi ve Ticaret A.Ş.) An affiliate of TOKİ.
Source: http://www.toki.gov.tr/.

2.2 Privatisation and Foreign Investments

The privatisation of various government enterprises, such as TÜPRAŞ (Turkish Petroleum Refineries Corporation), PETKİM (Turkish Petrochemical Corporation) has attracted the interest of domestic and international investors. In connection with this, the government has developed plans on public-private partnerships for many infrastructure projects, such as hospitals, airports, bridges and ports (including the İzmir and Derince Ports, the (Third) İstanbul New Airport, and the (Third Bosporus) Yavuz Sultan Selim Bridge). In addition, in order to increase direct foreign investment, the government focus is on ensuring land availability for foreign investments over the mid- to long-term.[99]

With the amendment in the Land Registry Law in May 2015, foreigners have obtained the right to acquire property in Turkey.[100] Additionally, this amendment has opened the door to property sales to foreigners, and, as a result, the share of property sales to foreigners as a percentage of total foreign direct investments has increased.[101] The total international direct investment inflow reached USD 16.8 billion in 2015 and international real estate investments increased exponentially after 2012 and reached USD 4.2 billion in 2015 (Table 19.10). This regulation is expected to increase demand for properties, especially residential, commercial and industrial buildings, in Turkey from internationals in the future.

[99] Deloitte. Turkish Real Estate Market 2014. P. 11, http://www2.deloitte.com/content/dam/Deloitte/tr/Documents/Real%20Estate/EN_RealEstate2014_11072014.pdf, 18.03.2015.
[100] Land Registry Law (Tapu Kanunu). Law No. 2644. Official Gazette: 29 December 1934, Art. 35-36.
[101] Deloitte. Turkish Real Estate Market 2014. P. 11, http://www2.deloitte.com/content/dam/Deloitte/tr/Documents/Real%20Estate/EN_RealEstate2014_11072014.pdf, 18.03.2015.

Table 19.10: International Direct Investment Inflow by Sector and International Real Estate Investment in Turkey (Million USD)

	2006	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**
Construction Sector	222	285	336	208	328	301	1,427	178	232	76
Real Estate and Renting Sector	99	560	641	560	409	300	173	128	227	169
Other Sectors	17,318	18,292	13,770	5,484	5,557	15,535	9,159	9,572	8,117	11,613
International Direct Investment Inflow	**17,639**	**19,137**	**14,747**	**6,252**	**6,294**	**16,136**	**10,759**	**9,878**	**8,576**	**11,858**
Construction + Real Estate + Renting Sectors as % of International Direct Investment Inflow	*1.8*	*4.4*	*6.6*	*12.3*	*11.7*	*3.7*	*14.9*	*3.1*	*5.4*	*2.1*
International Real Estate Investment	**2,922**	**2,926**	**2,937**	**1,782**	**2,494**	**2,013**	**2,636**	**3,049**	**4,321**	**4,156**
International Direct Investment Total	**20,185**	**22,047**	**19,504**	**8,411**	**9,084**	**16,182**	**13,284**	**12,384**	**12,523**	**16,819**
International Real Estate Investment as % of International Direct Investment Inflow	*14.5*	*13.3*	*15.1*	*21.2*	*27.5*	*12.4*	*19.8*	*24.6*	*34.5*	*24.7*

Source: Ekonomi Bakanlığı (The Ministry of Economy). Uluslararası Doğrudan Yatırım Verileri Bülteni (International Direct Investment Information Bulletin). May 2016, pp. 13-14; As well Ekonomi Bakanlığı (The Ministry of Economy). Uluslararası Doğrudan Yatırım Verileri Bülteni (International Direct Investment Information Bulletin). December 2011, p. 13.

2.3 Expropriation

"Urban Renewal and Development officially started in Turkey after the enactment of the Law on the Transformation of Areas under Disaster Risk No. 6306 "Renewal of Regions under Disaster Risks" in 2012. According to the Ministry of Environment and Urbanism, 6.5 million residences are planned to be demolished and reconstructed within a 20-year timeframe under the scope of the Urban Renewal Project. A budget of USD 400 billion is estimated to be required for this initiative where the private sector is expected to play the largest role.[102]"

[102] Deloitte. Turkish Real Estate Market 2014. P. 27, http://www2.deloitte.com/content/dam/Deloitte/tr/Documents/Real%20Estate/EN_RealEstate2014_11072014.pdf, 18.03.2015.

In connection with the urban renewal and development programme, expropriation issues have become even more important. The cost of the expropriation of land and buildings reached up to TRY 6.9 billion in 2015 (USD 2.5 billion or EURO 2.2 billion) (Table 19.11).

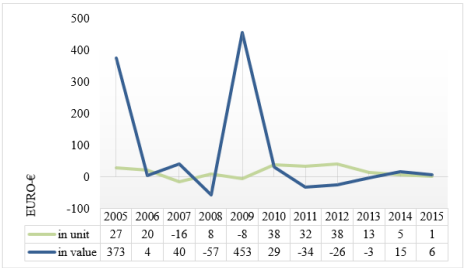
Table 19.11: Expropriation Data

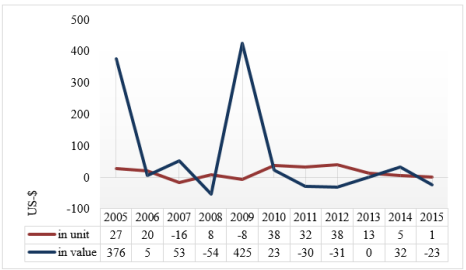
Year	Unit Numbers	Percentage Change in Unit Numbers	Value			Percentage Change in Value (Year on Year)		
			(TRY)	(USD)	(EURO)	By TRY	By USD	By EURO
2005	37,346	27	1,485,666,986	1,108,053,451	889,871,393	346	376	373
2006	44,752	20	1,665,645,987	1,163,883,969	925,358,882	12	5	4
2007	37,450	-16	2,310,181,209	1,775,000,737	1,299,182,990	39	53	40
2008	40,533	8	1,052,947,956	814,401,587	555,419,674	-54	-54	-57
2009	37,481	-8	6,609,504,303	4,272,465,613	3,074,188,048	528	425	453
2010	51,701	38	7,875,388,167	5,248,999,018	3,958,774,558	19	23	29
2011	68,130	32	6,108,004,918	3,657,487,975	2,630,040,009	-22	-30	-34
2012	94,182	38	4,506,116,891	2,513,872,743	1,955,364,046	-26	-31	-26
2013	106,524	13	4,772,973,451	2,510,360,463	1,890,024,532	6	0	-3
2014	111,539	5	6,300,488,578	3,313,761,868	2,168,118,934	32	32	15
2015	112,928	1	6,920,768,440	2,544,381,453	2,292,966,292	10	-23	6

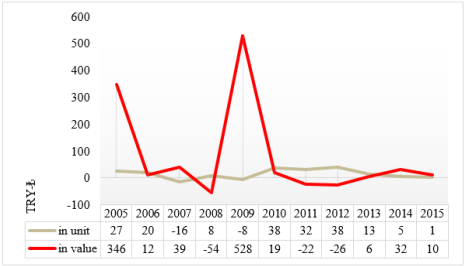
Source: www.tkgm.gov.tr/.

In the eleven-year period (from 2005 to 2015), it is not possible to say that the expropriation process has followed a stable trend as a percentage change (Figure 19.6). However, the process of expropriation will further increase and become important in connection with the urban renewal and development programme in future.

Figure 19.6: Percentage Change in Expropriations - by Currencies (%)







2.4 Nature of the Real Estate Market and Real Estate Data

The Turkish real estate market provides many opportunities to domestic and international investors over the mid- to long-term. However, it is still continues to suffer the impact of slow domestic growth[103]; however, in the domestic market real estate demand in parallel with real estate supply is gradually increasing. The total area of building covered by permits reached 1.5 billion m^2 and the total market value reached TRY 867 billion (USD 538 billion or EURO 406 billion) from 2002 to 2014 (Table 19.12).

According to the data from The Association of Real Estate and Real Estate Investment Companies (GYODER), in 2017, the urbanisation rate is 78%. It is suggested that the urbanised population in Turkey will be 71 million by 2023.[104] This population shift increases the demand for construction of new residential buildings in urban areas.[105] Residential building permits granted throughout Turkey in 2014 reached 161,312,555 square metres, resulting in an increase in the supply of residential accommodation. The total area of residential building permits has reached 1.2 billion square metres and the

[103] Deloitte. Turkish Real Estate Market 2014. p. 10, http://www2.deloitte.com/content/dam/Deloitte/tr/Documents/Real%20Estate/EN_RealEstate2014_11072014.pdf, 18.03.2015.
[104] http://www.toki.gov.tr
[105] Deloitte. Turkish Real Estate Market 2014. p. 14, http://www2.deloitte.com/content/dam/Deloitte/tr/Documents/Real%20Estate/EN_RealEstate2014_11072014.pdf, 18.03.2015.

total market value reached TRY 679 billion (USD 412 billion or EURO 312 billion) from 2002 to 2014 (Table 19.12).

The Turkish commercial and industrial building market continues to demonstrate a strong performance, especially in the central business districts of major cities such as İstanbul, Ankara, and İzmir. As a result of multinational companies establishing their regional management and operational centers in Turkey, as well as increased growth and institutionalising trends of national companies, the demand for commercial and industrial buildings has gradually increased. This strong demand continues to trigger commercial and industrial buildings investments.[106] Commercial and industrial building permits obtained throughout Turkey in 2014 have reached at 29,652,971 square metres, resulting in an increase in the supply of commercial buildings. Additionally, the total area of commercial and industrial building permits reached 3.2 million square metres and the total market value reached TRY 188 billion (USD 125 billion or EURO 94 billion) from 2002 to 2014 (Table 19.12).

Table 19.12: Residential-Commercial-Industrial Buildings (According to the Building Permits)

Year	Residential Buildings					Commercial Buildings					Industrial Buildings				
	No. (Unit)	Area (000 m^2)	Market Value			No. (Unit)	Area (000 m^2)	Market Value			No (Unit)	Area (000 m^2)	Market Value		
			Billion TRY	Billion USD	Billion EURO			Billion TRY	Billion USD	Billion EURO			Billion TRY	Billion USD	Billion EURO
2002	36,973	25,462	6,269,822	4,152,200	4,384,491	2,874	3,576	888,967	588,720	621,655	1,739	3,796	955,890	633,040	668,454
2003	42,284	32,512	9,666,982	6,487,907	5,754,156	3,700	4,585	1,367,706	917,923	814,111	2,061	4,863	1,500,666	1,007,159	893,254
2004	65,286	51,080	17,586,265	12,384,693	9,992,196	4,711	5,890	2,066,270	1,455,120	1,174,017	2,712	7,325	2,555,160	1,799,409	1,451,796
2005	99,220	82,298	31,363,772	23,392,009	18,785,989	6,849	7,964	3,040,346	2,267,578	1,821,079	3.,378	7,966	2,999,914	2,237,423	1,796,861
2006	99,451	92,942	42,522,195	29,712,737	23,623,442	6,689	11,606	5,414,761	3,783,609	3,008,200	3,067	8,721	3,897,218	2,723,214	2,165,121
2007	91,610	89,807	44,888,282	34,489,387	25,243,947	6,296	104,380	66,847,070	51,361,165	37,592,972	3,696	10,609	5,111,024	3,926,996	2,874,301
2008	81,003	74,341	42,492,549	32,865,822	22,414,401	5,702	11,436	6,505,093	5,031,358	3,431,372	2,939	6,993	3,851,399	2,978,861	2,031,575
2009	79,021	77,912	42,317,181	27,354,351	19,682,410	5,665	8,664	4,676,190	3,022,747	2,174,972	2,756	4,419	2,280,266	1,473,992	1,060,589
2010	119,625	139,087	80,940,272	53,947,234	40,686,793	7,449	12,444	7,151,925	4,766,806	3,595,107	4,408	7,386	3,997,288	2,664,219	2,009,344
2011	87,246	93,460	61,550,054	36,856,320	26,502,779	5,164	10,599	6,858,678	4,106,993	2,953,271	3,098	6,029	3,756,642	2,249,486	1,617,569
2012	89,271	113,047	78,415,854	43,746,641	34,027,422	5,391	15,126	10,248,324	5,717,335	4,447,111	3,205	6,846	4,384,503	2,446,027	1,902,592
2013	99,371	125,620	91,528,252	48,139,573	36,243,789	6,605	13,613	9,643,738	5,072,154	3,818,773	3,294	8,095	5,449,308	2,866,081	2,157,843
2014	115,525	161,313	130,005,688	59,421,393	44,737,450	9,050	20,112	15,607,738	7,133,792	5,370,922	3,839	9,541	7,203,385	3,292,434	2,478,823

[106] Deloitte. Turkish Real Estate Market 2014. P. 16, http://www2.deloitte.com/content/dam/Deloitte/tr/Documents/Real%20Estate/EN_RealEstate2014_11072014.pdf, 18.03.2015.

	TOTAL MARKET VALUE	679,547,169	412,950,267	312,079,265	TOTAL MARKET VALUE	140,316,804	95,225,300	70,823,562	TOTAL MARKET VALUE	47,942,664	30,298,339	23,108,121
GRAND TOTAL	Billion TRY	867,806,637										
	Billion USD	538,473,907										
	Billion EURO	406,010,948										

Source: www.kalkinma.gov.tr.

It is also useful to look at housing units sold in terms of meeting the demand for new residential buildings. The total house sales (including sales subject to a mortgage) showed a significant increase from 2012 to 2013. In total, the house sales in 2013 have exceeded the 2012 level by 65%. Additionally, in the same period, the total real property sales showed an increase of 12%. However, house sales did not show the same performance in 2014 and the level of increase remained at 1%. In 2015 house sales reached 10.6% (see Table 19.13).

Table 19.13: House Sales and Real Property Sales

		2008	2009	2010	2011	2012	2013	2014	2015
House Sales (Unit)	Sales subject to a mortgage(1)	-	22,726	246,741	289,275	270,136	460,112	389,689	434,388
	Other sales	427,105	532,458	360,357	419,000	431,485	697,078	775,692	854,932
	Total	427,105	555,184	607,098	708,275	701,621	1,157,190	1,165,381	1,289,320
Percentage Change in House Sales (%)		-	30.0	9.4	16.7	-0.9	64.9	0.7	10.6
Total Real Property Sales (Unit)		1,363,124	1,522,443	1,457,495	1,966,260	1,915,673	2,151,666	2,211,382	2,380,553
Percentage Change in Total Real Property Sales (%)		-	11.7	-4.3	34.9	-2.6	12.3	2.8	7.7
House Sales as % of Total Real Property Sales		31.3	36.5	41.7	36.0	36.6	53.8	52.7	54.2
Total Real	**Million TRY**	54,813	67,056	75,921	115,000	130,576	174,545	197,622	236,041

Property Sales	**Million USD**	42,395	43,346	50,602	68,863	72,846	91,803	90,327	86,779
	Million EURO	28,913	31,189	38,163	49,518	56,662	69,117	68,006	78,204

(1) Sales subject to mortgages are demonstrating the same house as collateral for loan guarantee to build houses purchased by borrowing.
Source: www.tuik.gov.tr; www.tkgm.gov.tr/.

From 2005 to 2015, building construction costs increased by a Compound Annual Growth Rate (CAGR) of 7.31% (see Table 19.14).

Table 19.14: Building Construction Cost Index and Rate of Change

Year	Cost Index (2005=100)	Annual change (%)
2005	100	-
2006	116	16
2007	125.7	8.4
2008	142.8	13.6
2009	136.7	-4.3
2010	144.6	5.8
2011	162.5	12.4
2012	171.3	5.4
2013	180.1	5.1
2014	199.3	10.7
2015	211	5.9
2016	227.4	7.7
2017	272.1	19.7
Compound Annual Growth Rate (CAGR) 2005-2015	7.31%	

Source: www.tuik.gov.tr.

3 Property Data

3.1 GIS/Cadastres

Turkey has had a long tradition of using cadastres and land registers, as a natural consequence of the Turkish archiving tradition. [107] However, in Turkey, the first modern cadastre work was undertaken in 1912. As a result of the political and military upheavals and the events in the first quarter of the 20th century, quality cadastre work could only be carried out after the 1950s.[108]

Today, the updating of the cadastre for all immovable properties within the boundaries of municipality and the contiguous (urban) regions is carried out in accordance with the provisions of the Cadastral Law No. 3402. [109] The purposes of the Cadastral Law are as follows:

- to indicate the boundaries of the immovable properties on the map;
- to establish the land registry by determining the legal status of the immovable properties; and
- to create the infrastructure of spatial information systems. [110]

Cadastre regions are determined by the Directorate General of Land Registry and Cadastre (TKGM) and are approved by the Minister of Environment and Urbanisation. [111] The history of the TKGM dates back to the "Defterhane" (Office of the Registry of Real Property) which was the first archive established during the development era in the Ottoman Empire.[112]

Todays, its duties, under the Ministry of Environment and Urbanisation, are:

- to plan, execute and ensure the renewal and updating of the cadastral work for immovable property;
- to create a land register, ensuring its archiving and protection, and mapping;
- to determine production standards; and
- to ensure archiving.

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[107] The Republic of Turkey Ministry of Public Works and Settlement - Directorate General of Land Registry and Cadastre/Department of Archive for Land Registry. Land Registry Archive: Since the Ottoman Empire. Publication No: 1. Ankara. 2010.
[108] Mendi, M.A. Açıklamalı İçtihatlı 3402 Sayılı Kadastro Kanunu (Descriptive Cadastral Law No 3402). Ankara: Semih Ofset, 2008. pp. 21-22.
[109] Oğuzman, M.K., Seliçi, Ö., Özdemir, S.O. Eşya Hukuku (Property Law), İstanbul: Filiz Kitabevi, 2009. pp. 121-122.
[110] Kadastro Kanunu (Cadastral Law). Law No. 3402, Official Gazette: 9 July 1987, Art. 1.
[111] Kadastro Kanunu (Cadastral Law). Law No. 3402, Official Gazette: 9 July 1987, Art. 2.
[112] The Republic of Turkey Ministry of Public Works and Settlement - Directorate General of Land Registry and Cadastre/Department of Archive for Land Registry. Land Registry Archive: Since the Ottoman Empire. Publication No: 1. Ankara. 2010. p. 16.

The Land Registry and Cadastre achieves reliable records of land rights and holdings on a regular basis. It also performs all kinds of contractual and non-contractual activities related to the land registry and the register of immovable properties, including the control of changes to the registers, and ensuring of the protection of archived records and documents.

The organisation conducts the country's cadastral survey, follows the changes, and ensures the renewal and updating of land plans, as well as carrying out related control and auditing services. It creates a spatial information system infrastructure and map production; it is a monitoring centre, and ensures real and legal persons and public institutions and other organizations benefit from the data.

It also carry outs transactions of foreign real and legal persons related to the registry and cadastre in Turkey, protects the rights and interests of natural or legal persons of the Republic of Turkey which relate to real property abroad, and joins in the interstate real estate negotiations. Additionally, it plans and executes joint projects in cooperation with other countries and international organisations on issues related to its area of responsibility. The Land Registry and Cadastre licenses topographical and cadastral engineering offices.[113]

Currently, The Land Registry and Cadastre is conducting a series of projects aimed at the improvement in the land registry and cadastre system. These projects are the TRNC-Cadastre Renewal Project, Turkey's National Geographic Information System (TUCBS) Project, Land Registry and Cadastre Modernization Project (TKMP), the Completion of the Establishment Cadastre Project, Real Property Acquisition by Foreigners in Turkey and the Evaluation of the Impact Project.[114]

In Turkey, the land registration and cadastre tend to fulfill the following four objectives:

- to register unregistered immovable properties;
- to renew the registration of the registered immovable properties;
- to prepare the cadastral plans on immovable properties; and
- to determine the real beneficiaries of the immovable property.[115]

In connection with these objectives, the cadastre is divided into four groups: the rural cadastre, forest cadastre, pasture cadastre, and the zoning cadastre.[116]

The immovable properties, which are subject to the cadastre, may belong to the Treasury as they may also belong to private legal persons. Cadastral disputes are examined by the

[113] Tapu ve Kadastro Genel Müdürlüğü Teşkilat ve Görevleri Hakkında Kanunu (Law on Organisation and Duties of the Directorate General of Land and Cadastre). Law No. 6083, Official Gazette: 10 December 2010, Art. 1-2.
[114] http://www.tkgm.gov.tr/en
[115] Ertaş, Ş. Eşya Hukuku (Property Law). 8. Baskı (Edition). Ankara: Seçkin Yayıncılık, 2008. pp. 151-152.
[116] Ertaş, Ş. Eşya Hukuku (Property Law). 8. Baskı (Edition). Ankara: Seçkin Yayıncılık, 2008. p. 152.

Cadastral Courts. These courts being the Court of First Instance are composed of a single judge.[117]

3.2 Title Registration

In Turkey, the title registration system is based on the Turkish Civil Code No. 4721, Land Registry Charter No. 2013/5150, and Land Registery Law No. 2644. [118] Title registration is maintained in accordance with the provisions of the Land Registry Charter. The registration, alterations, deletions, and correction procedures of the property rights, limited real rights and individuals' rights related to immovable properties are carried out according to the Land Registry Charter. [119]

In Turkey, the following items are registered within the title registration:

- buildings and lands;
- substantive and imprescriptible easements; and
- independent units subject to property ownership. [120]

The title registration, which is an official record and in the public domain, is the responsibility of the State. The registration of immovable property is recorded in the relevant land registry, and title registration, as a complimentary element of the cadastre, consists of a variety of official books and documents in order to secure transparency related to the rights over immovable property. [121]

Today, the title registration system is based on the Land Registry and Cadastre Information System (TAKBİS). [122] This is one of the most basic e-government projects aimed at transferring all kinds of property information digitally across the country and ensuring queries by all relevant organisations. It is an integrated information system which:

- standardises operations relating to the land registry and the cadastre techniques of the Land Registry and Cadastre, enabling transactions carried out in Land Registry and Cadastre Directorates, in accordance with the legislation and in an online environment;

[117] Kadastro Kanunu (Cadastral Law). Law No. 3402, Official Gazette: 9 July 1987, Art. 16-24-25.
[118] Oğuzman, M.K., Seliçi, Ö., Özdemir, S.O. Eşya Hukuku (Property Law), İstanbul: Filiz Kitabevi, 2009. p. 121.
[119] Tapu Sicil Tüzüğü (Land Registry Charter). No. 2013/5150, Official Gazette: 17 August 2013, Art.1-2.
[120] Tapu Sicil Tüzüğü (Land Registry Charter). No. 2013/5150, Official Gazette: 17 August 2013, Art. 8.
[121] Tapu Sicil Tüzüğü (Land Registry Charter). No. 2013/5150, Official Gazette: 17 August 2013, Art. 5-6. As well Ertaş, Ş. Eşya Hukuku (Property Law). 8. Baskı (Edition). Ankara: Seçkin Yayıncılık, 2008. P. 127. As well Oğuzman, M.K., Seliçi, Ö., Özdemir, S.O. Eşya Hukuku (Property Law), İstanbul: Filiz Kitabevi, 2009. p. 123.
[122] Tapu Sicil Tüzüğü (Land Registry Charter). No. 2013/5150, Official Gazette: 17 August 2013, Art. 12-13-14.

- minimises or eliminates the user's risk associated with the transaction carried out through a series of control and warning mechanisms included in the application software;
- provides the related user with the latest legislative support for the transaction carried out on the computer screen, and provides Computer Aided Education through descriptive information relating to the transaction on the screen;
- forms an integrated structure with the flow of data generated for both the system to be established in the Directorate General and enabling citizens, provided that legislation is amended, to perform operations similar to selling from any part of Turkey;
- provides the opportunity for top management to monitor the staff performance of directors and employees of the directorate;
- develops a sense of trust between the citizen and the government which has been damaged over time, by eliminating employee initiative, ensuring compliance of procedures with regulations, and providing the citizen with accurate results in the shortest possible time;
- generates Decision Support functions reports for Regional Directorates and central offices of the Directorate General using data compiled in the centre;
- produces instant statistical results for public organisations on strategic issues related to real estate;
- centrally monitors information related to foreign-owned property and the areas of concentrated property movement by foreigners, which is necessary in terms of national security;
- forms an accurate and current information base for the Agricultural Information System and the Farmer Registration System based on Direct Income Support (Subvention);
- enables effective control by the State in the fight against corruption by carrying out financial crime investigations and interrogations of assets from a single centre and concluding inquiries into financial crimes as soon as possible; and
- performs all these operations with the logic of Geographic Information System/Land Information System.[123]

Conclusion

Today, the Turkish real estate market, which is the third largest market in the world, incorporates a major development potential over the mid- to long-term and attracts the close attention of multinational companies. Additionally, the Turkish real estate market is directly concerned with property tax efficiency, which is of great importance for the municipalities. As a municipal tax, property tax is a source of income with low efficiency at the national level. However, the real estate market, which is always open to development, is committed to increasing the potential and efficiency of the property tax.

[123] Land Registry and Cadastre Information System (TAKBIS), http://www.tkgm.gov.tr/en/page/land-registry-and-cadastre-information-system-takbis, 29.08.2015.

In other words, the property tax system should be able to benefit from the real estate markets potential.

However, the property tax system that has proven itself in terms of modern taxation principles is facing some structural problems. Foremost among those structural problems is the issue of the determination of the tax value. This problem, that causes increasing tax losses, can be resolved with the introduction of a new tax valuation methodology. At this point the current tax valuation method should be terminated and a commission consisting of academicians and representatives from the real estate market should determine the taxable value. In this way, property tax losses and evasions will be reduced and municipalities' revenues will be increase markedly.

Currently, in Turkey, some of the newly established metropolitan municipalities have a lower level of development compared to other metropolitan municipalities. If the relevant provisions related to property tax are applied without discrimination among all metropolitan municipalities, it is difficult to acquire property in the newly established metropolitan municipalities. This will also create the problem of migration to more attractive locations within the country. In this context, the relatively low-rated property tax application, which is limited to a certain period of time, will be useful in order to prevent this. Thereby, internal migration problems will be solved efficiently, and interregional differences of development will be reduced in the medium term.

Consequently, in parallel with the continued development in the real estate sector, there is a real possibility of experiencing a marked development in property tax efficiency over the next decade.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
M. Radvan, R. Franzsen, W. J. McCluskey & F. Plimmer

One Tax on Real Estate in Belarus? (The Real Estate Tax and the Land Tax)

LILIA ABRAMCHIK

Abstract According to real estate and land tax collection practice, it is clear that revenues from both real estate and land tax payment by individuals are small. For example, in 2015 the sums of the real estate tax paid by legal entities are 50 times higher than sums payable by individuals. Comparing the sums of the land tax for the same period, the sums paid by legal entities are 83 times higher. Thus, it is clear that the land tax is not as profitable as other taxes, because of the really high costs of its collection. In light of this, a suggest reform would be the introduction of the single real estate tax which would unite both the real estate and the land taxes. The main difference proposed for such tax is that it should be calculated on the basis of the real estate object cadastral value, and this represents the key problem for the common introduction of the single real estate tax. The single tax will improve the real estate potential as a whole and give it the potential to become the most profitable tax for the local budget. The further development of the state of real estate, rights in it and transactions regarding it, including registration connected with the introduction of modern informational technologies and electronic services extension, are aimed at a common access to the Unified immovable property register. It is also necessary to introduce the electronic document flow to improve the transparency of business processes in the real estate market.

Keywords: • Czech Republic • property tax • immovable property tax • valuation • tax reform

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Introduction

This chapter presents a comprehensive study of the taxation of immovable property in the Republic of Belarus on the basis of an analysis of the current tax legislation, the practice of its formation and enforcement. In addition, potential directions for improving the mechanism of the existing system of taxation are presented.

Property taxation in the Republic of Belarus comprises two types of taxes: a land tax and a property tax. However, there is a need to revise the current practice of real estate taxation in the Republic through the establishment of a single regime for the various objects of real estate taxes as a single set of interrelated elements, in particular, in terms of the land and the real estate on it. Land plots and buildings located on them can be considered as a single real estate object only where the ownership is unified and is not burdened by a legal disconnection of the land and the building. Moreover, the introduction of a single tax on real estate will reduce the number of property taxes, simplify the procedure for their calculation and payment through the introduction of a unified system, improve the tax administration and reduce costs. As a result, revenue to local budgets could be increased.

1 Real Property Tax

1.1 History

People have paid taxes for centuries. The main feature of the property tax operating in the Republic of Belarus is the fact that, in the past, the borders of the state have been dynamic, and as a consequence, the legal content of the Belarus state organization has been changed at various stages of its history. In this regard, the main changes of Belarus' state system and the transformation of the real estate tax is considered below.

The financial system of Ancient Russia began to take shape towards the end of the 11th century after the unification of the Old Russian state. At this time, the main source of income was a tribute to the atheling's (local lord) treasury. Tribute was paid by each inhabited dwelling in the lord's jurisdiction in the form of fur and coins. The Mongolo-Tatars greatly enriched the tax system in Russia, in particular by the establishment of the major taxes, including a farmstead (steading) tax and a farm building tax. The special category of taxpayers in the Grand Duchy of Lithuania (which at the time included the present state of Belarus) constituted suburban householders. They undertook many duties, including the payment of land assessments, which had different designations in different places.

In the second half of the 16th century, changes in the economic and political life of the Grand Duchy of Lithuania took place when, in accordance with the Lublin Union, the new state – Rzeczpospolita (Polish-Lithuanian Commonwealth) - was formed. Three partitions of Rzeczpospolita, resulted in Belarus being merged with Russia. As a result,

the Belarusian territory was liable to the same tax as was imposed in Russia. During 1875 - 1898, tax reform was undertaken, as a result of which direct taxes such as a land tax, real estate tax and a public housing tax were imposed. The property tax (imposed on houses, factories, warehouses and other buildings) was one of the heaviest tax burdens on individual citizens, replacing chevage (a form of poll tax).

From 1918 to 1990-1991, the Soviet system of tax and fees was imposed, after which the real estate tax was converted into a residential tax. In the Union of the Soviet Socialist Republics (USSR) a comprehensive property income tax was introduced in 1922 to regulate the size of the privately-held capitalist elements's savings. Along with this, several other taxes were introduced, including a tax for transporting goods by rail and water, a building tax, and an urban land rent[1].

With the establishment of the sovereign State of the Republic of Belarus in 1990, a specific tax system has developed, which also provides the legislative origins of the real estate tax. The Tax Code of the Republic of Belarus (hereinafter – the Tax Code), decrees, orders and instructions of the President of the Republic of Belarus are the normative legal acts regulating the real estate tax[2].

The legal definition of the concept of "property" was formalized in Art. 130 of the Civil Code of the Republic of Belarus (hereinafter – the Civil Code)[3]. According to this definition, plots of land, subsoil, surface water bodies, and all that is firmly connected to the land, i.e. objects, the movement of which is impossible without disproportionate damage to their purpose, including forests, perennials, capital structures (buildings), preserved incomplete capital structures, isolated premises, and parking lots are defined as "property" for tax purposes.[4]

Real estate may also include an enterprise (as an asset complex), state registrable aircraft and sea vessels, inland navigation vessels, river-sea sailing vessels, and space objects. According to the legislative acts, real estate may also include other property.

The real estate tax is considered to be the main source of local budget revenues, and the raising of coefficients to the rates of this tax is considered to be the only effective mechanism for local authorities to influence local budget revenues

[1] Abramchik, L. Y. Belarusian statehood and the development of the national legal system from the Statute of 1588 to the modern Constitution: Materials of the Republican scientific-practical. Minsk, 2008.
[2] History of Taxes and the taxation of individuals today. Institute of Financial Planning, 2015.
[3] The Civil Code of the Republic of Belarus.
[4] Mahota, E. Real estate tax in practical situations.

1.2 Position of the property tax

Sales of real estate in the Republic of Belarus are liable to value-added tax based on their sale price and are imposed on legal entities.

Tax law prescribes that Income Tax is levied on the income received from taxpayers:

- from sources within the Republic of Belarus and (or) from sources outside the Republic of Belarus, in the case of individuals recognized as tax residents of the Republic. In accordance with the General Part of the Tax Code[5], tax residents of the Republic are individuals who have been resident within the territory of the Republic of Belarus for more than 183 days during the calendar year;
- from sources within the Republic of Belarus in the case of individuals who are not recognized as tax residents of the Republic of Belarus. Individuals, who were actually outside the territory of the Republic of Belarus for 183 days or more during a calendar year, are not recognized as tax residents of the Republic of Belarus.

Income which is exempt from taxation includes the income of taxpayer residents of the Republic of Belarus from compensated alienation for five years in a row of (including by sale, exchange, or rent) a house (or the proportion in the ownership of the house), an apartment (or a share in the ownership of the apartment), a garden, a garden house with outbuildings, a garage, a plot of land belonging to such taxpayers on the basis of the right of ownership (but excludes the income from compensated property alienation in connection with the taxpayers' business activities).

The order of priorities in terms of the property alienation is determined according to the time the transaction is made.

The calculation of the five-year period in determining the object of taxation in respect of income referred to above is conducted from the date of the last compensated alienation of property belonging to the same property type. In the case of alienation of two or more units of property belonging to the same property type on the same day, the right to determine the order of the transactions belongs the taxpayer.

Also, the income the taxpayer receives from the market sale of one dwelling house, one apartment, a garden, a garden house with outbuildings, a garage, a plot of land in the form of inheritance is not taxable.

The termination of ownership is not recognized as a taxable event in the case of a forced disposal as a result of judicial or statutory decisions e.g. on compulsory acquisition (eminent domain) or the foreclosure to recoup a debt.

[5] The General Part of the Tax Code of the Republic of Belarus, Art 17.

The taxable base for the real property tax is the cost of the taxable object[6] and it is different for taxpayer organizations and for individuals. For organizations, the taxable base for real estate tax is determined by the taxpayer organizations themselves. The tax base for buildings in the possession of the taxpayer organization on 1 January of the calendar year, is their "residual value", and for the capital structures (buildings) where construction is in progress, it is their cost [7].

The "residual value" of buildings and structures is defined as the difference between the original (revalued) cost of the asset as of January 1 of the current year, reduced by an amount of depreciation and the amortized sums spent over the entire period of possession.

The revalued cost of buildings and other taxable structures is established as a result of a revaluation in accordance with the law. The main document determining the order of the revaluation is the Decree of the President of the Republic of Belarus ,,On the revaluation of fixed assets, unfinished construction projects and uninstalled equipment".[8]

The presence of construction in progress in the occupation of the organization may result in an increase in the real estate tax base to reflect construction costs.[9]

The determination of the real estate tax base for organizations applying the simplified tax system (hereinafter referred to as the STS) is based on:

- Accounting data; and
- Information on the "residual" value of the buildings and other taxable structures, as well as the excess capital structures (buildings) in progress.[10]

It is important that the accounts for buildings, including construction in progress, are prepared according to the rules established in the legislation.[11]

As a general rule, organizations determine the tax base for their real estate tax for the current year and submit a tax return to the tax authority by 20 March.

For organizations applying the STS in 2013, this period is increased. From January 2013, such organizations can determine the tax base for their real estate tax as of January 1 and submit it by July 1. This reflects the fact that, before 1 January 2013, many organizations using STS did not keep records of such buildings, including the capital structures (buildings) in the process of construction, and therefore did not have the information necessary to determine the tax base for real estate.

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[6] The General Part of the Tax Code of the Republic of Belarus, n. 1, Art 33.
[7] The Special Part of the Tax Code of the Republic of Belarus, sub para. 1.1 Art. 229.
[8] Decree of the President of the Republic of Belarus of 20. 10. 2006 № 622 ,,On the revaluation of fixed assets, unfinished construction projects and uninstalled equipment".
[9] The Special Part of the Tax Code of the Republic of Belarus, p 2 Art. 227.
[10] The Special Part of the Tax Code of the Republic of Belarus, para. 1 Art. 333.
[11] The Special Part of the Tax Code of the Republic of Belarus, para. 9, p. 1 Art. 333.

1.3 Structural Components of the real property tax

The legal basis for determining the collection of property tax in the Republic of Belarus is the Tax Code of the Republic of Belarus. The obligation to pay the real estate tax applies to the entire territory of the Republic of Belarus as it is a state tax. This tax belongs to a group of property taxes, i.e. it is based on the cost of real estate in the possession of both organizations and natural persons.

The Tax Code defines the following essential elements of a tax[12]:

- taxpayers;[13]
- objects of the taxation;[14]
- tax base;[15]
- tax rates;[16]
- tax period, order of calculation and payment of a tax. [17]

In addition to the specific issues contained in the Tax Code, some aspects of the taxation of real estate tax are regulated by decrees, orders and instructions of the President of the Republic of Belarus.[18] [19] [20]

Local councils of deputies also have the right to increase (or decrease) the tax rate on real estate within the range laid down by legislation.[21]

1.3.1 Tax Payers

Taxpayers are subjects who are liable to pay property taxes and include[22]:

- organizations; and
- individuals, being citizens of the Republic of Belarus, foreign citizens and stateless persons who possess real estate objects in the Republic of Belarus under the right of ownership.

Payers of the property tax are the following organizations:

(a) legal entities of the Republic of Belarus[23]

[12] The General Part of the Tax Code of the Republic of Belarus, para. 5 Art. 6.
[13] The Special Part of the Tax Code of the Republic of Belarus, Art. 225, 226.
[14] The Special Part of the Tax Code of the Republic of Belarus, Art. 227.
[15] The Special Part of the Tax Code of the Republic of Belarus, Art. 229.
[16] The Special Part of the Tax Code of the Republic of Belarus, Art. 230.
[17] The Special Part of the Tax Code of the Republic of Belarus, Art. 232.
[18] The General Part of the Tax Code of the Republic of Belarus, para. 3 part 1 para. 1, Art. 3.
[19] Law of the Republic of Belarus of 01. 8. 2002 N 136-W "On Citizenship of the Republic of Belarus".
[20] The provisions of the lease, approved by the Council of Ministers of the Republic of Belarus of 04. 6. 2010 N 865.
[21] The Special Part of the Tax Code of the Republic of Belarus, Art. 3, 5, Art. 230.
[22] The Special Part of the Tax Code of the Republic of Belarus, Art. 225.
[23] The Special Part of the Tax Code of the Republic of Belarus, subpara 2.1 p. 2 Art. 14.

The definition of a "legal entity" is an organization duly registered as a legal entity and having such distinctive features as:

- the ownership, economic management or operational management of units of real estate; and
- the ability to bear sole responsibility for its obligations, to acquire and exercise property and personal rights, fulfill obligations, sue and be sued in court.

Legal entities are classified as business partnerships and companies, production and consumer cooperatives, peasant farming enterprises, unitary enterprises[24], as well as the Bar Associaation[25].

Legal entities are either Belarusian or foreign organizations.

A Belarusian organization is an organization located within the Republic of Belarus.[26] Belarusian organizations have the status of tax residents of the Republic and are fully liable for all taxes, including taxes for the property located within the territory of the Republic of Belarus and abroad.

(b) foreign and international organizations, including non-legal entities.
A foreign organization is an organization, the main location of which is not within the Republic of Belarus.[27] Such organizations are not tax residents of the Republic, and therefore, their tax liability arises only in respect of their rights to real estate, located within the territory of the Belarusian State.[28]

An international organization is an (intergovernmental) organization created to perform specific activities of an international character in accordance with the constitutional instrument of the organization and having international legal personality.[29]

(c) simple partnership (participants to an agreement on joint activities, except for members of a consortium loan agreement) (subpara. 2.3 para. 2, Art. 13 of the Tax Code[30]).

Individuals who are liable to property tax include:[31]

[24] The General Civil Code of the Republic of Belarus, chapter 4.
[25] The Law of the Republic of Belarus of 30.12.2011 N 334-W "On Advocacy in the Republic of Belarus", Art. 41, para. 1, Art. 46.
[26] The General Part of the Tax Code of the Republic of Belarus, Sec. 1 Art. 14
[27] The General Part of the Tax Code of the Republic of Belarus, Sec. 2, Art 14.
[28] The General Part of the Tax Code of the Republic of Belarus, ch. 2 p.3 of Art. 15.
[29] The Law of the Republic of Belarus of 23.07.2008 N 421-Z „On international treaties of the Republic of Belarus", Art. 15.
[30] The General Part of the Tax Code of the Republic of Belarus, subpara. 2.3 para. 2, Art. 14.
[31] The General Part of the Tax Code of the Republic of Belarus, p. 6 Art. 13.

(i) Citizens of the Republic of Belarus, being a citizen of the Republic of Belarus is a person with Belarusian citizenship;[32]

(ii) The citizens or subjects of a foreign state. Foreign citizens in the Republic of Belarus are persons who are not citizens of the Republic of Belarus and who have proof of citizenship (nationality) of another state;[33]

(iii) Persons without citizenship (nationality). Stateless persons in the Republic of Belarus are persons who are not citizens of the Republic of Belarus and do not have evidence of citizenship (nationality) of another state. [34]

Taxable organizations and individuals (as sole proprietors) are free to use the real estate belonging to them by the right of ownership, and to transfer it for use to other persons. The regulations on the use of such property depends on the type of use which can be authorized by the lease contract[35], financial lease (leasing)[36], a lucrative use, as well as the loan agreement (free use).[37] In addition, by agreement properties can be transferred to the property's trust management committee [38]) or acquired by such an organization.

Some organizations are not liable to property tax until their property is occupied (or in some other compensated or uncompensated use).

1.3.2 Taxable Objects

The object of the real estate tax are units of real estate belonging to organizations and individuals.[39] Taxable objects of property tax for organizations include:

- All permanent structures (buildings) and parts thereof, including capital structures (buildings) in the course of construction, as well as parking lots;[40]
- Capital structures (buildings), their parts, parking lots, located within the territory of the Republic of Belarus and acquired under a leasing arrangement (in cases where such objects are not on the balance sheet of leasing organizations); [41]
- Capital structures (buildings), their parts, parking lots, located within the territory of the Republic of Belarus and held under a lease[42]:

[32] The Law of the Republic of Belarus of 01.08.2002 N 136-W „On Citizenship of the Republic of Belarus", Art. 14.
[33] The Law of the Republic of Belarus of 01.08.2002 N 136-W „On Citizenship of the Republic of Belarus", Art. 1, Art. 9.
[34] The Law of the Republic of Belarus of 01.08.2002 N 136-W „On Citizenship of the Republic of Belarus", Art. 2, Art. 9.
[35] The Civil Code of the Republic of Belarus, Art. 577.
[36] The Civil Code of the Republic of Belarus, Art. 636.
[37] The Civil Code of the Republic of Belarus, Art. 643.
[38] The Civil Code of the Republic of Belarus, Art. 895.
[39] The Special Part of the Tax Code of the Republic of Belarus, para. 1, Art. 227.
[40] The Special Part of the Tax Code of the Republic of Belarus, para. 2, hrs. 1, para. 1 Art. 227.
[41] The Special Part of the Tax Code of the Republic of Belarus, para. 4 hours. 1 para. 1, Art. 227.
[42] The Special Part of the Tax Code of the Republic of Belarus, para. 5, Art. 1, para. 1, Art 227.

  - for foreign organizations not operating in the territory of the Republic of Belarus through a permanent representative;
  - for individuals (recognized and not recognized as tax residents of the Republic of Belarus); and
- Objects of real estate tax for individuals are capital structures (buildings), and their parts, as well as parking lots, within the territory of the Republic of Belarus[43], which are in their ownership, in a lifetime inheritable possession[44], as well as in the process of construction and where the construction of which is complete, but not registered in accordance with the law; and
- which are under individuals' (or individual entrepreneurs') finance lease (leasing).

The implementation of the strategy for reforming the public financial management system affected the tax administration of the real estate tax, by eliminating gaps and disagreements in the interpretation of individual concepts. In addition, the definition of the concept ,,buildings, structures and transfer devices of above-standard unfinished construction" has been revised. It resolved contested matters in tax administration connected with the dual interpretation of tax norms. In their turn, buildings, structures and transmission devices, buildings (including the construction project for reconstruction), which, taking into account the periods of suspension of construction, were issued in accordance with the procedure established by law, exceed the normative duration of construction, are recognized as buildings, structures and transfer devices of above-standard unfinished construction and are therefore taxable.

In addition, a supplement has been added to the Tax Code allowing taxpayers to avoid the payment of taxes or to reduce the tax payable on unused buildings etc..

1.3.3 Tax rates

The tax rate is the proportion of tax applied to the taxable value of the taxable unit.[45]

Tax rates on real estate tax vary according to the categories of taxpayers and the objects of taxation.[46] Categories of taxpayers, objects of taxation and the corresponding annual rate of property tax are described in Table 20.1 below.

Table 20.1: Real property tax objects[47]

[43] The Special Part of the Tax Code of the Republic of Belarus, para. 3, 4 h.1, para. 5 - 8 hours. 2 n. 1, Art 227.
[44] The right of lifetime inheritable possession of the land plot includes the authority to possess and use, but not the right of disposal. The only opportunity for a citizen to dispose of land granted with such a limitation is to pass it on by inheritance.
[45] The General Part of the Tax Code of the Republic of Belarus, Sec. 2, Art. 43.
[46] Ustyushenko, N. The economic concept of the property.
[47] The Special Part of the Tax Code of the Republic of Belarus.

Payers	Tax objects	Tax rate of the year	Basis
Organizations	Construction in progress objects except the objects on which the dates of endings construction are determined by the Board of Ministers of the Republic of Belarus	2 %	Art. 188(2) of the Tax Code[48]
	The other objects	1 %	par. 2 Art. 188(1) of the Tax Code[49]
Individuals (including Registered those who are as individual entrepreneurs), garage co-operatives and co-operatives operating a car parking, gardening companies, housing and construction, consumer cooperatives, owner partnerships started for the maintenance of residential houses in part, attributable to the citizens - members of cooperatives, partnerships	All the objects	0.1 %	par. 3 Art. 188(1) of the Tax Code[50]

Local self-government bodies as local legislative bodies have the right to set up taxes and to adjust tax rates for real estate taxes. In accordance with the Decision of the Grodno City Council of Deputies[51], an additional factor was established in 2017 in the following amounts:

- 2.5 to the rate on the real estate tax paid by organizations;
- 2.5 to the rate on the land tax paid by organizations;
- 2.4 to the tax rate on real estate paid by the chemical industry organizations belonging to the Belneftekhim Concern and rendering support in accordance with the legislation to the Representation of the National Olympic Committee of the Republic of Belarus in the Grodno region;
- 1.5 to the rates of land tax and real estate tax paid by organizations of consumer cooperatives, for objects of taxation located in the city of Grodno;

[48] The Special Part of the Tax Code of the Republic of Belarus.
[49] The Special Part of the Tax Code of the Republic of Belarus.
[50] The Special Part of the Tax Code of the Republic of Belarus.
[51] The Decision of the Grodno City Council of Deputies of 28.10.2016 № 141 ,,On Certain Taxation Matters in 2017".

- 1.9 to the tax rate on real estate for taxable objects - capital buildings (buildings, structures), parts thereof, as well as parking spaces paid by individuals; and
- 1.7 to the rate of land tax paid by individuals.[52]

1.3.4 Tax period

The tax period for the real estate tax is a calendar year.[53]

1.3.5 Exemptions and Reliefs

Exemptions and reliefs are provided by tax legislation to certain categories of taxpayers in comparison with the other payers.

The types of tax benefits are very diverse. For example, taxpayers may be exempted from the real estate tax or be liable to pay only a part of it; they may benefit from tax deductions or the application of lower tax rates.[54] Taxpayers may benefit from such tax advantages from the date of their entitlement to such privileges. [55]

Property tax exemptions and reliefs are established in Art. 186 of the Tax Code, by normative legal acts of the President of the Republic of Belarus, as well as under international treaties of the Republic of Belarus.[56] In some cases, relief may be granted to taxpayers by local Councils of Deputies or on behalf of local executive and administrative bodies.[57]

Thus, the exemptions and reliefs applied to the real estate tax can be divided into:

- General benefits that are established by the provisions of the Tax Code, regulations of the President of the Republic of Belarus on taxation, as well as international treaties of the Republic and they are applied to all qualifying taxpayers within the entire territory of the Republic of Belarus;
- Special benefits which are provided by the relevant regulatory legal act of the local government and self-government units of the Republic of Belarus and are valid only for a certain category of taxpayers within specific geographical or administrative areas of the Republic of Belarus.

[52] The Decision of the Grodno City Council of Deputies of 28.10.2016 № 141 „On Certain Taxation Matters in 2017".
[53] The Special Part of the Tax Code of the Republic of Belarus.
[54] The General Part of the Tax Code of the Republic of Belarus, p. 1, 2 Art. 35.
[55] The General Part of the Tax Code of the Republic of Belarus, Sec. 5, Art. 35.
[56] The General Part of the Tax Code of the Republic of Belarus, ch. 1, para. 4 of Art. 35.
[57] The Special Part of the Tax Code of the Republic of Belarus, Art. 6 para. 4, Art. 35, para. 3 of Art. 230.

It should be noted that the grant of such benefits to an individual taxpayer (as opposed to a group of taxpayers) is not permitted.[58]

There is a limited tax privilege for social and cultural facilities and housing. Thus, the following capital structures (buildings) and parts thereof are exempt from the property tax:

- The housing stock owned by the state and housing non-state organizations. The exemption does not apply to single family houses and residential units in the blocked residential houses, which are not used for the taxpayer's accommodation;
- Buildings classified as and used in the sectors of education and health;
- Buildings included in the register of sports and sports facilities. Many objects used by recreational organizations for sport may be included (at no charge) in the Register; and
- Cultural organizations' premises, and health resorts.

The exemption granted to buildings which are the facilities of scientific organizations, and scientific and technological parks is extended until January 1st, 2020. However, this extension can be applied only to those scientific organizations which are recognized as such in accordance with the Tax Code.[59]

1.3.6 Order of calculation and payment of a tax

As a general rule periods of tax payment are defined by the calendar date, the expiration of a period of time, and also by the event which gives rise to the liability.[60]

The terms of payment for each category of the property taxpayers vary:

(a) for individuals, the payment date is 15 November of the current year at the latest.[61] Where the taxpayer is notified of the tax payable on the property after November 15, the real estate tax is paid no later than 30 calendar days from the date of service of the notice; and

(b) for organizations, the due date is not later than the 22th day of the third month of each quarter,[62] i.e., 22 March, 22 June, 22 September and 22 December.

Changing the timing of payment of the tax on property is not permitted, except in cases established by the Tax Code or by the President of the Republic of Belarus.[63]

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[58] The Decree of the President of the Republic of Belarus of 28.03.2006 N 182 „On improvement of legal regulation of the order of state support to legal entities and individual entrepreneurs" subpara. 1.1.
[59] The Special Part of the Tax Code of the Republic of Belarus.
[60] The General Part of the Tax Code of the Republic of Belarus, p. 3 of Art. 37.
[61] The Special Part of the Tax Code of the Republic of Belarus, n. 4, Art 232.
[62] The Special Part of the Tax Code of the Republic of Belarus, no. 11 Art. 233.
[63] The General Part of the Tax Code of the Republic of Belarus, Sec. 2, Art. 45.

When the last day of the period for payment of the property tax is not a working day, the payment deadline is transferred to the next working day.[64]

1.4 Structural components of the land tax

1.4.1 Land Taxpayers

Land taxpayers are organizations that have land within the territory of the Republic of Belarus under a right of permanent or temporary use, or under the right of private ownership.[65]

Organizations are defined as:
(a) legal entities of the Republic of Belarus. [66]
Legal commercial entities may be created in the form of: [67]
- Business partnerships and companies ;
- Production cooperatives; [68]
- Unitary enterprises; [69]
- (Peasant) farms;[70] and
- in any other forms provided in the Civil Code;

(b) foreign and international organizations, including non-legal entities; [71]
(c) a simple partnership (participants to an agreement on joint activities, except for members of a consortium loan agreement); [72] and
(d) economic groups. [73]

Land taxpayers are individuals who have land within the territory of the Republic of Belarus under the right of temporary use, under the right of private ownership, under the right of lifetime inheritable possession, or adopted by the right of succession. [74]

Taxable individuals are: [75]
(a) citizens of the Republic of Belarus, being persons of Belarusian nationality;[76]

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[64] The General Part of the Tax Code of the Republic of Belarus, vv. 3-1.
[65] The Special Part of the Tax Code of the Republic of Belarus, Art. 1, para. 1, Art. 236, para. 3 h. 1, Art. 238.
[66] The General Part of the Tax Code of the Republic of Belarus, subpar. 2.1 par. 2, Art. 14.
[67] The Civil Code of the Republic of Belarus, Sec. 2, Art. 36.
[68] The Civil Code of the Republic of Belarus, Art. 107.
[69] The Civil Code of the Republic of Belarus, Art. 113.
[70] The Civil Code of the Republic of Belarus, Art. 115-1.
[71] The General Part of the Tax Code of the Republic of Belarus, subpara. 2.2, para. 2, Art. 14.
[72] The General Part of the Tax Code of the Republic of Belarus, subpara. 2.3, para. 2, Art. 14.
[73] The General Part of the Tax Code of the Republic of Belarus, subpara. 2.4, para. 2, Art. 14.
[74] The Special Part of the Tax Code of the Republic of Belarus, ch. 1, 2, n. 1, Art. 192, para. 2 hrs. 1, Art. 193.
[75] The General Part of the Tax Code of the Republic of Belarus, p. 6, Art. 14.
[76] The Law of the Republic of Belarus of 01.08.2002 N 136-W "On Citizenship of the Republic of Belarus", Art. 8.

(b) the citizens or subjects of a foreign state, being persons who are not citizens of the Republic of Belarus and have proof of citizenship (nationality) of another state;[77] and
(c) persons without citizenship (nationality), being persons who are not citizens of the Republic of Belarus and do not have evidence of citizenship (nationality) of another state.[78]

As a general rule state-financed organizations are not recognized as liable to the land tax.[79] However, the Tax Code requires the state-financed organizations to calculate and pay the land tax in respect of land with buildings and structures (or parts thereof), parking lots, in the case of transferring these buildings (or parts thereof), and parking spaces to rent or other use.[80]

In accordance with the Tax Code the following taxpayers are exempt the land tax:

- Bar Association, law offices;[81]
- The National Bank of the Republic of Belarus and its subdivisions,[82] [83]
- The Republican government, their territorial bodies and other state organizations subordinated to the Government of the Republic of Belarus, the Administration of the President of the Republic of Belarus and the other state bodies and other state organizations subordinated to the President of the Republic of Belarus, their territorial authorities, Customs Authorities, the Attorney General of the Republic of Belarus, territorial prosecutors local executive and administrative bodies and their structural units (p. 1-1 Art. 330 of the Tax Code[84]).

[77] The Law of the Republic of Belarus of 01.08.2002 N 136-W "On Citizenship of the Republic of Belarus", art. 1, Art. 9.
[78] The Law of the Republic of Belarus of 01.08.2002 N 136-W "On Citizenship of the Republic of Belarus", Art. 2, Art. 9.
[79] The Special Part of the Tax Code of the Republic of Belarus, Sec. 5, Art. 192.
[80] The Special Part of the Tax Code of the Republic of Belarus, ch. 1, p. 12, Art. 202.
[81] The Special Part of the Tax Code of the Republic of Belarus, para. 1, Art. 329.
[82] The Special Part of the Tax Code of the Republic of Belarus, n. 1, 1-1 Art. 330.
[83] The Banking Code of the Republic of Belarus, Art. 43.
[84] The Special Part of the Tax Code of the Republic of Belarus, p. 1-1 Art. 330.

1.4.2 Taxable Land

The objects of the land tax are lands in the possession, use or ownership of a taxpayer and located within the territory of the Republic of Belarus. [85]

For organizations, the land tax is levied on lands located within the territory of the Republic of Belarus which are either privately owned or in the permanent or temporary use of such organizations.[86]

The objects of the land tax can also include illegally occupied land, and land not used for its intended purpose by the occupier organizations.[87] Illegal occupation of land is the use of land without a document certifying the right to own it.[88]

For individuals, the land tax is levied on lands, located within the territory of the Republic of Belarus, which such individuals have: [89]

(a) under the right to private property, which includes the most comprehensive terms of reference for an individual in respect of the land: being the right of ownership, use and disposal. The owner's right to dispose of land includes a wide range of legal possibilities, including the ability to sell the land, bequeath or lease it.

    Plots of land may be privately owned by citizens of the Republic of Belarus, foreign citizens or stateless persons under the Land Code of the Republic of Belarus[90] (hereinafter called the Land Code).

    Land can be given as private property to citizens of the Republic of Belarus for the purposes of the construction and / or the maintenance of a dwelling house, for the maintenance of the apartment, which is registered as a "rowhouse" building apartment, for private farming, collective gardening, or for suburban projects.[91]

    Foreign citizens and stateless persons may obtain private ownership of land only as the result of inheritance, provided that such beneficiaries are relatives of the deceased, and that the land was given to the testator for private ownership.

(b) lifetime inheritable possession.

(c) for temporary use.

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[85] The Special Part of the Tax Code of the Republic of Belarus, para. 1 hr 1, Art. 193.
[86] The Special Part of the Tax Code of the Republic of Belarus, para. 3 h.1, Art. 193.
[87] The Special Part of the Tax Code of the Republic of Belarus, para. 3 h.1, Art. 193.
[88] The Land Code of the Republic of Belarus, ch. 1, Art. 72.
[89] The Special Part of the Tax Code of the Republic of Belarus, para. 2, part. 1, Art. 193.
[90] The Land Code of the Republic of Belarus, ch. 3, 4, Art. 12.
[91] The Land Code of the Republic of Belarus, ch. 6 Art. 12.

Land for temporary use, i.e. for a specified period, land may be granted to[92]:

- Citizens of the Republic of Belarus for gardening, mowing and grazing farm animals, for a period of up to ten years; and to
- Certain categories of citizens of the Republic of Belarus for the construction (installation) of temporary individual garages, for a period of up to ten years.

The following categories of lands are not the objects of the land tax:

- Forest lands; [93]
- Ground of water resources; [94] and
- Reserve lands. [95]

Recently, the procedure for calculating and paying land tax in 2017 has been changed.

As noted earlier, land plots located within the territory of the Republic of Belarus are recognized as objects of land taxation[96], where they are privately owned, in lifetime inheritable possession or temporarily used by natural persons, as well as those inherited by individuals; being in private ownership, for the permanent or temporary use of organizations; granted for temporary use and not returned in a timely manner in accordance with the law or not used for their intended purpose.

The procedure for determining the tax base for the land tax is established based on the purpose of the land plot, from January 1, 2017[97], and the amount payable is determined in Belarusian rubles. The whole procedure has been simplified and the revenues from taxation to the local budget have grown.

The above mentioned changes which clarified for taxpayers the distribution of land plots to the specific zones and which elements are included in each type of zones, are presented in the Table 20.2 below.

[92] The Land Code of the Republic of Belarus, par. 3, 4 hr. 2, Art. 16.
[93] The Special Part of the Tax Code of the Republic of Belarus, para. 4 hours. 2, Art. 193.
[94] The Special Part of the Tax Code of the Republic of Belarus, para. 5 hours. 2, Art. 193.
[95] The Special Part of the Tax Code of the Republic of Belarus, para. 6 hours. 2, Art. 193.
[96] The Special Part of the Tax Code of the Republic of Belarus, first part, Art. 139.
[97] The Special Part of the Tax Code of the Republic of Belarus, Art. 195.

Table 20.2: Functional use of land plots (types of assessment zones)[98]

Functional use of land	Purpose of land plots
Social and business zone	Land plots for the placement of administrative, financial, retail, hotel, catering, public health and social services, education and upbringing, scientific and scientific services, sports and recreational and sports facilities, cultural, educational and entertainment purposes, consumer services for the population, providing intermediary and tourist services, automobile refueling and gas filling stations, car (Except automobile), shopping centers, including car parks, serving these markets and shopping centers, car parks and garages, except for those provided to organizations that store vehicles of individuals, garage cooperatives, cooperatives, carrying out operation of car parks
Residential apartment block	Land plots for accommodation of multi-apartment residential buildings, including dormitories
Residential estate zone	Land plots for the placement of objects of backyard residential construction (construction and (or) maintenance of a single-family, block residential building, maintenance of the apartments in a blocked dwelling house registered by the organization for state registration of immovable property, rights to it and transactions with it, fisheries), land plots of organizations that carry out the storage of vehicles of individuals, garage cooperatives, cooperatives that operate the establishment of car parks, individuals for the construction (installation) and maintenance of garages, the conduct of collective gardening, dacha construction and vegeculture, mowing and grazing of agricultural animals, as well as for official land allotments granted to citizens by district executive and administrative bodies from the reserve lands and forest lands fund.
Production Zone	Land plots for industrial facilities, transport, communications, energy, wholesale trade, logistics and food supply, procurement and marketing of products, utilities, repair and maintenance of cars
Recreational Area	Land plots for the placement of objects of nature protection, recreation, recreational, historical and cultural purpose

1.4.3 Tax rate

The tax rate is the proportion of tax applied to the taxable value of the taxable unit, unless otherwise provided for by the Tax Code, the customs legislation of the Customs Union and (or) acts of the President of the Republic of Belarus[99].

Land tax rates vary according to the categories of land and can take one of two forms: a percentage of the cadastral value of land or a fixed payment per hectare.

[98] The Special Part of the Tax Code of the Republic of Belarus.
[99] The General Part of the Tax Code of the Republic of Belarus, s. 2, Art. 41.

The State land cadastre comprises of collated information and documents about the legal regime, condition, quality, distribution, economic or other use of lands and land plots.[100]

The State land cadastre includes:

- the Unifier register of administrative-territorial and territorial units of the Republic of Belarus;
- the Unified State register of real property, rights to it and transactions of it;
- the Register of land plots costs which contains the information about the cadastral value of land plots;
- the Register of the Republic of Belarus land resources which contains the information about the distribution of lands according to categories, types and land users. It also includes information about the composition, structure, condition, quality and economic use of lands; and
- the Register of addresses which contains the information about real estate object addresses within the territory of the Republic of Belarus.

The cadastral value of the land is the estimated amount of money that reflects the value (utility) of land when in use for its intended purpose. The cadastral value of the land is as close as possible to the market value as at the valuation date based on available market information. To establish a cadastral valuation, appraisers/assessors investigate selling (purchase) prices of real estate on the market, identifiable price trends, indications of supply and demand for real estate, terms of sale, financing terms, the time during which they were offered on the market prior to their sale (time on the market), market rental rates, and the terms and conditions of any lease agreements.

The following methods are used to establish a cadastral valuation:

- the cost plus method which is used for the determining of the cadastral value of lands, having historical or natural value and having no equivalents for comparison;
- the comparative method which is used for the valuation of equivalent objects on the market when the average market price based on analogical criteria can be determined; and
- the discounted cash flow method, which means that the potential commercial benefit from the exploitation of the land plot is used to arrive at the valuation.

(a) Land tax rates for agricultural land

Based on the nature of the land, the tax on agricultural land is subdivided into the land tax on land used for agricultural purposes and the tax on land occupied with permanent structures (buildings, structures) and other objects.[101]

[100] The Land Code of the Republic of Belarus.
[101] The Special Part of the Tax Code of the Republic of Belarus, Art. 196.

The land tax rates for agricultural land used for agricultural purposes are set in rubles per hectare, depending on the cadastral value of land.

In the light of a cadastral valuation of the land, the tax rates on agricultural land for agricultural purposes vary according to the different types of land: thus, there are set rates for fallow arable land, land under permanent crops and grassland (including natural and improved). In addition, these rates are determined according to the established total score of cadastral value.

(b) The rates of land tax applied to urban lands (cities, districts or rural settlements)[102]

To determine the rate of land tax on land within the boundaries of settlements according to the particular use of land, it is necessary to identify first the cadastral value of the land per hectare. If the cadastral value of land per hectare is less than the set threshold, the land tax rate is a fixed amount of Belarusian rubles per hectare. In the case of its equality or exceeding it, the threshold rate is applied as a percentage of the amount of the land tax.

(c) Land tax rates on forest lands

Forest lands are not subject to the land tax. If the composition of forest land includes agricultural land, the land tax rates correspond to the land tax on agricultural land for agricultural purposes.[103]

(d) The rates of land tax on the land of the Water Fund

If the land of the water fund includes agricultural land and land plots allocated for the breeding and accommodation of fish, the land tax rates are the same as the rates of land tax on agricultural land for agricultural purposes.[104]

(e) Doubling of Land Tax rates

In order to exclude and reduce the construction in progress, in addition to the increased property tax rate on the objects themselves,[105] the legislation provides for the tax rate to be increased by a factor of two. At the same time, the land tax rate is increased by a factor of two established for all categories of land:

- Agricultural land;[106]

[102] The Law of the Republic of Belarus of 05.05.1998 N 154-L „On administrative-territorial organization of the Republic of Belarus".
[103] The Special Part of the Tax Code of the Republic of Belarus, Sec. 1, 3 Art. 196.
[104] The Special Part of the Tax Code of the Republic of Belarus, Sec. 1, 3 Art. 196.
[105] The Special Part of the Tax Code of the Republic of Belarus, ch. 2, Art. 188.
[106] The Special Part of the Tax Code of the Republic of Belarus, p. 5, Art. 196.

- Urban (settlement) land;[107]
- Land for industry, transport, communications, energy, defense and other purposes, located outside settlements;[108]
- Forest lands and water fund lands;[109]
- Land conservation, recreation, recreational, historical and cultural significance.[110]

(f) Land tax rates, increased by a factor of ten

The tax rate is increased by a factor of ten in the following three cases:

- where the land is granted for temporary use and not promptly returned. In accordance with the legislation, land can be given for temporary use, i.e. for a specified period. After this period, the land user is expected to promptly return the land or apply for an extension of its use;[111]
- where the land illegally occupied. Unauthorized occupation of land occurs when land is not used lawfully, i.e. without submission of the appropriate documents; and
- where the land is not used for its intended purpose. In accordance with the law, land is provided for a specific purpose. The use of land for its intended purpose is one of the principles of land relations. In the case of a violation of this principle, the land user is required to pay tax at an increased rate.

Such land tax increases apply to the following categories of land:

- Agricultural land;[112]
- Land settlements;[113]
- Land for industry, transport, communications, energy, defense and other purposes, located outside settlements;[114]
- Forest lands and water fund lands;[115]
- Land conservation, recreation, recreational, historical and cultural purposes.[116]

More detailed information about tax rates is reflected in the Table 20.3 below.

[107] The Special Part of the Tax Code of the Republic of Belarus, p. 3, Art. 197.
[108] The Special Part of the Tax Code of the Republic of Belarus, p. 6, Art. 198.
[109] The Special Part of the Tax Code of the Republic of Belarus, p. 4, Art. 199, n. 4, Art. 200.
[110] The Special Part of the Tax Code of the Republic of Belarus, p. 3, Art. 201.
[111] The Land Code of the Republic of Belarus, para. 8 h. 1, Art. 70.
[112] The Special Part of the Tax Code of the Republic of Belarus, p. 4 Art. 196.
[113] The Special Part of the Tax Code of the Republic of Belarus, Sec. 2, Art. 197.
[114] The Special Part of the Tax Code of the Republic of Belarus, p. 5, Art. 198.
[115] The Special Part of the Tax Code of the Republic of Belarus, p. 3 Art. 199, para. 3, Art. 200.
[116] The Special Part of the Tax Code of the Republic of Belarus, Sec. 2, art. 201.

Table 20.3: Average rates of land tax in the regions of the Republic of Belarus[117]

Name of districts	Tax rate (Rubles per ha)	Name of districts	Tax rate (Rubles per ha)	Name of districts	Tax rate (Rubles per ha)
Gomel region		**Mogilev region**		**Vitebsk region**	
Braginsky	10.96	Belynichsky	17.58	Beshenkovichi	9.58
Buda-Koshelevsky	15.64	Bobruisk	19.42	Braslavsky	4.93
Vetkovsky	15.64	Bykhovsky	14.77	Verhnedvinskiy	5.69
Gomel	11.96	Glusk	13.25	Vitebsk	6.77
Dobrush	16.94	Goretsky	16.28	Gluboksky	10.01
Yelsk	8.18	Dribinsky	13.04	Gorodoksky	2.52
Zhitkovichsky	11.86	Kirovsky	20.72	Dokshitsky	9.91
Zhlobinsky	17.58	Klimovichi	11.74	Dubrovno	13.91
Kalinkovichi	10.12	Klichevsky	13.48	Lepel	5.47
Kormyansky	19.52	Kostiukovichsky	7.96	Liozno	6.88
Lelchitsky	9.58	Krasnopolsky	9.58	Miory	7.75
Loevsky	8.39	Krichevsky	15.42	Orshansky	14.45
Mozyr	10.45	Kruglyansky	19.96	Polotsky	3.10
Narovlyansky	10.45	Mogilev	18.88	Postavy	7.85
October	13.58	Mstislavsky	12.82	Rossonskiy	2.52
Petrikovsky	7.85	Osipovichi	16.18	Senno	7.85
Rechitsa	12.61	Slavgorod	11.09	Tolochinsky	13.15
Rogachevsky	17.26	Khotimsky	11.53	Ushachsky	3.95
Svetlogorsk	10.01	Chaussky	14.02	Chashniki	8.29
Khoiniki	17.26	Cherikovsky	15.53	Sharkovshchina	10.01
Checherskiy	14.34	Shklovsky	19.52	Shumilinsky	5.80
Brest region		**Grodno region**		**Minsk Region**	
Baranavichy	19.75	Berestovitsky	22.01	Berezinsky	10.45
Berezovsky	17.80	Vaukavysk	22.67	Borisovsky	15.31
Brest	17.69	Voronovsky	17.36	Vilejsky	12.94
Gantsevichi	12.28	Grodno	21.15	Volozhinsky	14.12
Drogichinsky	13.37	Dyatlovsky	13.79	Dzerzhinsky	18.56
Zhabinka	16.61	Zelwensky	22.01	Kletskiy	25.70
Ivanovsky	12.82	Ivy	12.94	Kopylski	22.45
Ivatsevichy	14.12	Karelichsky	22.78	Krupsky	9.47
Kamenetsky	17.69	Lida	16.40	Logoiski	9.37
Kobrinsky	13.79	Mostovsky	19.64	Lubansky	14.12
Luninetsky	9.26	Novogrudok	16.82	Minsk	19.31
Lyakhovichi	19.31	Ostrovetsky	12.28	Molodechno	17.58
Malorita	10.01	Oshmyansky	15.85	Myadel's	6.88

[117] The Special Part of the Tax Code of the Republic of Belarus.

Pinsky	12.50	Svislochsky	16.82	Nesvizh	27.86
Pruzhany	15.85	Slonimsky	18.77	Puhovichi	14.02
Stolinsky	13.37	Smorgon	12.82	Slutsky	22.88
		Shchuchinsky	19.96	Smolevichi	15.85
				Soligorsk	16.82
				Starodorozhsky	10.99
				Stolbtsovsky	15.42
				Uzden	15.64
				Cherven	15.10

The Local Councils of Deputies has the right to establish the financial basis for their activities and in particular to set the rates for the land tax which contribute to the revenues of the local budget.[118] Thus such bodies have the right to vary the land tax rates for certain categories of payers (but not on more than two occasions) according to the Tax Code.[119] Decisions of the Local Councils of Deputies to increase the land tax rates do not apply to legal entities nor to individual entrepreneurs that receive state support in the form of changes in the fixed period of payment of taxes, duties, customs fees and fines, financial assistance from the state budget.[120]

1.4.4 Exemptions and Reliefs

Certain individual categories of taxpayers are granted advantages when compared to other taxpayers, including an exemption from taxes, or a reduction in the amount payable. Tax incentives can be provided by the Tax Code and other acts of tax legislation as well as international treaties of the Republic of Belarus, the customs legislation of the Customs Union and (or) the law on customs regulation in the Republic of Belarus.[121]

Tax Code has established the following land tax benefits:[122]

- an exemption from tax due;
- a reduction in the taxable value of or in the rate of tax levied on the taxable object;
- the application of reduced rates of tax;
- a refund of the amount of paid tax due; and
- in any manner specified by the President of the Republic of Belarus.

The grounds and procedure for applying the tax incentives cannot be applied to an individual taxpayer.[123]

[118] The Law of the Republic of Belarus of 04.01.2010 № 108-L "On the local government and self-government in the Republic of Belarus".
[119] The Special Part of the Tax Code of the Republic of Belarus.
[120] The Special Part of the Tax Code of the Republic of Belarus.
[121] The General Part of the Tax Code of the Republic of Belarus, Sec. 1, Art. 43.
[122] The General Part of the Tax Code of the Republic of Belarus, para. 2, Art. 43.
[123] The General Part of the Tax Code of the Republic of Belarus, p. 3 Art. 43.

Tax benefits are provided in the form, manner and on the terms determined by the President of the Republic of Belarus.[124] By such decisions, support can be provided to certain categories of taxpayers in the form of the tax concessions outlined above.[125]

In order to benefit from such concessions, taxpayers are required to submit information to the tax authority confirming their right to benefit from such provisions.[126]

For the land tax the following exemptions and reliefs are provided:

- Exemption from land tax. In accordance with this benefit taxpayers do not have to calculate and pay the land tax in respect of land allotted to them;
- Reduced compared with normal rates of tax rates;
- The right to reduce, but not more than twice, the rate of land tax granted to certain categories of payers, which is provided by Tax Code to local Councils of Deputies;[127]
- The reduction in the amount of tax payable to the budget. This incentive is applied to organization taxpayers;
- The carrying out of works of construction or reconstruction of housing, and the reconstruction of objects for residential purposes;[128]
- The carrying out the collection, sorting (unbundling), preparation for disposal, and (or) the use of secondary (waste) material resources.[129]

There is also a privilege for land plots occupied by objects and installations for the use of renewable energy sources, which is harmonized within the provisions of the Law.[130] At the same time an exemption from the land tax is being adjusted for land occupied by reservoirs used for power generation by hydroelectric power plants, as well as in respect of plots allocated for the period of construction (reconstruction) of hydroelectric power plants, which is useful for the development of renewable energy sources.

1.4.5 Tax period

For the purposes of calculating the Land Tax, the tax period is the calendar year. [131]

[124] The General Part of the Tax Code of the Republic of Belarus, p. 2 para. 4, Art. 43.
[125] The Decree of the President of the Republic of Belarus of 28.03.2006 N 182 „On the improvement of the legal regulation of the order of state support to legal entities and individual entrepreneurs“, subpara. 1.2, para. 1.
[126] The General Part of the Tax Code of the Republic of Belarus, subpara. 1.10, para. 1 Art. 22.
[127] The Special Part of the Tax Code of the Republic of Belarus, Art. 201-1.
[128] The Special Part of the Tax Code of the Republic of Belarus, p. 9 Art. 202.
[129] The Decree of the President of the Republic of Belarus of 11. 7. 2012 N 313 „On some issues of waste consumption".
[130] The Law of the Republic of Belarus of 27.12.2010 N 204-L „On renewable energy sources".
[131] The Special Part of the Tax Code of the Republic of Belarus,Sec. 1, Art. 202.

The obligation to calculate land tax can arise for the taxpayer: [132]

- at the beginning of the current fiscal period, when the annual payable amount is based on the presence of taxable (land) as of January 1;[133] and
- during the current tax period, when circumstances arise that cause the emergence, change or termination of the tax liability of taxpayers, including those affecting by the already estimated annual amount of tax.[134]

1.4.6 Terms of payment of Land Tax

The payment of the tax is defined by the calendar date, the expiration of a period of time, and also by the event which gives rise to the tax liability (or its variation).[135]

Since 2013, organizations (except for gardening associations) have the right to select the time limit for payment of land tax for the land available to them at the beginning of the year for which the tax is calculated: [136]

- For land (except agricultural land), tax is due once a year and no later than 22 February of the current year, or no later than the 22th day of the second month of each quarter;
- For agricultural land, the tax is due once a year no later than April 15, or four times, a year not later than 15 April, 15 July, 15 September, 15 November of any year, or in the terms established by the Tax Code.[137]

It is necessary to keep in mind that the term of payment selected by the organization cannot be changed during the tax period.

Where land is granted to organizations after January 1 of any year, the payment of the land tax is required not later than the date corresponding to the nearest legally established deadline for payment after the submission of tax declaration (calculation) for land tax.[138] The same term of payment is set for organizations:

- having a benefit for land tax, being in case when such organizations did not previously have a benefit for land tax or which lost it (e.g. the term for the benefit expired);
- applying special tax regimes;[139]
- in the case of land or parts of objects, when an excess of construction is in progress;
- in the case of a lease, capital structures (buildings, structures), their parts, parking spaces, located on land exempt from land tax;

[132] The General Part of the Tax Code of the Republic of Belarus, Sec. 2, Art. 42.
[133] The Special Part of the Tax Code of the Republic of Belarus, n. 2, 5, Art. 202, para. 3 Art. 195.
[134] The Special Part of the Tax Code of the Republic of Belarus, Sec. 6, para. 2 p. 12, para. 2 p. 13, Art. 202.
[135] The General Part of the Tax Code of the Republic of Belarus, p. 3 Art. 45.
[136] The Special Part of the Tax Code of the Republic of Belarus, Art. 1 - 3 hours. 1 signature. 15.1 n. 15, Art. 202.
[137] The Special Part of the Tax Code of the Republic of Belarus, para. 2 hours. 1 signature. 15-1 n. 15 Art. 202.
[138] The Special Part of the Tax Code of the Republic of Belarus, Art. 4 h. 1 subpara. 15-1 n. 15 Art. 202.
[139] The Special Part of the Tax Code of the Republic of Belarus, hours. 1 signature. 3.14.1 p. 3 Art. 286.

- in the case of a lease, capital structures (buildings, structures), their parts, parking spaces of budgetary organizations; and
- in the case of the lease of land exempted from the land tax.

In such cases, the amount of land tax payable on the above dates, is calculated based on the number of months remaining until the end of the quarter in which there was a basis for its payment.

If the decision which is the basis for the creation or transfer of title to the land, is authorized by a state body on November of the current year, the land tax on such land plots is to be paid by 22 December of the current year.

Gardening associations pay land tax annually on 22 August, for the land granted after August 1, and by 22 December at the latest.[140]

For individuals, the deadline for payment of the land tax is 15 November. If a demand notice is served on the taxpayer by the tax authorities after a specified period, the land tax is paid by individuals not later than thirty days from the date of delivery of the notice to them.[141]

Such deadlines for the payment of the land tax can only be changed in cases established by the Tax Code and (or) the President of the Republic of Belarus.[142]
Organizations (with the exception of horticultural associations) are given the right to choose the period for the payment of land tax on land plots available to them at the beginning of the year for which the tax is calculated: [143]

- for land (except for agricultural land) being either once a year no later than February 22 of each year, or no later than the 22nd day of the second month of each quarter; and
- for agricultural land being either once a year no later than 15 April, or four times a year no later than 15 April, 15 July, 15 September, 15 November each year, or within the timeframe set out in the relevant legislation.

The term for the payment of the land tax is chosen by the taxpayer organizations and can not be subject to change during the tax period.

The real estate tax and the land tax are very similar in terms of taxpayers, object, tax period, term of tax payment and, at first sight, it seems that they duplicate one another. But they are widely different taxes because the taxpayer of the land tax does not always

[140] The Special Part of the Tax Code of the Republic of Belarus, subpara. 15.2 n. 15 Art. 202.
[141] The Special Part of the Tax Code of the Republic of Belarus, signature. 15.3 n. 15 Art. 202.
[142] The General Part of the Tax Code of the Republic of Belarus, Sec. 2, Art. 45.
[143] The Special Part of the Tax Code of the Republic of Belarus, parts of the first subclause 15.1 of p. 15 Art. 202.

also have real estate on it. Regarding the potential improvement of legislation, there is the need to establish a real estate property cadastre which will unite land and real estate objects on it.

1.5 Administration (Assessment)

The formation of the Republic of Belarus established the development of a real estate market, the main functions of which include pricing information; establishing links between the seller and the buyer (supply and demand); the actual pricing of real estate; reallocation of investments in real estate; and ensuring the freedom of entrepreneurship.[144]

Because of the long construction cycle (length of time supply takes to get real estate to the market), prices cannot be formed on the basis of trends in demand: so within the real estate market there is an imbalance of supply and demand.

The assessment of real estate and property rights on it includes:

(1) Assessment of land. In theory, land assessment is viewed from two points of view: on the one hand, land is a natural resource, characterized by area, location, topography, soils, flora and fauna and its estimated position with regard to its multi-purpose functions that are not always associated with the generation of income. On the other hand, the land is an integral and essential part of any property and its "value" estimated from the position of its usefulness and profitability to society.

Individual assessments by professional appraisers or assessors are made as at a specific date with all the relevant characteristics of the land, including its potential for a range of uses, and using all the essential assessment factors. This involves taking into account its location, the supply of and demand for such land, the availability of utilities, property rights and restrictions, as well as other factors that significantly affect its saleable value. In addition, the taxable value of land can reflect:

- its potential market price;
- its market value in current use;
- its investment value;
- any special value; and
- the market value of the right to lease the land.

(2) The cadastral land valuation is necessary to identify the cadastral value of land as at a specific date for the legislative purposes.

(3) The evaluation of commercial real estate, being property that can generate income, and therefore, the capitalization of its revenue earning capability, can result in a

[144] Salahova, J. Tax on real estate in the Republic of Belarus: ways and prospects for improvement.

market value. The assessment of the value of commercial real estate reflects such factors as the cost of capital invested in real estate, changes over time under the influence of factors such as inflation, the demand for a specific type of property, rates of return for other investment classes, and its physical, functional and economic deterioration.

(4) Evaluation of dwellings. The last few years have seen a steady rise in prices for suburban real estate, most noticeable in the Minsk region. The demand for these facilities often exceeds supply, and, as a result, in most cases, prices result from the basis of speculative proposals which do not always correspond to the value attached to the actual use of the concerned objects. In such a situation, an independent evaluation of the market value of dwellings becomes an essential tool for compliance with the mutually beneficial balance of interests of both buyer and seller.

In assessing the market value of dwellings, a large number of factors should be taken into account, including the distance from the city center and transport hubs (e.g. railway stations), the aspect, the presence of a nearby forest or water body, soil and water quality, availability of utilities, the presence of nearby shops, kindergartens, schools and other facilities. For many purchasers, great value is attached to a location which is seen as 'prestigious', with good quality access roads, the availability of infrastructure and other amenities.

(5) Evaluation of the price.

1.6 The role and functions of the real estate tax

The property tax has three main functions.

(1) Fiscal function. Property, through a well-designed, effective and efficient property tax, is able to provide an adequate and sustainable level of local revenues, because real estate is perceived as the most stable subject liable to taxation, in comparison with other types of assets or sources of income. In addition, real estate is much more difficult to hide from taxation, so it tends to result in rising levels of tax collection.

(2) The incentive function. First, for companies only real estate would be liable to the single real estate tax, whereas under the current system the tax base for real estate also includes the cost of the principal income active parts. This could encourage investment in the modernization of the industry. Second, the assessment of property based on its market value leads to higher taxes for the more expensive buildings and land, and this should stimulates their more rational, efficient and effective use, forcing those owners who use the property inefficiently to transfer it into the hands of those who can use it to greater effect. Third, the state legalized assessment of land and

buildings at their actual costs will promote the further development of market relations in the sphere of real estate, as well as improving the results of urban planning.

(3) Social function. Charging more tax for more valuable and more profitable property may be seen as distributing the tax burden in a more equitable way than other types of taxes that are not based on the size, quality and nature of land use or on inadequate valuations. At the same time, under the current system a significant amount of tax differentiation (depending on the size and quality of the property) does not occur, as they do not take into account its market price. For tax purposes, the residual value of real estate object is used. Such value is determined as of January 1 of the current financial year which may lead to some variation of real estate object's effective value.

1.7 Revenue performance

One measure of the efficiency and effectiveness of the tax system is the share of tax revenues when compared to the nation's GDP (which reflects the tax burden on the economy). To determine the specific significance and the importance of the property tax in the Republic of Belarus, it is necessary to consider the statistical data and the relevant finances.

There have been various changes in taxes and fees levied within the territory of the Republic of Belarus during the recent improvements made to the tax legislation. This section discusses their impact on the calculation of taxes and fees, which form the state treasury, and, consequently, on the structure of the tax.[145]

According to the National Statistics Committee, the gross domestic product for three months in 2014 at current prices was 1.49 million BYN[146] (628,692 EUR) and increased in comparison with January - March 2013 by 0.5 % in comparable prices.

The formation of tax revenue in the first quarter of 2014 was 92% from tax revenues to the local budget provided by value-added tax, which raised 38.7 %, income tax 17.6 %, excise taxes 11.2 %, tax revenues from foreign trade raised 10.3 %, income tax 8.3 %, and property taxes 5.9%.[147]

Changes in the structure of tax revenues in comparison with the first quarter of 2013 were due primarily to a decrease in the share of income tax (12.2 percentage points) in 2014, and to the decrease in profit before tax for the economy in 2014 as compared to 2013 year of 38.2%.[148]

[145] The Law of the Republic of Belarus of 18.10.2016 N 432-L „On amendments and expansions to the Tax Code of the Republic of Belarus".
[146] Belarusian ruble.
[147] Ministry of Taxes and Duties of the Republic of Belarus www.nalog.gov.by.
[148] Ministry of Taxes and Duties of the Republic of Belarus www.nalog.gov.by.

Thus, according to the statistics on the financial burden of the property tax in the Republic of Belarus, it is clear that, in percentage terms, it is not as high in comparison with other taxes. However, every year in Belarus, there is a tendency to increase tax revenues from property tax in the local budget.

2 The development of the real estate market in the Republic of Belarus

2.1 Privatization

The established system of state regulation of the real estate market of Belarus is highly regarded not only by domestic experts, but also by realtors from Russia, Ukraine, Kazakhstan and other countries where there are still cases of unfair competition and elementary fraud.[149]

The formation of the real estate market was carried out without any prior base and without the normal functioning of legislation, which could have provided a secure execution of transactions, the protection of property rights etc. There was virtually no necessary infrastructure, including financial. Finally, there was a lack of professional real estate market participants able to provide quality services at a high level.

Dealing with the above problems began with the so-called spontaneous stage of development which has resulted in the Law of the Republic of Belarus ,,On privatization of housing stock in the Republic of Belarus".[150]. It is the privatization of the existing housing stock which was the birth of the modern real estate market in the Republic. Initially, the first legal transactions involved the sale of apartments. The privatization of state property, which began in 1992, has had a significant impact not only on the development of the housing market, but also on the formation of a commercial real estate market, and has contributed to the development of an Institute of Market Valuation of Real Estate.

Thus, the basis for privatization in Belarus are the Law ,,On privatization of housing stock in the Republic of Belarus"; ,,Regulations on the privatization of residential premises in the houses of the state and public housing, their maintenance and repairs", approved by the Council of Ministers on 30 June 1992 № 398[151] and the Presidential Decree № 524 ,,On privatization of residential public housing stock"[152].

In accordance with the current legislation, citizens of the Republic of Belarus, as well as foreign citizens and stateless persons who permanently reside in the territory of the

[149] Kuznetsova, E. The real estate market: yesterday, today and tomorrow. Real Estate Belarus, 2013.
[150] The Law of the Republic of Belarus ,,On privatization of housing stock in the Republic of Belarus".
[151] ,,Regulations on the privatization of residential premises in the houses of the state and public housing, their maintenance and repairs", approved by the Council of Ministers on 30 June 1992 № 398.
[152] The Presidential Decree № 524 ,,On privatization of residential public housing stock".

Republic of Belarus, have the right to acquire the apartments occupied by them under the terms of privatization. The purchase of apartments as property under the terms of the privatization legislation is carried out free of charge, refundable and on a mixed basis. Privatization of houses within collective farms and other legal entities, reflecting a rights-based cooperation, results from a decision of the supreme body of the legal entity. Houses (apartments), which are of historical and / or cultural value, can be privatized only if the citizen (being a participant in the privatization process) undertakes the security obligations, issued by the appropriate government authority of the Republic of Belarus.[153]

The privatization of state property is regulated by several regulatory instruments.[154] [155] Individual questions of procedure regarding the privatization of state property and the circulation of shares on the stock market are settled in the Presidential Decree of 20 March 1998 № 3 „On privatization of state property in the Republic of Belarus"[156].

The objects of state property privatization are:

- enterprises as property complexes of state unitary enterprises;
- shares (stakes in statutory funds) of business entities owned by the Republic of Belarus or owned by the administrative-territorial units (local government and self-government bodies, city, region, district).

Privatization can be to the benefit of:

- individuals, including individual entrepreneurs, foreign citizens and stateless persons;
- legal entities of the Republic of Belarus, with the exception of public organizations and business entities in the statutory funds of which the number of shares belonging to the Republic of Belarus and (or) its administrative-territorial units, are more than 50 %;
- foreign states and their political subdivisions;
- international organizations; and
- foreign legal entities.

2.2 The nature of the real estate market

Many tools are used to improve the operation of the existing real estate market. Among them are:

[153] The Culture Code of the Republic of Belarus.
[154] The Law of the Republic of Belarus of 19.01.1993 „On the privatization of state property and the transformation of state unitary enterprises into joint stock companies".
[155] The Regulation of the Council of Ministers of the Republic of Belarus of 31 December 2010 number 1929 „On Measures for the Implementation of the Law “On Amendments and Additions to Certain Laws of the Republic of Belarus and the Repeal of Certain Legislative Acts of the Republic of Belarus and their individual positions on the privatization of state property".
[156] The Presidential Decree of 20 March 1998 № 3 „On privatization of state property in the Republic of Belarus".

- the move towards an active investment policy with the involvement of non-budgetary financing sources for housing construction and maintenance;
- the cutting of budget costs for housing fund maintenance and operations;
- the development of a housing allowances system for housing construction and purchases;
- the improvement of the mechanism for the reimbursement of expenses for accommodation payments and municipal services;
- the implementation of a mortgage housing credit system which is aimed at attracting investments to the real estate economy, the creation of necessary conditions for housing construction development and citizens housing provision. The sources of credit resources within the mortgage housing credit system includes budget funds, mortgage and universal bank funds as well as corporate investors funds and citizens' money savings;
- the implementation of a compulsory housing insurance mechanism;
- the improvement of taxation in the housing sector using market-based valuation mechanisms;
- the organization and maintenance of homeowners' associations and housing associations activities;
- the creation and development of legal and economic mechanisms for real estate market regulation; and
- the creation of professional standards of activity within the real estate market, single information space and a professional education system.

Currently, the market is characterized by several parallel trends.

Many people own apartments or houses which may be available on the market and there is, as a consequence, a large number of secondary transactions. Legislation[157], also provides land to individuals for residential purpose.

However, the process of privatization of commercial real estate is often through auctions sales.

In addition, there is an increasing level of foreign investment in real estate, which helps in maintaining and improving the market activity in Belarus.

Table 20.4: The composition of the unified state register of immovable property, the rights to it and transactions affecting it and the dynamics of its change in 2012-2016[158]

[157] The Law of the Republic of Belarus of 19.01.1993 "On the privatization of state property and the transformation of state unitary enterprises into joint stock companies".
[158] http://nca.by/rus/infres/e_uslugi.

Types of real estate	2012	2013	2013	2014	2014	2015	2015	2016	2016
	No.	No.	% to 2012	No.	% to 2013	No.	% to 2014	No.	% to 2015
Plots of land	1,829,987	1,953,565	107%	2,094,870	107%	2,269,454	108%	2,404,844	106 %
Capital structures including unfinished preserved capital structures	2,003,389	2,081,608	104%	2,177,160	104%	2,255,748	103%	2,324,300	103 %
Isolated premises taking into account parking spaces	2,323,845	2,456,927	106%	2,651,085	108%	2,750,467	103%	2,844,052	103 %
Total	6,157,221	6,492,100	105%	6,923,115	107%	7,275,669	105%	7,573,196	104 %

As of December 31, 2016, the Unified state register of immovable property, the rights to it and transactions affecting it, contained 102,453 registered transactions involving real estate objects. Of these, 11,541 transactions involved real estate located in Grodno region which is less than in 2015 (3,025 transactions).[159]

The importance of the market for real estate transactions for the country's economy is difficult to assess. According to the researchers,[160] [161] [162] the fact that the secondary commercial real estate transactions in the market have increased over the past few years is evidence of a rapid expansion, while others view it as a more balanced process of growth. Undoubtedly, the starting point in terms of real estate transactions was low.

However, it is clear that the real estate market in Belarus is of sufficient size and with sufficient economic potential to justify further efforts and investments to improve the functionality of the market.

2.2.1 Land Use

[159] State Committee on Property of the Republic of Belarus www.nca.by/rus/infres/e_uslugi.
[160] Kuznetsova, E. The real estate market: yesterday, today and tomorrow. Real Estate Belarus, 2013.
[161] Ryabov, S. S. The model estimates the real estate in the Republic of Belarus. 2008.
[162] Siniak, A. N. World practice real estate taxation and specific features of the concept of property tax in Belarus. Real Estate Belarus, 2002.

One of the sources of income of the municipal budget is the land tax, but it does not play an important role, and it has little effect on the level and nature of land use. This tax is aimed at the removal of part of the income of taxpayers, which was not obtained as a result of their own efforts, but as a specific consequence of the use of land as a whole. To date, of particular relevance is the regulation determining the amount of land tax. Mechanisms for collecting land tax are fixed in the Tax Code of the Republic of Belarus. Payers of this tax comprise both physical and legal persons.

For calculating land tax a variety of rates are imposed depending on the categories of land, and taking into account economic, social and other indicators of land allocation.

In accordance with the Tax Code,[163] the rate of land tax on land settlements is established as shown below

For public business zones which accommodate the automobile and petrol filling stations and other facilities, as well as for production areas with the cadastral value of land respectively, of less than 5,180, 28,253 and 14,126 BYN per hectare (approximately 2,185, 11,921, 5,960 EUR respectively) is set at a flat rate of 155.39 BYN (approximately 65 EUR) per hectare, and therefore if the cadastral values are 5.180, 28,253 and 14,126 BYN (2,185, 11,921, 5,960 EUR respectively) per hectare and above, the rate is set according to the Annex 5 of the Tax Code[164].
For multiple-dwelling residential zones and residential backyard zones at the cadastral value of land being less than 41,440 BYN (17,485 EUR) per hectare, the tax is set at 10.36 BYN (4.37 EUR) per hectare, and therefore if the cadastral value is 41,440 BYN (17,485 EUR) and above, the rate is set according to the Annex 5 of the Tax Code[165].

For the dwelling backyard zone, the cadastral value of land being less than 20,720 BYN (8,742 EUR) per hectare, the tax is set at 20.72 BYN (8.74 EUR) per hectare, and therefore if the cadastral value is 20,720 BYN (8,742 EUR) and above, the rate is set according to the Annex 5 of the Tax Code[166].

Art. 198 of the Tax Code[167] establishes the rate of land tax on land for industry, transport, communications, energy, defense and other purposes, located outside of settlements, as well as the land belonging to suburban gardeners' partnerships and cottage building co-operatives.

[163] The Special part of the Tax Code of the Republic of Belarus, Art. 197.
[164] The Special part of the Tax Code of the Republic of Belarus.
[165] The Special part of the Tax Code of the Republic of Belarus.
[166] The Special part of the Tax Code of the Republic of Belarus.
[167] The Special part of the Tax Code of the Republic of Belarus, Art. 198.

The legislation[168] applies a rate of land tax on agricultural land belonging to the forest land, the land tax on land belonging to the forest land and engaged in capital structures, and other objects, as well as on land occupied by objects in the course of construction.

The provisions of Annex 5 of the Tax Code are reflected below.

Table 20.5: Land tax rates for land plots located in populated areas, as well as outside settlements, land plots of gardeners' partnerships and cottage building co-operatives[169]

Types of functional use of land	Land tax rates (%)
Public and business zone for accommodation	
Automobile refueling and gas filling stations, car markets, gambling establishments	3
Markets (excluding automobile), shopping centers, including car parks, serving these markets and shopping centers	0.7
Other facilities	0.55
Residential apartment blocks	0.025
Residential estate zone	0.1
Industrial zone	1.1
Recreational Area	1

According to the statistical data for 2012 - 2013, in the Grodno region, the overall share of the land tax is 2.1% of its budget revenue. Income from legal entities in the state increased 6 times more than income from individuals. Of course, for individuals who make this minimal contribution, it still is a stable source of revenue to the local budget.

When levying the land tax, problems may be encountered when the purpose of land is changed. It should be noted that the functional uses of land (types of evaluation zones) are regulated in the Tax Code[170] and their purpose defined in accordance with Annex 4 to the Tax Code of Belarus. Thus, in order to calculate the land tax, the functional use of land should be based solely on the purpose of land as defined by the relevant decisions of the executive committees. In situations where the purpose of the land (as defined in the executive committees' decision) does not match its actual purpose, the Regulations on the transfer of land from one use category to another and referring lands to certain types apply.[171]

[168] The Special part of the Tax Code of the Republic of Belarus, Art. 199.
[169] The Special part of the Tax Code of the Republic of Belarus.
[170] The Special part of the Tax Code of the Republic of Belarus, para. 4, Art. 195.
[171] Shafranskii, V. Land tax when changing the purpose of the site. Presidential Decree of 27. 12. 2007 № 667 „On seizure and allocation of land".

The transfer of lands and land plots from one use category to another made in the case of a change in the main purpose of these lands, can include the following: the seizure and reallocation of land plots; the termination of the right of permanent or temporary use, the termination of a lifetime inheritable possession, or of ownership, and lease of land plots; land users submitting applications for the transfer of land, and / or a change of land plots from one use category to another.

Land users may apply for a transfer of ownership of land, a land plot from one use category to another district, city executive committee at the location of such lands or land plots. The application should include: the cadastral number of the land; the location of land or land plot; the nature of the proprietary right to the land; the use category of land including land, land plot and land category; the types of land uses that make up the land or land plot; the justification for the transfer of land or the land plot from one category to another.

Also attached to the application (without notarization) should be a copy of a document confirming the state registration of the legal entity or individual entrepreneur making the application, or copies of documents that contain identifying information about the citizen, and a copy of land-cadastral plan with the boundaries of the land.

For the preparation of materials on the transfer of land, or a land plot from one use category to another district, city executive committee created a commission that must within seven business days conduct a survey of the subject land or the land plot, and send their certificate of inspection to the executive committee. The district, city executive committee within five working days makes a decision on the transfer of land, or the land plot from one use category to another, or decides to refuse such a transfer. If the decision is within the competence of a regional executive committee, the district executive committee where the land or the land plot are located prepare their certificate of inspection. Within five working days, the district executive committee makes a decision on such transfer approval and sends the decision to the regional executive committee. In turn, the regional executive committee considers the submissions and within five working days makes a decision on the transfer of land or land plot from one use category to another, or decides to refuse such a transfer. The land user is informed of the decision within three working days from the date of the decision. Refusal of the transfer of land or land plot from one use category to another may be appealed in court.

The updating of the information on the use category of land or land plots in the documents of the state land cadastre, the unified state register of immovable property, the rights to it and transactions affecting it, as well as in the land information system, is carried out by the land management service, the registrar of the organization on state registration of immovable property, rights to it and transactions affecting it and the organization of land management, which operates the appropriate land information system. Such a correction is based on information from the district, Minsk city, and city executive committee

concerning decisions to change the category of land or land plot or on the basis of land users' applications and the copies of such decisions.[172]

What is role of the land tax in the tax system of the Republic of Belarus? To answer this question, the practices of the Inspectorate in the (largely rural) Grodno region have been analyzed, and it emerges that the land tax is not cost-effective when compared with other taxes. Similarly, the levels of tax collection to the state makes it an expensive tax to administer, but it should be noted that the loss of this tax would be unacceptable simply on the grounds that it is not profitable. In the Grodno region, a large number of individuals are exempted from payment of land tax, which reduces the yield. Therefore, the rate of the land tax should be increased while the number of beneficiaries and taxpayers using simplified tax system should be reduced. Further, to increase the effectiveness of the land tax the rate of tax on agricultural land should be increased.

2.3 Land ownership and registration of property rights

Land is a part of the earth's surface, has established boundaries, area, location, legal status and other characteristics that are recorded in the state land cadastre and documents of state registration.[173]

The state registration of land plots, rights to them and transactions affecting it includes:

(1) The state registration of newly created land plots, or lease agreements, or a right to it, or restrictions (encumbrances) to such right;

(2) The state registration of the transfer of ownership of the land under the rules of inheritance;

(3) The state registration of the transfer of land (which was privately held) to the Republic of Belarus in the case of voluntary alienation of land to the Republic of Belarus' ownership or forced seizure of such land;

(4) The state registration of the origin, or the transition or termination of the right of lifetime inheritable possession or the permanent or temporary use of registered land;

(5) The state registration of the agreement between the (private) owners of land, the sharing of such a plot, or a contract between the owners of adjacent land in private ownership, to merge these sites;

(6) The state registration of the demise of a land plot and the creation of land plots as a result of the land plot partition, or a land plot demise and the creation of a land plot as

[172] The Decree of the President of the Republic of Belarus of 27.12.2007 "On the seizure and allocation of land plots".
[173] The Land Code of the Republic of Belarus, Art. 17.

a result of the merger of neighboring land plots, or as a result of transferring the rights or restrictions (encumbrances) of the right to land plots created by the division or merger.

2.4 The improvement of the land tax administration

Tax administration is a set of methods, techniques and information support, by means of which the authorities and management, including tax administration at all levels, give the functioning mechanism of tax law direction and coordinate fiscal actions in case of significant changes in the economy and politics.

The information technology component within the tax administration is extremely high and its development is directly related to the implementation of electronic document management, and the active introduction of computer information processing facilities in order to improve fiscal performance.[174]

The search for ways to improve the technology which underpins the tax administration does not stop, which is understandable given the need to solve new problems by the tax authorities in the process of the socio-economic development of society. For today's domestic economy, it is important not only to overcome the consequences of the global financial crisis and economic restructuring, but to achieve innovative ways of securing further development.

Attempts to resolve the contradiction between increased levels of control over the activity in certain areas and the reduction of administrative influence offered by the development of remote tax administration are based on electronic documentation, covering the reporting and primary documents which create the conditions for their accumulation and automatic processing.[175] The formation and transfer of primary and accounting documentation in electronic form creates the possibility of permanent and operational control by the tax authorities for the specific activities of the economic entities, including exemptions.

In the area of electronic services, improving administrative procedures in Ministry of Taxation and Duties has involved:

(a) the introduction of the electronic services that enable:
- the taxpayer:
  - to send to the tax authorities information required by law, requests for information and applications for the refund of taxes and receive e-consultations, in which case the answer or review is available only for taxpayer; and

[174] Pelkova S. Novoselova M. Comparative analysis of tax systems of the Republic of Belarus and Russia.
[175] Kisel, I. Reforming the tax system of the Republic of Belarus.

  - to conduct calculations (уплаченных налогов) for reconciliation with the local and state budget; and
- the tax authority to provide the taxpayer with information in electronic form on the decision of tax returns;

(b) the embedded functions of accounts personal to the taxpayers on a Ministry of Taxation portal, with taxpayers having certificates of their digital signature, allowing them to view information about the tax paid by them to the local budget; and

(c) the introduction of the software for a taxpayer information center allowing the tax authorities to inform the taxpayer about tax arrears, overpayment, as well as the refund of taxes, carried out by the Tax Inspectorate.

The Decision of the Ministry of Taxation and Duties of the Republic of Belarus of 17.04.2014 № 21"On some issues connected with calculation and the payment of taxes, levies (dues) which are under the control of tax bodies"[176] contains details of the directions to individuals for notice of payment of the land and / or property tax electronically.

In addition, it provides that in the event that the taxpayers agree to receive notices electronically, a notice of their choice may be sent using the electronic service ,,My Account", located on the official internet[177] to their email address in the period before August 1 of the current tax period. In this direction, the relevant is date is the earlier of the date of placing the notice in the ,,My Account", located on the official internet, or the date of the notification to the email address of the payer.

The use of personal accounts reduces the time involved for contact between taxpayers and tax bodies, to see the necessary information about the changes of the procedure of tax payment and reduce paperwork expenses for both tax bodies and taxpayers.

Conclusions

The analysis of the real estate taxation problems in the Republic of Belarus allows for the following conclusions.

1. There are the following principles of taxation:
- the principle of publicity in establishing and collection of taxes. The obligatory payments are established for the creation of public authorities' centralized financial funds and have a social refundable character. The State should not finance needs which are different from society needs;

[176] The Decision of the Ministry of Taxation and Duties of the Republic of Belarus of 17.04.2014 № 21"On some issues connected with calculation and the payment of taxes, levies (dues) which are under the control of tax bodies".
[177] The Portal of the Ministry of Taxes and Duties of the Republic of Belarus www.portal.nalog.gov.by.

- the principle of legality which means that executive bodies (public officials) applying tax norms should strictly follow the Constitution of the Republic of Belarus and current legislation;
- the principle of the legal equality of taxpayers' which means that they have common and equal rights and tax responsibility;
- the principle of commonality (obligation) according to which every person should pay taxes stipulated by the legislation for which each is regarded as a tax payer. The liability to pay the taxes and non-tax payments for legal persons and individuals is provided by the Tax Code[178] and also by the Constitution of the Republic of Belarus[179] which requires the citizens to participate in state government financing by through tax payments;
- the principle of the balanced distribution of the tax burden, considering the potential ability to pay appropriate sums to centralized state monetary funds; and
- the principle of tax legislation stability which means that there should not be changes in tax legislation during the current financial year and there should not be changes in the general rules before the term which was initially stipulated by the legislation.

2. There are no clear "property" and "real estate" definitions for the purposes of taxation in legal literature and legislation. Therefore it is reasonable to formalize the definition of "real estate" in legislation which will fully reflect its elements and include land within it. This will allow for the simplification of both civil and tax legislation.

3. It is also reasonable to change tax legislation through the raising of the land tax sums as well as reducing the level of benefits and ensuring a simplification of the tax system for taxpayers. It can be also useful for the land tax effectiveness to increase the rate of tax applied to agricultural land according to the needs of the administrative-territorial units' budgets.

4. According to real estate and land tax collection practice, it is clear that revenues from both real estate and land tax payment by individuals are small. For example, in 2015 the sums of the real estate tax paid by legal entities are 50 times higher than sums payable by individuals. Comparing the sums of the land tax for the same period, the sums paid by legal entities are 83 times higher. Thus, it is clear that the land tax is not as profitable as other taxes, because of the really high costs of its collection.

In light of this, a suggest reform would be the introduction of the single real estate tax which would unite both the real estate and the land taxes. The main difference proposed for such tax is that it should be calculated on the basis of the real estate object cadastral value, and this represents the key problem for the common introduction of the single real

[179] The Constitution of the Republic of Belarus, Art. 56.

estate tax. The single tax will improve the real estate potential as a whole and give it the potential to become the most profitable tax for the local budget.

5. The further development of the state of real estate, rights in it and transactions regarding it, including registration connected with the introduction of modern informational technologies and electronic services extension, are aimed at a common access to the Unified immovable property register. It is also necessary to introduce the electronic document flow to improve the transparency of business processes in the real estate market.

All this is aimed at the optimization of the real estate market and the improvement of the attraction of the Republic of Belarus' tax system. The further tax legislation development in the Republic of Belarus is a necessary condition for the improvement of law enforcement effectiveness in the sphere of tax legal relations and the effective development of the Republic of Belarus' tax system.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
M. Radvan, R. Franzsen, W. J. McCluskey & F. Plimmer

Implementation of the Pan-European Approaches to Property Taxation in Ukraine

RUSLANA HAVRYLYUK

Abstract The world experience of real estate taxation supports the view that the tax base should be the "market value" of the object of real property with a simultaneous provision for a certain minimum level of this value which is not subjected to taxation. However, this only works only if there is a healthy, active and comprehensive property market for all types of properties across the entire country. Until such a market exists, "market value" as defined, is a goal to be aimed at. This will complement the fiscal function of real property tax with an extremely important function, being the social redistribution of wealth from the rich to the poor. An extremely important factor in the low efficiency of real estate taxation still remains, and this is the excessive centralisation of political power in Ukraine and the underdevelopment of local and regional self-governments As a result the latter are deprived of their potential to provide services to their citizens, and at the same time they have no incentive to generate public funds to ensure their financial resources. For this reason, the declared decentralisation of power in Ukraine is arch-necessary.

Keywords: • Czech Republic • property tax • immovable property tax • valuation • tax reform

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Introduction

The purpose of this chapter is: to present the nature, national and temporal features and the place of property taxation in the tax doctrine of modern Ukraine; to make an analysis of property taxation as an attributive component of the general tax culture of the Ukrainian people; to distinguish the national and external elements, introduced as a result of external experience into the Ukrainian property taxation and to characterise their interaction; to identify the most significant trends and future prospects of the current development of property taxation in Ukraine; and to correlate these trends with the directions for the development of property taxation in Europe.

In the tax culture of the Ukrainian people, the State control and human-oriented traditions of tax law, as well as the mental perception of the tax by the majority of the population of Ukraine as a "tribute" are inseparable. The property tax is not, therefore perceived as a contribution towards satisfying the general (public) needs' for community services.

The chapter is focused on the study of the nature and historical features as well as the public' perception of the property taxation in Ukraine. Particular attention is paid to the conditionality of property taxation by the tax and legal culture of the Ukrainian people. Ukraine has always been and continues to be on the frontier of the collision between the Western and Eastern civilizations, which are paradigmatically opposite. It is clear that this cultural divide is the main ideological source of all the fundamental contradictions in the tax legislation of Ukraine.

The chapter reveals the particularly destructive role of the population's distrust of the authorities within the process of building a modern property tax system, and the permanent multiplication of tax-legal anarchic tendencies as a consequence of this distrust. Within the study, the tax and legal culture of Ukrainians is seen as an integral part of their overall culture, character, mental and behavioural social codes, in which the people have developed and emerged as a single entity. Considerable attention is paid to the problems of implementing the pan-European approaches to property taxation into the practice of property taxation in Ukraine.

1 Property taxes

1.1 History of property taxation in Ukraine

1.1.1 Origin of property taxation

Typical public needs and the same typical means to meet them were and remain characteristic for all societies, beginning with the early communities and continuing with the contemporary ones. Among the typical means, taxes on property, specifically on real estate, are the most ancient. This is because of their legal nature generated by property

rights, and the characteristics of their corresponding objects of taxation: land, its products, residential accommodation in all its diversity, non-residential property, etc. Ukraine is no exception. Even though Ukraine, as an independent, sovereign State emerged only in 1991, real estate taxation within its territory is an historic constant, at least since the late 9th century and the 'Kievan Rus'[1].

The researchers who investigate this subject, state that one of the first types of taxes of the Old Russian tribes was the land tribute from a *'ralo'* (from the plough) and date the time of its origin to the IX century (pre-Horde period). The *ralo* was a fixed payment in grain for a certain area of land, which was equal to 16 *kad'* of rye (1 *kad'* = 14 *poods* = 40 stones), being the required volume of rye to sow that land.[2] About a century and half later, there appeared a *'plough'* which also was a tribute for land tenure, and it reflected the quality of the taxable land. There was fixed scale to determine that quality, with the land subdivided into 'good', 'moderate' and ,'thin', and tributes from it were correlated as 1:1/2:1/4.[3] Under the Mongol-Tatar occupation of Old Rus' lands in the XII-XIV centuries, the taxation of immovable property was abandoned and replaced by capitation (poll tax) collected from the population, who remained on those lands, by the principle of frankpledge[4]. Real-estate taxation in this period was distinguished by its fragmentary nature.

With the liberation of the territories of the Old Rus tribes from the Mongol-Tatar control, the Old Rus State did not recover, and its lands were distributed among the Moscow and Lithuanian-Polish States. Nevertheless, this had a positive outcome for a renewal of property taxation in the Ukrainian lands. In particular, the financial reforms of the XV century in those states caused the decline of a *plough* tribute and its reform into a „household tribute" (household duty).[5] At the end of XV century, real estate taxation on the lands of the Old Rus was transformed once again: land taxation and taxes on housing were merged into one tax payment being an „impost from a living quarter", and the tax was called the „incurring impost".[6] A milestone phenomenon in the development of real estate taxation in the Ukrainian lands, that were part of Muscovy, was a general census of the population and their property in 1646 as a result of which tax payers were legally attached to their objects of taxation. Consequently, a homestead (farm) became an integral object of property tax until the middle of the second decade of XVIII century.[7] Since

[1] Kievan Rus was a loose federation of Eastern Slavic and Finnic tribes in Europe from the late 19th to the mid 13th centuries.
[2] For details see Kuri, V. O. On Direct Taxes in Old Rus. Law collect. Kazan: D. Meier, 1855. P. 112-113.
[3] For details see Ibid. P. 114-116.
[4] Frankpledge was a system of joint suretyship, being the compulsory sharing of responsibility among persons connected in a unit of tithings.
[5] See Orlov, D. Tax Reform of 1989-is the Last and the Most Successful in the History of Russian Industrial Taxation. Taxes. 1993 (3). p. 7.
[6] See Miroshnichenko, A.M. Land Law of Ukraine: textbook. 2nd edn. suppl. and rev. Kyiv: Alerta; CUL, 2011. pp. 84-89.
[7] See Kafengaus B.B., Pososhkov, I.T. Life and Activity. Moscow: Publ. House AS USSR, 1951. P. 97; Pavlov, V.I. Kadebska, E.V. Formation of Real Estate Taxation System in Ukraine: Monograph. Rivne: NUVGP, 2011. p. 26.

1718, the taxation of objects of real estate in the Ukrainian lands, that were a part of Russia, was halted because of the transition to the capitation taxation system under the tax reforms introduced by Peter I. However, the taxation of real estate transactions was continued by means of stamp duties.[8]

In the beginning of the 1860's, property taxation in the Russian Empire, which included over 80 % of all Ukrainian lands at that time, was revived. Since 1 January1863 it had been implemented by virtue of Transitory Provisions on the collection of tax on real estate in the cities, *posads* (trade-economic parts of the city) and towns,[9] and on 4 October 1866 the Regulation on real estate tax in cities, *posads* and towns came into force,[10] according to which taxes on real property within towns was collected regularly. The objects of taxation for this tax were: housing and attached buildings; factories / plants; buildings of different kinds, storage facilities and such ancillaries as vegetable gardens, green-houses, gardens, land plots, etc., i.e., living accommodation and non-residential premises and plots of land (that were under the buildings as well as undeveloped ones). The buildings belonging to the State, *zemstvo* (local councils), religious, charity, and scientific communities. Also low-value buildings (with the tax not exceeding 25 kopecks), were exempted from taxation. The tax revenue was apportioned, i.e., its total sum was assigned to the provincial administration depending on its population, and after that the tax was distributed between the individual owners by a special apportion board, the members of which were elected by real estate owners,.[11] Under the law of the Russian Empire of 14 May1893, an apartment tax was introduced in the towns of the State with effect from 1 January 1894. It was paid not by the owners of the flats who let them out for lease but by the tenants/occupiers. This characteristic singled this tax out from other property taxes.

[8] See Bukhtiarova, I.A. Genesis of Real Estate Taxation in Old Rus. Economy and Law of Kazakhstan 2013 (5). p.41.

[9] See Imperial Approval of Rules on Real Estate Tax Collection in Towns, Villages and Settlements in 1863, January 1, 1863. Complete Collection of Laws of the Russian Empire. Coll. 2. Vol.38. Div. 1. No.39119. pp. 15-19; Imperial Approval of Rules on Real Estate Tax Collection in Towns, Villages and Settlements in 1864, 26 November 1863. Complete Collection of Laws of the Russian Empire. Coll. 2. Vol.38. Div. 1. No.40315. pp.244-248; Imperial Approval of Rules on Real Estate Tax Collection in Towns, Villages and Settlements in 1865, 27 January 1865. Complete Collection of Laws of the Russian Empire. Coll. 2. Vol.38. Div. 1. - No.401725. pp.109-112.

[10] On State Tax to Real Estate in Towns, Villages and Settlements Except Posads in Polish Provinces of the Polish Kingdom: Imperially Approved Endorsed by the State Council and the State Duma Law, 6 June1866. Complete Collection of Laws of the Russian Empire. Coll. 3. Vol.30. Div. 1. No.33673. pp. 694-704.

[11] See On the Structure of the Tax on Buildings and Apartments in Towns, in Works of Commission Imperially Approved for Revision of the System of Taxes and Fees. Vol.3. Part 1. St.-Petersburg: V. Bezobrazov and co. Press, 1863. pp.1-32.

1.1.2 Property taxation in the Soviet Ukraine

From late October 1917, all the taxes on land were cancelled because of the annulment of private rights to land. At the same time, the flat tax collection was terminated, except for its use as the means of expropriation for State needs.[12] Such expropriation was the legalized form of ownership transfer on an object or its part from the private owner to the State. The taxation of other real estate transactions was also terminated according to the Decree of Council of People's Commissars of the Ukrainian Socialist Soviet Republic „On temporary revolutionary taxes established by local Soviets of Deputies" of 31 October 1918.[13]

A new period in real estate taxation in the Soviet Ukraine began with the introduction of a rent tax in 1923, which was abandoned in 1926, and instead a variety of new taxes on real estate was introduced: on housing accommodation and industrial premises, on commercial gardens, on allotments, vineyards, berry fields, hop-gardens, melon fields, and also on the inheritance and gifts of real estate. Proceeds from all taxes were directed to the budgets of local authorities.[14]

Nevertheless, the introduction of above mentioned system of real property taxation did not have the desired results, as almost all the proceeds from it were used to cover the costs of administering those taxes. The population tried to avoid paying the taxes because the burden of tax collection imposed by the State and its local bodies, was so heavy that law abiding taxpayers were facing inevitable impoverishment.[15]

By 1930, all existent local taxes on real estate were repealed and instead were introduced two new taxes – a land rent and a building tax.[16] Under the new regulations, land rent payers were the owners of buildings, tenant builders, or establishments, enterprises, organisations and persons who were given a land plot or a building constructed on it. All residential properties, factory-plant constructions, warehouses, business premises, theatres and other buildings, and also constructions of religious faiths owned or used by private persons, and State enterprises, establishments, cooperatives and other public communities in towns, villages and other settlements were subjected to the taxes. The amount of the building tax was set as a percentage of the value of a corresponding building

[12] See Genzel, P.P. Tax System in Soviet Russia. Moscow: University Print. House, 1924. p. 47.
[13] On Temporary Revolutionary Taxes Established by Local Councils of People's Commissars of the USSR: Decree of Councils of People's Commissars of the USSR of October 31, 1918. Available at: http://history-of-taxes.narod.ru/5.html., Accessed 31. 3. 2015.
[14] See the Provision on Local Finance: Decree HCEC of April 25, 1926, in: Collection of Laws of the USSR. 1926. No.51. P. 368; Provision on Tax on Property Transferred by Inheritance and Donation: Ordinance CEC and SNK of the USSR of 29 January 1926, in: Collection of laws of the USSR. 1926. No.2. p. 13; Postnikov, G.V. (ed.). Legislation on Taxes in the Industry. In 4 parts. Part. 4: Local Taxes and Fees. Moscow: Separate Editorial Publ., No.19, 1924; Bugaevskiy, A.A. Soviet Inheritance Law. Odessa: Fundamental Library, 1926.
[15] See Bogolepov, D.P. A Short Course of Financial Science. Kharkov: Proletariy, 1929. p. 69-76.
[16] See the Resolution of CEC and CPC of 23 November 1930, in : Pocket Book of Financial Employee for 1930. Leningrad: State Financial Publ. House of the USSR, 1930. pp. 262-269.

which was assessed taking into account the total area. The taxpayers were the owners or users of the buildings.[17] Thus, in the early thirties in Ukraine, there were taxes on land, buildings, inheritance and gifts as the objects of real estate – by land rent, tax on constructions (building tax), inheritance and gift tax respectively. In 1953, the tax on the income from land was replaced by a per-hectare tax. This stimulated the growth of agricultural productivity.[18]

Real estate taxation in Soviet Ukraine experienced its last major changes during attempts to achieve the financial reforms in the 1980s In particular, in 1981, provision was made for the payment of the tax on buildings by non-governmental owners, and if they were allowed use of land allotments, a land tax payment, also.[19] The taxation of real estate transactions also underwent reforms, with the State duty increasing from 1% to 5 % of the corresponding property's value, depending on the degree of the relationship of the participants of corresponding actions being charged for notaries' actions regarding the provision of certificates of inheritance rights, and the certification of contracts on the alienation of personal property. Such personal property comprised residential premises, flats, summer houses, garden cottages and garages which belonged to the citizens.[20] So, in the closing year of Soviet Ukraine, real estate taxation included an agricultural tax, land tax, building tax and the state duty as payment for the services of notaries for the alienation of residential premises, their inheritance and gift.

1.2 Evolution of real estate taxation in post-Soviet Ukraine

The Law of Ukraine „On the System of Taxation" was adopted in 25 June 1991. Clause 8 of Art. 17 of this Law introduced a national tax as a payment for land, in the form of a land tax paid on privatized land plots, and a rent payment for land plots in either the State or municipal ownership.[21] The legal structure of the payment for land was improved in 1993,[22] and it continued, with some changes and specifications until the adoption of Tax Code of Ukraine (TCU) in 2010. At this stage, the object of payment for the tax was the land plot or land share, which were in the ownership or use of legal entities or private persons, including the leased land and the taxpayer was either the owner of the land plot, land share or the land-user, including a land tenant. The rates of land tax were set as a

[17] See Local Taxes and Fees. Collection of Laws and Department Materials on Local Taxes and Fees, Single State Duty and Tax on Inheritance and Gifts. Moscow: People's Commissariat of Finance of the USSR, 1930. pp. 159-168, 193-201.
[18] See Law on Agricultural Tax: Law of the USSR of August 8, 1953. Available at: http://referat.ukraine-ru.net/?cm=15600.
[19] On Local Taxes and Charges: Decree of the Presidium of the Supreme Soviet of the USSR of January 26, 1981 No. 3819-X. in: Bulletin of the Supreme Soviet of the USSR 1981 (26).
[20] See On State Duty: Decree of the Presidium of the Supreme Soviet of the USSR of June 29, 1979. Bulletin of the Supreme Soviet of the USSR 1979 (28).
[21] See On the System of Taxation: Law of Ukraine of 25 July1991, No.1251-XII, in: Bulletin of Supreme Council of Ukraine. 1991 (39).
[22] See On Land Payments: Law of Ukraine of July 3, 1992, No.2535-XII, in: Bulletin of Supreme Council of Ukraine. 1992 (38).

percentage of the monetary value of lands, depending on the type and use to which those lands were put.

In 1991, the State duty at fixed rates (depending on degree of relationship between the parties), was charged for notary actions performed by the State notary offices and Councils of People's Deputies in cities, small towns and villages regarding the certification of contracts on the alienation of residential premises, flats, summer houses, garden cottages and garages which belonged to the citizens by the right of private property and for providing the certificates of inheritance rights.[23] In 1993, the abovementioned Act was repealed, but the State duty continued to be collected by the notaries according to the preceding act.[24]

It was only in 1999 that the approach to determining the State duty was changed.[25] Accordingly, for the notary certification of contracts on the alienation of objects of residential property and plots of land, the State duty was imposed at the rate of one per cent of the contract value, but not less than one non-taxable minimum income of citizens (i.e. the minimum sum of money that does not result in the imposition of taxes under the legislation),[26] regardless of the degree of family relationship. For the issuance of certificate of inheritance rights, the State duty was collected at the rate of one percent of the value of the inherited property for the members of family in the first degree of relationship (i.e. husband, wife, children) and for other persons it was three percent of the value of the inherited property. In 2009, the rates of State duty were reduced to two non-taxable minimum income of citizens, and it was paid as a fee for notaries' services.[27] The 2010 Tax Code of Ukraine reduced these rates even further, to 36 UAH i.e. Ukrainian *hryvnias*[28] (approx. 3.14 EUR[29]), and, consequently, the proceeds from the State duty for the issue of certificates of inheritance rights no longer covered the costs of its administration.[30]

In 26 June 1997, real estate transactions were charged with an additional payment which had the nature of a tax. This was the duty payable on the obligatory State pension

[23] See On State Duty: Law of Ukraine of December 18, 1991, No.1994-XII, in: Bulletin of Supreme Council of Ukraine. 1992 (12).
[24] See On State Duty: Decree of the Cabinet of Ministers of Ukraine of 21 January 1993, No.7-93, in: Bulletin of Supreme Council of Ukraine. 1993 (13).
[25] See On Amendments to Some Legislative Acts of Ukraine: the Law of Ukraine of 23 March 1999 N 539-XIV http://zakon3.rada.gov.ua/laws/show/539-14/ed19991207 .
[26] On Amendments to the Decree of the President of Ukraine on September 13, 1994, No. 519: decree of The President of Ukraine dated November 21, 1995, No. 1082/95. Available at: http://zakon3.rada.gov.ua/laws/show/1082/95 .
[27] See On Introduction of Amendments to Article 3 of the Decree of the Cabinet of Ministers of Ukraine "On State Duty" Concerning State Duty for the Issue of the Certificate of Inheritance: Law of Ukraine of March 5, 2009, No.1110-VI, in: Bulletin of Supreme Council of Ukraine. 2009 (31).
[28]See Art. 174 of Tax Code of Ukraine: Law of Ukraine of December 2, 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[29] The Currency Exchange Archive of Ukraine: https://index.minfin.com.ua/exchange/archive/nbu/2010-01-20
[30] See Valyushko, A. Give in Will More, I will Pay for Everything. Legal Practice. 2009 (9). p. 33.

insurance.[31] The introduction of this duty had neither a legal nor historical justification, and it pursued an exclusively fiscal aim on the part of the State. In the Ukraine, it continues to be collected from the above mentioned transactions.

Thus, in the first twenty years of the existence of the sovereign State of Ukraine, during an active process of its tax system formation, taxation on real estate was reduced to:
1) a tax on land as the object of real estate in the form of a payment for land; and
2) payments in the nature of a tax on transactions involving real estate, being the State duty (paid on purchases and sales, exchange, inheritance, and gifts of the objects of real estate); and the duty on the obligatory State pension insurance (while purchasing and selling the objects of real estate).

The adoption of the Tax Code of Ukraine at the end of 2010 resulted in the loss of statutory force for the Laws of Ukraine „On Payment for Land" and „On System of Taxation", but it did not change the system of real estate taxation which had developed over the two previous decades.

2 Position of property tax

The current state of real estate taxation in Ukraine is characterised by active attempts to incorporate international experience within real property taxation, initially focusing on its principles. In accordance with the recommendations of the World Bank and the Organisation of Economic Co-operation and Development (OECD), these principles are the following:
1) the object of taxation is real estate (land and improvements on it (buildings, etc.) as the entity of taxation);
2) mass assessment of the objects of taxation for tax purposes;
3) the availability of a mechanism for taxpayers to challenge the results of the assessment of real estate objects;
4) the formation of a Real Estate Cadastre for tax purposes;
5) real estate taxpayers are the owners of property; and
6) the proceeds from real estate taxation are assigned to local budgets.[32]

Because of the lack of a civil-legal doctrine inherited from the Soviet civil law, in relation to the division of the things into 'movable' and 'immovable', the first of the aforesaid international principles of real estate taxation in Ukraine is not applied. The country still preserves a separate approach to the taxation of different categories of taxable property.

However, the appraisal of the objects of real estate and the transactions with them, is already in practice.

[31] See On Duty for Obligatory State Pension Insurance: Law of Ukraine of 26 June1997, No.400/97- VR, in: Bulletin of Supreme Council of Ukraine. 1997 (37).
[32] See Conceptual Approach to the Question of Real Estate Taxation. Moscow: Nauka, 2002.

The principle of identifying the real estate owners as the payers of taxes on their property is partially adhered to. Particularly in the taxation of residential properties, the taxpayers are private persons and legal entities being the owners of such objects.[33] Land taxpayers are the owners of land plots, of land shares and land-users[34] who are private persons or legal entities (residents and non-residents) and to whom, the use of communal and State-owned land plots was given under legislation, including those on lease.[35] Such a situation is largely the result of the fact that the process of denationalization of land in Ukraine has only recently begun, and a lot of agriculturally-used lands are State-owned. This is a relic of a Soviet past which will be phased out over time.

Taxpayers on gains received from real estate sales (exchanges) are private persons (both, residents and non-residents) who received the proceeds of sale from more than one unit of property over the period of one reporting year.[36] The payers of taxes on income obtained from an inheritance or gift of real estate are the heirs who received the right of ownership and who thus become the owners. The payers of taxes on income from the letting (sub-letting) on the grant of a lease of dwelling premises (sub-lease) are lessees[37] .Thus, the principle of improving the efficiency of real property taxation, by placing the liability of property tax payment on the owners of property within the taxation of income from real estate transactions, is achieved in contemporary Ukraine.

The principal of ensuring that the proceeds from real estate taxation are directed to local budgets, as providing the rationale of real estate taxation, being considered within the international expert environment and scientific society to be an effective means of providing local services to communities, is also partially achieved. Thus, payment for land (land fee), that includes the land tax and the lease payment for land plots, has since 2014 belonged to the category of national taxes and duties[38] but the revenue raised is transferred to the budget of the relevant local authority.[39] The tax on real estate (other than the plot of land) is a local tax, and the income from it is also directed to local budgets.[40] The proceeds from property transactions (as an income component of private persons) go to the State budget.[41] The State duty for notary services as a payment relating to real estate taxation is paid into the State budget of Ukraine;[42] the national insurance fee goes to a special fund of the State budget, which implements the State policy on the

[33] See Art. 266 of Tax Code of Ukraine: Law of Ukraine of December 2, 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[34] Ibid. Art. 269.
[35] Ibid. Art. 14. clause 14.1, sub-clause 14.1.73.
[36] Ibid. Art. 162. clause 162.1.
[37] Ibid. Art. 170. clause 170.1.
[38] See Art. 9, clause 9.1, sub-clause 9.1.10 of Tax Code of Ukraine: Law of Ukraine of December 2, 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[39] Ibid. Art. 290,.clause 290.1.
[40] Ibid. Art. 10. clause 10.1, sub-clause 10.1.1.
[41] Ibid. Art. 168, clause 168.4.
[42] See Art. 6 of On State Duty: Law of Ukraine of 18 December 1991, No.1994-XII, in: Bulletin of Supreme Council of Ukraine. 1992 (12).

treasury-based budget execution. These funds are transferred, according to established procedure, to the special fund of State budget and used according to the Law on State budget of Ukraine for the relevant year.[43]

2.1 Structural components

As a consequence of the tax reform in Ukraine between December 2014 to January 2015, all property taxes were merged into one tax on property. According to Article 265 of Tax Code of Ukraine, this one tax consists of:

a) the tax on immovable property other than the land plot;
b) a transport tax; and
c) the payment for land.[44]

Clause 14.1.147 of Art. 14 of the Tax Code clarifies that the payment for land is a compulsory payment functioning in the form of the land tax and lease payment for land plots in State and communal ownership. Thus, according to the etatism doctrine (i.e. the State is considered as the highest aim and result of social development) of tax law, there is a tax paradox here. It is fundamental that one of the global principles of taxation (i.e. the payment of tax by the owner) cannot be applied, or the other paradox will emerge, being that the State and bodies of local administration will pay the land tax to themselves, which is a nonsense according to the paradigm of taxation.

Tax on immovable property (other than the land plot), was established in Ukraine in 2013.[45] In advance of its introduction, town and village councils were required to develop the corresponding „Regulations on Real Property, other than Land Plots" for the imposition of such a tax. The preparation and enactment of these Regulations by the majority of corresponding councils was extended over several years.[46]

2.2 Tax Payers of Real Estate (Other than Land Plots)

Under the Tax Code, the all owners (private persons and legal entities, including non-residents) of objects of residential and / or non-residential real estate regardless of their place of residence or the registration of their land holdings were defined as payers of this

[43] See, for example, On State Budget of Ukraine: Law of Ukraine of 6 December 2012, No.5515-V, in: Bulletin of Supreme Council of Ukraine. 2012 (5-6).
[44] On Amendments to the Tax Code of Ukraine and Certain Legislative Acts of Ukraine Regarding the Improvements Tax Reforms: Law of Ukraine of 28 December 2014, No.71-VII, in: Bulletin of Supreme Council of Ukraine. 2015 (7-9).
[45] On Amendments to the Tax Code of Ukraine Regarding the Improvements of Certain Tax Regulations: Law of Ukraine of 24 May 2012, No.4834-VI, in: Bulletin of Supreme Council of Ukraine. 2013 (16).
[46] See Bukhtiyarova, I.O. Legal Problems in Defining the Payers of Real Estate Other than Land Plot (New Laws of Tax Code of Ukraine). Nashe Pravo. 2013 (4). pp. 201-207.

tax[47]. Choosing this particular standard for the identification of taxpayers on real property (other than land plots) by the national legislators requires explanation.

The property owner is a person with the right of ownership, the right to use and the right of disposition of the property without any additional qualification [48]. For the purpose of taxation, a special legal regime of ownership is established for the owners of real property, (other than land plots). First of all, owners are required to register their rights of ownership in the State Register of Rights to Immovable Property.[49] This registration of personal rights is performed based on the following title documents:

- contracts concluded in accordance with the procedure established by law;
- certificates of ownership of immovable property;
- ownership certificates issued by privatisation agencies to tenants of residential buildings being State and municipal housing;
- State acts of ownership or permanent use;
- judicial decisions in force;
- other documents justifying the origin, transfer, termination of rights in immovable property.

As a result, a right of ownership of immovable property certification is issued based on the extract from the State Register of the real rights to immovable property.[50]

Those individuals who do not have civil capacity (such as persons under 18 years old, persons with restricted capacity and those persons held by the court to be fully incapable e.g. such individuals who are not capable to perceive and (or) control their actions due to chronic and stable mental disorder)[51] may still be the owners of real property. Thus, according to the Tax Code of Ukraine, their monetary obligations are fulfilled by their parents (adoptive parents), foster parents (fiduciaries) or the persons who, according to established procedure, are charged with exercising guardianship over the property of such persons. Parents (adoptive parents) of infants / minor children are jointly liable for the payment of any monetary obligation and / or tax debt. The guardians of incapable persons are responsible for such monetary obligations from the day of the recognition of the individual's incapability and / or for the repayment of the tax debt from this private

[47] See Art. 266 of Tax Code of Ukraine: Law of Ukraine of December 2, 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[48] See Art 317, clause 1 of Civil Code of Ukraine: Law of Ukraine of 16 January 2003, No.435-IV, in: Bulletin of Supreme Council of Ukraine. 2003 (40-44).
[49] See Art. 27 of On State Registration of Real Rights to Real Estate and Their Encumbrances: Law of Ukraine of July 1, 2004, No.1952-IV, in: Bulletin of Supreme Council of Ukraine. 2004 (51).
[50] For more details see Bukhtiyarova, I.O. System of Real Estate Taxation in Ukraine, in: Theoretical and Practical Problems of Legal Regulation of Social Relations: Materials of International Scientific-Practical Conference, Kharkiv, 2-3 March 2013. Kharkiv: Association of Postgraduate-Lawyers, 2013. pp. 36-38.
[51] Art. 39 of Civil Code of Ukraine: Law of Ukraine of 16 January 2003, No.435-IV, in: Bulletin of Supreme Council of Ukraine. 2003 (40-44).

person's property. Failure to comply means that the property can be seized to recover the debt.[52]

The application of the principle of residency is aimed at the creation of the same legal regime of taxation of the above-mentioned property for residents and non-residents.[53] Nevertheless, the formulation of a definition of 'taxpayers' in this way causes problematic situations, which the legislation has left unanswered. Specifically, residents are legal entities, including their separated subdivisions which are established and carry out their activity in accordance with Ukrainian legislation, located both on its territory and beyond, as well as private persons resident in Ukraine.[54] Thus, the basic principle defining legal entities as "residents" is their establishment on the territory of Ukraine (in practice, State registration), and private persons whose place of residence is in Ukraine.

Thus, both legal entities registered in Ukraine and private individuals with their place of residence on its territory can be the taxpayer of real estate property (as distinct from land plots), by virtue of their property rights either within the territory of Ukraine or in the territory of other states. The shortcomings of this situation are obvious:

- residents can find themselves in the situation where their property will be taxed twice – by the tax on real property in Ukraine, and by any real property tax levied by the state in whose jurisdiction other property in the ownership of the taxpayer is located;
- it is impossible to create a mechanism of control over the taxation of real property beyond the borders of Ukraine. This situation results in the paradoxical characteristic of taxation of the objects of real property of non-residents who, according to the Tax Code of Ukraine, are foreign companies or organisations created in accordance with the legislation of another states, and whose registered (accredited or legalised) premises according to Ukrainian legislation, affiliates, offices and other separated subdivisions are located in the territory of Ukraine, and private persons who are not residents of Ukraine.[55]

Thus, if the corresponding regulations of the Tax Code are interpreted in the literal sense, foreign companies carrying out their activity and foreign citizens living within the territory of Ukraine, have to pay to Ukrainian officials the tax on real property which they own and which is located in the territory of other countries. The problem can be solved by making changes to the relevant clauses of the Tax Code of Ukraine.

[52] See Art.99, clauses 99.2-99.4 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[53] Ibid: Art. 266, clause 266.1, sub-c 26lause 6.1.1.
[54] Ibid: Art. 14, clause 14.1, sub-clause 14.1.123, paragraphs „a" and „b".
[55] See Art. 14, clause14.1, sub-clause 14.1.122 of Tax Code of Ukraine: Law of Ukraine of December 2, 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).

Ukrainian legislators did not ignore the problem of the identification of taxpayers in the case of objects of residential and/or non-residential real estate which are in joint ownership. Thus, if the object of residential and / or non-residential real property is in the common share ownership of several persons, the taxpayer is each of these persons in respect of their share.[56] It should be noted that in practice this problem is very difficult. Usually, courts confine themselves to the separation of an abstract share of the property of such a part-owner in terms of simple fractions – 1/2, 1/3, 1/4, etc. At the same time, in accordance with current legislation of Ukraine, the separation of this share can be grounds to levy tax on a corresponding part-owner. This process can be initiated only by the part-owner, though it is expensive, complicated and, most importantly, often unnecessary. That is why the regulation of the Tax Code of Ukraine in its current wording is meaningless, as it is practically impossible to fulfill them. Another regulation provides that ,,if the object of residential and / or non-residential real property is in common ownership of several persons but is not divided in kind, the taxpayer is one of these persons-owners, defined with their consent, unless a different decision is established by the court".[57] This regulation too is meaningless, in terms of the current juridical constructions, and legal collisions. Firstly, it is claimed that under the principle of taxation, the tax of the real property of the owners of common joint property is absolutely different, than that of the owners of common share property. Thus, for the owners of common share property, the object of taxation is their individual share in the object of residential property. For joint property owners, the object of taxation is the total object of residential property, and such owners only decide amongst themselves the person who is to bear the responsibility for this payment.

Such a discrepancy, concerning the exemptions from the tax on real property, other than land plot, provided by this principle for joint owners,[58] requires special explanation. For example, at the beginning of 2014, residential buildings with living space of 300 m^2, being in the common share ownership of two part-owners, were exempted from taxation, while the same building being held on a joint tenancy, was liable to the tax. This generated the trend for the legal transfer of joint common property into common share property by its owners[59]. To prevent this activity, the relevant regulation of the Tax Code of Ukraine,[60] should be amended, so that the payer of tax on the object of real estate, being in the common joint ownership of several persons, is treated for tax purposes under the same principle that those with common share ownership of the object of such property.

[56] See Art¨.266, clause 266.1, sub-clause 266.1.2, "„a" of Tax Code of Ukraine: Law of Ukraine of December 2, 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[57] See Art. 266, clause 266. 1, sub-clause 266.1.2, sub-clause 265.1.2 „b" of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[58] See Art. 266, clause 266. 4 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[59] See Art. 370 of Civil Code of Ukraine: Law of Ukraine of 16 January 2003, No.435-IV, in: Bulletin of Supreme Council of Ukraine. 2003 (40-44).
[60] See Art. 266, clause 266. 1.2 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).

Thus, real property taxpayers in Ukraine are private persons and legal entities, institutions and organisations not belonging to legal entities (residents and non-residents) which are the owners of the objects of real property (other than land plots) located in the territory of Ukraine. The information on such owners of the objects of residential property is entered in the State Register of rights to immovable property, and their right is certified by corresponding title documents.

2.3 Taxpayers of Land Plots

According to the new wording of Tax Code of Ukraine, land taxpayers are:
a) owners of land plots;
b) owners of land shares; and
c) land users.[61]

There are peculiarities in the payment of tax by the economic entities applying the simplified scheme of taxation, accounting and reporting which are established by Tax Code of Ukraine.[62] The identification of land plots owners as being also payers of the land tax complies almost completely with international experience and is indisputable.

The wisdom of including land share owners in their number is debatable because Ukrainian legislation lacks a normative concept of "land shares". The system analysis of the relevant legislation,[63] is clear that a "land share" is not a particular land plot, but only the right to obtain on demand an independent land plot in kind from the land in collective ownership. Thus, the land share boundaries are not determined on the ground. The shareholders may even not know where their land shares are located, and have no ability to use them in practice. Hence, the right of ownership of a "land share" does not exist legally, although there is the right to obtain in the future the land plot once the collective land is divided into shares. But the acquisition by the shareholder of the State Act on a certain land plot (issued on 1 January 2013) or a Certificate of Title to Real Property (issued later), and also the further registration of this document in the State Register of Rights to Immovable Property, can convert a potential land taxpayer into an actual one.[64]

There is still a more problematic situation with the land-users, because only tenants occupying under the rights of a lease should pay the land fee. Nevertheless, adding them

[61] See Art. 269 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[62] Section XIV, chapter 1 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[63] See Land Code of Ukraine: Law of Ukraine of October 25, 2001, No.2768-III, in: Bulletin of Supreme Council of Ukraine. 2002 (3-4); On Agricultural Cooperation: Law of Ukraine of 17 July 1997, No.469/97-VR, in: Bulletin of Supreme Council of Ukraine. 1997 (39); On Allotment of Land Plot in Kind (*In-Situ*) for the Owners of Land Shares: Law of Ukraine of 5 June 2003, No.899-IV, in: Bulletin of Supreme Council of Ukraine. 2003 (38).
[64] See On State Registration of Real Rights to Real Estate and Their Encumbrances: Law of Ukraine of July 1, 2004, No.1952-IV, in: Bulletin of Supreme Council of Ukraine. 2004 (51). p. 553.

to the number of land tax payers is not legal. The inclusion of land plots renters into the category of land taxpayers is because the process of privatization of land is lagging behind market reforms of other segments of social life which result in the need to raise land tax at least to provide a minimal yield. The nature of a rent payment lies within the field of Civil Law and it should be governed by rules of civil and land legislation. Treating rent payment as a form of national land tax, particularly in an obscure way (by legal formula of land users), generates a conflict of regulations between the Tax, Land and Civil Laws, and prevents the introduction of global principles of taxation in Ukraine, making it still more convoluted and complex.

2.4 The Object of Taxation

The object of the tax on immovable property (other than the land plot) was, until recently, the unit of residential real estate. Since 2015, the object of the tax has been extended to include objects of non-residential real estate.[65] The object of residential real estate is defined in the Tax Code as the ,,buildings assigned to the housing stock by law, summer houses and garden constructions".[66] According to the Housing Code of Ukraine, the housing stock comprises residential houses and also, housing premises in other buildings located in the territory of Ukraine.[67] Such residential buildings and premises are further defined by the fact that they are intended for permanent human habitation, and also for use as corporate housing and hostels.[68] Current legislation of Ukraine also specifies that residential buildings includes those intended for human habitation, having one or several apartments and necessary auxiliary areas.[69] Ukrainian legislation defines objects of non-residential property as buildings and premises, which are not classified as housing fund objects in accordance with the legislation. Thus, the category of non-residential property includes: a) hotel buildings; b) office buildings; c) commercial premises; d) garages; e) industrial buildings and warehouses; f) buildings for public performances (casinos, gambling houses); g) household or farm outbuildings; and h) other buildings.

Exemptions from the definition of the object of property taxation include:

a) residential and non-residential property owned by organisations of the State or local self-government, including organisations created by them in the established procedure, which are fully funded from the corresponding State or local budget, and which are used for non-profit making purposes;

[65] See Art. 266, clause 266.2, sub-clause 266.2.1 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[66] See Art. 14, clause 14.1, sub-clause 14.1.129 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[67] See Housing Code of Ukraine: Law of USSR of 30 June 1983, No.5464-X, as amended, in: Bulletin of Supreme Council of Ukrainian SSR. 1983 (28).
[68] Ibid. - Art. 6.
[69] See Instruction for Filling the Form of State Statistical Monitoring No.1- Housing Stock (annual) „Housing Stock": Order of State Committee of Statistics of Ukraine of 21 June 2008, No.251, in: Official Bulletin of Ukraine. 2008 (62).

b) residential and non-residential property located in the exclusion zones (i.e. the 30 km. exclusion area around the Chernobyl nuclear power station) and obligatory resettlement areas (i.e. unconditioned evacuation zone around the Chernobyl nuclear power station) determined by law, including shares in such property;
c) family-type orphanages;
d) hostels;
e) residential property designated as unfit for human habitation, including those in a "declared state of emergency" area, recognised as such by the decision of a village, town, city council or council of a united territorial community (i.e. a new subject of the Ukrainian administrative-territorial system, which emerged as a result of the decentralisation reform[70]) which is incorporated in accordance with the law and prospective plan for the formation of the territories of united communities;
f) residential real estate, including such property where their shares belong to children-orphans, the children deprived of parental care, and disabled children who are raised by single parents, but not more than one object per child;
g) non-residential property used by small- and medium-sized enterprises which carry out activities in small architectural forms and at the markets;
h) industrial premises, particularly, engineering works, workshops, and warehouses of industrial enterprises;
i) the buildings and constructions of agricultural producers intended for use solely in connection with agricultural activity;
j) residential and non-residential property owned by public organisations for the disabled and their enterprises;
k) real property owned by religious organisations whose regulations are registered in accordance with the law and which are used to support the activity cited within those regulations. This category includes those premises which are used for the activities of charitable institutions founded by such religious organisations (boarding schools, orphanages, hospitals, etc.), except for objects of real property which are used for production or for economic activities;
l) buildings of preschool and general educational institutions, regardless of the form of ownership of the educational institution and the sources of its financing, which are used for providing educational services[71]

From 1 January 2017 this list was supplemented by:

m) non-residential real estate objects of the State and municipal children's sanatorium and resort institutions, and institutions of rehabilitation and recreation for children and a children's sanatorium and resort institutions, which remain on the enterprises`

[70] On the Strategy of Sustainable Development "Ukraine 2020": Decree of the President of Ukraine dated January 12, 2015, No. 5/2015. Available at: http://www.president.gov.ua/documents/18688.html.
[71] See Art. 266, clause 266.2, sub-clause 266.2.2 of Tax Code of Ukraine: Law of Ukraine of 2 December2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).

balance, institutions and organisations that are not for profit and are registered in the Register of Non-Profit Institutions and Organisations by the supervisory authority;

n) non-residential real estate objects of the State and municipal centres for Olympic training, schools of higher sportsmanship, centres of physical health for the population, centres for the development of physical culture and sports for disabled people, children's and youth sports schools, as well as such facilities of the all-Ukrainian Physical Culture and Sports Associations, their local branches and any separate units that are non-profit making and included in the Register of Non-Profit Making Institutions and Organisations;
o) non-residential real estate objects of the Olympic and Paralympics Training Bases. The list of such bases is validated by the Cabinet of Ministers of Ukraine;
p) residential property owned by large families or foster families with five or more children.

Since 2017 Ukraine has initiated a policy of decentralisation of power. One of the outcomes of this course of action was the creation of United Territorial Communities (hereinafter UTC). This is model of the new European quality in the organisation of all social life, foremost it is more perfected (European) medium of meeting the public needs of these communities. For the latter it provides significant levers of influence on these processes, which positively affect the growth of the profitability of property taxes in these communities. Convincing evidence for the aforementioned is presented in the form of a comparative Table 21.1:

Table 21.1: Own revenue receipts of united territorial communities in Ukraine from property taxes in January-December 2016 and 2017 (in millions of Ukrainian hryvnias)

Payments to the budget	**366 UTC in total**				**among them:**							
					159 UTC that united in 2015				**207 UTC that united in 2016**			
	Revenue receipts		Deflection		Revenue receipts		Deflection		Revenue receipts		Deflection	
	2016	2017	+/–	%	2016	2017	+/–	%	2016	2017	+/–	%
Payment for land (land fee)	1168,1	1402,0	233,9	120,0	559,0	651,7	92,7	116,6	609,0	750,2	141,2	123,2
Tax on immovable property other than the land plot	76,8	132,5	55,7	172,5	35,6	60,3	24,8	169,6	41,2	72,1	30,9	175,1

Sources: State Fiscal Service of Ukraine; State Treasury Service of Ukraine; State Statistics Service of Ukraine; Ministry of Finance of Ukraine; authors' own compilation.

International practice within property taxation seems to be moving in the opposite direction. In the USA, Canada, United Kingdom, and other countries of THE EU, and

even in the Russian Federation, the main burden of property tax falls on legal entities.[72] Thus, global experience indicates the expediency of establishing and developing commercial and industrial property taxation in Ukraine.

As mentioned above, the objects of the land tax, are:
a) land plots owned or used by private persons and legal entities; and
b) "land shares" owned by them with all ensuing consequences.

A further reform in the real property taxation by Ukrainian legislation is connected with the improvement in the legal structures of the tax base, tax benefits and tax rates on property. International practice indicates five main methods of determining the tax base of property objects, other than land:
1) market value;
2) rental value;
3) replacement value;
4) inventory value; and
5) the (measured) area of real property objects (area-based).

They are named in descending order of the recognised efficiency of their application. The World Bank advises the use of the area of the objects of real property as the base of taxation in those countries with transition economies which are in the first stage of the introduction of real estate taxation, and in advance of a thriving real estate market from which market and rental values can be ascertained.[73]

2.4.1 Tax Base for the Tax on Immovable Property other than the Land Plot

Under a new version of Tax Code, the tax base for immovable property (other than land) is the total area of the residential and non-residential real estate, including the area of its shares. The tax base for residential and non-residential real estate (including their shares) which are owned by individuals is calculated by a supervisory body on the basis of data held by the State Register of Rights to Immovable Property. These data are given free to the supervisory authority by the bodies of the State registration of rights to real estate on the basis of the original corresponding documents of a taxpayer, including in particular, the title deeds. The tax base for residential and non-residential real estate (including their shares) which is owned by legal entities is calculated by them, according to the total area of each object of taxation on the basis of the documents proving the ownership rights.

[72] See Bird, R. and E. Slack. Land and Property Taxation Around the World: A Review. Journal of Property Tax Assessment and Administration. 2012 (3). pp. 31-80; Kitchen, H. Property Taxation: Issues in Implementation. Kingston: Queen's University, 2005; Youngman, J. and J. Malme. An International Survey of Taxes on Land and Buildings. Deventer: Kluwer Law and Taxation Publishers, 1994.
[73] See Lichman, L. The Concept of "Housing" and Its Civil-Legal Significance. Entrepreneurship, Economy and Law. 2004 (11). pp. 20-22.

The legislation of Ukraine makes reductions in tax paid on real property by amending the tax base. Particularly, the tax base of the object / objects of residential real estate, including their shares, owned by individuals is reduced for:

a) flat / flats (regardless of their number) by 60 m^2;
b) residential house / houses (regardless of their number) by 120 m^2;
c) various types of residential real estate, including their shares (where the apartment / apartments and residential house/houses, including their shares, are simultaneously owned by a taxpayer) by 180 m^2. This reduction is given once every year.

Village, town, city councils or councils of united territorial communities that are constituted in accordance with the law and the prospective plan of the formation of community territories, establish tax reliefs on the taxes that are paid on the corresponding territory on objects of residential and / or non-residential real estate owned by individuals or legal persons, public associations, charitable organisations, religious organisations of Ukraine statutes (provisions) of which are registered in accordance with the procedure established by law, and are used to provide the activity determined by such statutes (provisions).

The reliefs from the taxes that are paid on the corresponding territory for residential and non-residential real estate objects for individuals are determined on the basis of the taxpayers' property status and income level. The tax reliefs on the taxes that are paid on the corresponding territory for non-residential real estate objects are determined in relation to the nature of the property that is the object of taxation.

Before 25 December of the year preceding the reporting year, the bodies of local self-government submit to the relevant supervisory authority a decision on the rates and tax reliefs granted to individuals and / or legal persons for the payable tax on immovable property, other than the land plot, in the form approved by the Cabinet of Ministers of Ukraine. However, legislation limits the possibility of applying the tax reliefs for individuals. Specifically, the exemptions are not applicable to:

a) the object / objects of taxation, if the area of such object / objects exceeds / exceed five times the size of the non-taxable area; and
b) the objects of taxation used by their owners in order to receive income (from renting, leasing, loaning, or otherwise exploiting in entrepreneurial activity).

There are tax benefits from paying the property tax provided for legal entities; in particular, those owning or providing properties used for the benefit of disabled persons, health resorts and recreational institutions of public organizations of the disabled, rehabilitation institutions of public organizations of the disabled; public organizations of the disabled of Ukraine, enterprises and organizations founded by public organizations of the disabled and the associations of public organizations of the disabled, and where such properties are their only property, and where during the previous calendar month the number of the disabled having their primary place of employment at that location is not under 50 % of the average number of staff listing, and on the condition that the wage fund

of those disabled during the reporting period is not less than 25 % of the total payroll expenses. Specified enterprises and the associations of public organisations of the disabled have the right to use this relief in the case of the permission for the use of this benefit, provided by the authorized body according to the legislation[74]. If the requirements of this regulation are violated, these public societies of the disabled, their enterprises and organizations are obliged to pay the amount of tax for a corresponding period (indexed for inflation), and also the penalties according to the law. Olympic and Paralympic training bases, approved by the Cabinet of Ministers of Ukraine, pre-school and general educational institutions, regardless of the forms of their ownership and funding sources, institutions of culture, science, education, health care, social protection, physical culture and sport which are completely financed at the expense of State or local budgets are also exempted from paying property tax.[75]

2.4.2 Tax Base for Land

The tax base for the land tax is the normative monetary value of land plots, calculated using an indexation coefficient determined according to the procedure established by the Tax Code of Ukraine. The local councils make a decision concerning the normative monetary value of land plots, located within settlements in their jurisdiction, and officially promulgated by a corresponding body of self-governing by 15 July of the year preceding the budget period, in which the use of the normative monetary evaluation of the land or any the changes to this use are planned (the plan period). Otherwise, the norms of monetary evaluation of relevant decisions are used but not before the beginning of the budget period, that follows the plan period. The tax on forest land is levied as a part of the rent payment determined by tax law.

Reductions in land tax payments are made for the following individual persons: disabled persons of I and II categories; individual persons raising three and more children under 18 years old; retirement pensioners; war veterans and those covered by the Law of Ukraine „On Status of War Veterans, Guarantees of Their Social Protection"; and individuals recognised by law as persons affected by the Chernobyl disaster.
The exemption from a land tax payment provided for a corresponding category of individual persons extends to one land plot for each type of use within the following limits:

- not more than 2 ha. for personal farming; outbuildings (household plots) for the construction and maintenance of residential building;
- in villages, not more than 0.25 ha;
- in settlements, not more than 0.15 ha;
- in towns, not more than 0.10 ha;

[74] On Basis of Social Protection of the Disabled in Ukraine : Law of Ukraine dated March 21, 1991, No 875-XII. Available at: http://zakon5.rada.gov.ua/laws/show/875-12.
[75] See Art.282 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).

- for individual country house construction, not more than 0.10 ha;
- for individual garage construction, not more than 0.01 ha; and
- for gardens, not more than 0.12 ha.

The owners of land plots, land shares and the land-users are exempt from tax payment for the duration of the single tax for the fourth group (e.g. agricultural producers) in the simplified system of taxation, accounting and reporting provided the transfer of land plots and land shares for rent are to a single tax payer of the fourth group.[76] When individuals own several land plots of one type of use, they submit a written statement to the supervisory authority at the location of the land plot about the selection or change of the land plot which should qualify for the tax relief.

The tax relief begins to apply to the selected land plot from the basic tax (reporting) period in which such a statement is filed.

In addition, the legislation determines land plots which are not subjected to land taxation. In particular, the tax is not payable on the following objects:

- agricultural lands in zones of radioactively contaminated territories declared as the areas which were radioactively contaminated as a result of Chernobyl disaster (exclusion zones, areas of unconditional (obligatory) resettlement, zones of guaranteed voluntary resettlement and enhanced radio-ecological control), and the chemically contaminated agricultural lands where restrictions on the management of agricultural production are imposed;
- agricultural lands being under temporary conservation (e.g. lands that are not used in agricultural production because of exhaustion) or at the stage of agricultural development;
- land plots for State plant testing stations and sections used for testing the varieties of agricultural crops;
- lands of the public road system, being lands occupied by carriageway, roadside, roadbed, decorative landscaping, reservoirs, roadside ditches, bridges, man-made structures, tunnels, traffic interchange, culverts, retaining walls, noise screens, treatment facilities and other road facilities and equipment located within rights-of-way as well as lands which are located outside rights-of-way if they are occupied by structures that ensure the roads' operation;
- land plots of agricultural enterprises in all forms of ownership, farm enterprises and peasant farms occupied by young orchards, berry-fields and vineyards before the beginning of the fruitage, as well as by hybrid plantations, gene pool collections and perennial fruit nurseries;
- land plots of cemeteries, crematoria and columbaria;

[76] See Art. 281 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).

- land plots where diplomatic missions are located, which in accordance with the international treaties (agreements) that are binding as approved by the Supreme *Rada* of Ukraine, and their use of buildings and adjacent land plots free-of-charge;
- land plots granted for the construction and maintenance of places of worship and other buildings necessary to support the activity of religious organisations of Ukraine whose statutes (regulations) are registered in accordance with the legally established procedure.

2.5 Tax Rates

2.5.1 Tax rates on tax on immovable property other than the land plot

In Ukraine, the tax rates on real property are related to the minimal wage,[77] which is considered to be a methodologically sound situation. For several years, Tax Code of Ukraine gave the role of the setting tax rates, in terms provided by the State, to village, settlement and town Councils of Deputies.[78] The tax levied on real estate in 2014 was paid during 2015 at the rates and in the manner which were valid in 2014.

For an apartment of living accommodation up to 240 m^2, and buildings with living accommodation of not more than 500 m^2, the rate of tax is equal to 1 % of the minimum wage established on 1 January of the reporting year. This equates to 12.18 UAH (approx. 1.1 EUR) for one square metre. Any additional accommodation is taxed at 2.7 % of the minimum wage for every additional square metre. Moreover, from 1 January to 31 March 2014, the tax was levied only on the residential area, and from 1 April to 31 December 2014, on total area (See Table 21.2).

In 2015, the standard tax rate for residential and non-residential real estate owned by natural persons was unified, and was limited so that it could not exceed 2 % of the minimum wage for every square metre. (24.36 UAH that equals approximately 1.3 EUR at the beginning of 2015). (See Table 21.3). From 1 January 2016, the standard tax rate was increased. Thus, the rates of tax on objects of residential or non-residential real property owned by natural and legal persons are set by a decision of village, town, city council or council of united territorial community, depending on the location (zone) and types of such objects of real property, but at no more than 3 % of the minimum wage as at 1 January of the reporting (tax) year for every square metre of the tax base. (See Table 21.4).

However, with effect from 1 January 2017, such tax rates for residential and/or non-residential real estate owned by individuals and legal persons cannot exceed 1.5 % of the minimum wage established on 1 January of the reporting year, per square metre of the tax

[77] See Art. 266, clause 266.5, sub-clause 266.5.1 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[78] Ibid. Art. 12.

base. (See Tables 21.5 and 21.6). In addition, since 1 January 2015, the property tax has been extended to include ancillary accommodation used together with residential property. These include household buildings (farm buildings), subsidiary (non-residential) buildings – sheds, barns, garages, cookhouses, workshops, toilets, cellars, steam-shops, and boiler rooms.

Table 21.2: Calculation of the amount of tax on real property other than land plot at year-end 2014 for a natural person

Area	Object of real property	Tax base reduction	Period of tax calculation	Taxable area	Tax rate	Annual amount of tax
200 m^2 (including residential – 150 m^2)	Flat	120 m^2	I quarter of 2014 II-IV quarter of 2014	30 m^2 80 m^2	12.18 UAH per m^2	822.15 UAH
410 m^2 (including residential – 300 m^2)	House	250 m^2	I quarter of 2014 II-IV quarter of 2014	50 m^2 160 m^2	12.18 UAH per m^2	1613.85 UAH

Sources: State Fiscal Service of Ukraine; State Treasury Service of Ukraine; State Statistics Service of Ukraine; Ministry of Finance of Ukraine; authors' own compilation.

Table 21.3: Calculation of tax on real property other than land plot at year-end 2015 for a natural person

Area	Type of property	Tax base reduction	Actual taxable area	Tax rate	Annual amount of tax
200 m^2	Flat	starting from 60 m^2	140 m^2	24.36 UAH per m^2	3,410.4 UAH
400 m^2	House	starting from 120 m^2	280 m^2	24.36 UAH per m^2	6,820.8 UAH
50 m^2	Shed	No	50 m^2	12.18 UAH per m^2	609 UAH

Sources: State Fiscal Service of Ukraine; State Treasury Service of Ukraine; State Statistics Service of Ukraine; Ministry of Finance of Ukraine; authors' own compilation.

Table 21.4: Calculation of tax on real property other than land plot in 2016 for a natural person

Area	Type of property	Tax base reduction	Actual taxable area	Tax rate	Annual amount of tax
200 m^2	Flat	starting from 60 m^2	140 m^2	41.34 UAH per m^2	5,787.6 UAH
400 m^2	House	starting from 120 m^2	280 m^2	41.34 UAH per m^2	1,1575.2 UAH

Sources: State Fiscal Service of Ukraine; State Treasury Service of Ukraine; State Statistics Service of Ukraine; Ministry of Finance of Ukraine; authors' own compilation.

Table 21.5: Calculation of tax on real property other than land plot in 2017 for a natural person

Area	Type of property	Tax base reduction	Actual taxable area	Tax rate	Annual amount of tax
200 m^2	Flat	starting from 60 m^2	140 m^2	48.0 UAH per m^2	6,720.0 UAH
400 m^2	House	starting from 120 m^2	280 m^2	48.0 UAH per m^2	13,440.0 UAH

Sources: State Fiscal Service of Ukraine; State Treasury Service of Ukraine; State Statistics Service of Ukraine; Ministry of Finance of Ukraine; authors' own compilation.

Table 21.6: Calculation of tax on real property other than land plot in 2018 for a natural person

Area	Type of property	Tax base reduction	Actual taxable area	Tax rate	Annual amount of tax
200 m^2	Flat	starting from 60 m^2	140 m^2	55.85 UAH per m^2	7,819.0 UAH
400 m^2	House	starting from 120 m^2	280 m^2	55.85 UAH per m^2	15,638.0 UAH

Sources: State Fiscal Service of Ukraine; State Treasury Service of Ukraine; State Statistics Service of Ukraine; Ministry of Finance of Ukraine; authors' own compilation.

The drawbacks of the current version of the Tax Code include the fact that it is impossible to reach a decisive conclusion from the content of its articles as to how this tax should be paid if a taxpayer owns several objects of real estate of different types, including their parts in different localities and regions.

For the objects of non-residential real estate, according to the new version of the Tax Code, the principles of tax calculation and payment are similar, except for the absence of any benefits from it.[79]

2.5.2 Land tax rates

The tax rate for land plots, which is applied to their normative monetary evaluation, is set at not more than 3 % of their normative monetary evaluation. In respect of agricultural lands and lands in common use the tax rate is not more than 1 percent of their normative monetary evaluation. The tax rate of not more than 12 % of their normative monetary evaluation is set for those land plots which are in constant use by economic entities (except for State and municipal property).

The tax rate for land plots located outside the population centres', where no normative monetary evaluation has been conducted, is set at not less than 5 % of the normative monetary evaluation of a unit of arable land in the Autonomous Republic of the Crimea or in a region.[80]

2.6 Taxable period

The taxable period of the tax on real estate (other than land plot) is the calendar year.[81] The base (reporting) period for the land tax is also the calendar year (1 January until 31 December). For newly established enterprises and organisations and, following the acquisition of the right of ownership and / or the right of use of new land plots, the tax (reporting) period may be less than 12 months.

2.7 Procedure for calculating tax

The Tax Code provides that the calculation of the amount of tax from the object / objects of residential real property owned by natural persons is carried out by the controlling body at the place of registration for the owner of the property. Thus:

a) if a taxpayer owns one object of residential property (including its share), the tax is calculated[82] on the basis of the tax base, reduced for flat / flats (regardless of their number) by 60 m^2 and residential house/houses (regardless of their number) by 120 m^2 to which is applied the corresponding tax rate;

[79] Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[80] See Art. 273, 274, 277 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[81] See Art. 266, clause 266.5, sub-clause 266.5.1 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[82] See the sub-clause „a" or „b" of the Clause 266.4.1 Art. 266 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).

b) if a taxpayer owns more than one object of residential real property of the same type, including their shares, the tax is calculated[83] on the basis of total area of such objects, reduced for flat / flats (regardless of their number) by 60 m^2 and residential house/houses (regardless of their number) by 120 m^2 to which is applied the corresponding tax rate;
c) if a taxpayer owns objects of residential real property of different types, including their shares, the tax is calculated[84] on the basis of the total area of such objects, reduced by 180 m^2 to which is applied the corresponding tax rate;
d) the amount of the tax calculated with reference to the abovementioned sub-clauses (b) and (c) , is shared by the controlling body in proportion to the relative share of each of the objects of the taxpayers' residential real property;
e) if a (natural or legal) taxpayer owns an object (or objects) of residential property, (including its share), the total area of which exceeds 300 m^2 (for a flat) and / or 500 m^2 (for a house), the amount of the tax calculated is increased by 25,000 UAH per year for each such object of residential property (its share).

The calculations of the amount of tax payable on object / objects of non-residential property owned by natural persons are carried out by the controlling authority at the place of tax address (tax registration) of owner of such real property, on the basis of the total area of each object of non-residential property and its corresponding tax rate.

The procedure for land tax assessment is also provided by Art. 286 of the Tax Code of Ukraine. The information which is used for the land tax assessment are the data from State Land Cadastre.[85]

2.8 Tax Payment

The tax on real estate is paid at the relevant offices in the location of the taxable object / objects and is paid into the corresponding local budget[86]. Natural persons in rural areas can pay tax at the payment office of the village and town councils or councils of united territorial communities and receive a receipt for the acceptance of taxes.

The liability for the tax due for a reporting period in relation to the tax on real estate other than land plot is paid by:
a) natural persons, within 60 days after the delivery of a tax decision notice; and

[83] See the sub-clause „a" or „b" of the Clause 266.4.1 Art. 266 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[84] See the sub-clause „c" of the Clause 266.4.1 Art. 266 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[85] See Art. 286 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[86] Budget Code of Ukraine: Law of Ukraine dated July 8, 2010, No 2456-VI. Available at: http://zakon5.rada.gov.ua/laws/show/2456-17.

b) legal entities, with advance payments on a quarterly basis by the 30th of the month following the reporting quarter, which are presented in the annual tax return.

The due date for the payment of tax on land has its peculiarities. Landowners and land users pay a fee (which in effect includes the tax) for the right of ownership or the right to use a land plot. In the case of the termination of ownership or land use rights, the fee for the land is paid for the actual period of the land ownership or use in the current year.

Taxpayers (individuals) and the computation of corresponding amounts of tax due are undertaken annually by 1 May. The tax liability part of the land fee, determined in the tax return for the current year, is paid by the owners and users of land plots in equal installments at the offices appropriate to the location of the land. The tax is paid for a tax period equal to a calendar month, monthly within 30 calendar days, following by the last calendar day of a tax (reporting) month. The tax liability for the land fee determined in the tax return, including for newly allocated land plots, is paid by the owners and users of land plots at the location of the land for a tax period equal to a calendar month, monthly within 30 calendar days, following by the last calendar day of a tax (reporting) month. Individuals pay their tax within 60 days of the delivery of a tax assessment order. In rural areas, the land tax can be paid at the office of village (town) councils or councils of consolidated territorial communities through a receipt for acceptance of tax payments.

2.9 Administration

According to the Tax Code, and in relation to the administration of taxes, duties, and other similar payments, compliance monitoring is assigned to controlling bodies. It is the set of decisions and procedures of the controlling bodies and the actions of their officials, which define the institutional structure of tax and customs relations. These include the organisation of the identification, the registration of taxpayers, (including single tax payers) and objects of taxation, the provision of services for tax payers, the organisation and the monitoring of the payment of taxes, duties and fees according to the procedure established by law.[87]

The calculation of the amount of tax on the object(s) of non-residential property owned by individuals is carried out by a controlling body at the place of registration for the real estate owner, on the basis of total area of each of the objects of real estate and the corresponding tax rate.

The tax decision notice on the payment of the tax due and the corresponding payment details of, in particular, local self-government authorities at the location of each of the objects of residential and/or non-residential real estate, are delivered to the taxpayer by the controlling body at the taxpayer's address (place of registration) by 1 July of the year following the base taxable reporting year.

[87] See Art. 14, clause 14.1, sub-clause 14.1.1-1 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).

Concerning a newly-created object of residential and / or non-residential property, tax is paid by the taxpayer starting with the first month of ownership. The controlling body at the place of residence (registration) of a taxpayer, informs the corresponding controlling body at the location of objects of residential and/or non-residential property within 10 days about the delivered tax decision notices to the taxpayer. The tax assessment and delivery of the tax decision notices on tax payment to the individuals who are also non-residents are carried out by the controlling bodies at the location of the real property owned by these non-residents.[88]
Taxpayers have the right to apply in writing to the controlling body at the place of residence (registration) in order to check the relevant data concerning:

- the objects of residential and/or non-residential property (including their shares) owned by a taxpayer;
- the size of the total area of the property owned by a taxpayer;
- the rights to use tax exemptions the tax rate; and
- the amount of tax calculated.

In the case of disagreements between the data of the controlling bodies and those affirmed by a taxpayer on the grounds of the originals of corresponding documents, particularly, the title deeds, the controlling body at the place of residence (registration) of a taxpayer makes a recalculation of the tax amount and delivers a new tax decision notice and the previous tax decision notice is considered cancelled.

The authorities responsible for the State registration of deeds, and also the bodies conducting the registration of individuals' place of residence, must quarterly, (and within 15 days period after tax (reporting) quarter), provide the controlling bodies with the information necessary for the calculation of the tax at the place of location of the object as of the first of a corresponding quarter.

Taxpayers being legal entities calculate the tax amount independently as of 1 January of the financial year and, by 20 February of the same year, they provide the controlling body at the place of location of the object(s) of taxation with a declaration (tax return), with the annual amount payable on a quarterly basis in equal installments.

With regard to a newly-created residential and / or non-residential property, the legal entity files the declaration within 30 calendar days from the day they acquired the ownership right. In the case of a transfer of ownership of the object of taxation from one owner to another within a calendar year, the tax is assessed for the previous owner for the period from 1 January of this year to the beginning of the month the ownership was transferred; and for a new owner, from the month ownership was acquired. The

[88] See Art. 266, clause 266.7, sub-clause 266.7.1 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).

controlling body sends a tax decision notice to a new owner having received the information of transfer.[89]

Administration of land tax in Ukraine has its peculiarities. Central executive bodies which implement State policy in the fields of land relations, of State registration of the rights to real estate and of constructions, should monthly (but not later than the 10th of the following month, and also on request of a corresponding controlling body at the place of location of the land plot), provide the information necessary for the calculation and the collection of fees for land. Land fee payers (but only individuals) independently calculate the amount of tax annually as of 1 January and, not later than 20 February of the current year, file with the corresponding controlling body at the location of the land plot, the tax declaration for the current year, with an annual breakdown of the amount payable in equal monthly installments. The filing of this tax return exempts the taxpayer from the need to provide monthly declarations. When submitting the first declaration (in effect, at the time the individual becomes a land tax payer), there should be filed the information on the amount of the normative monetary value of the land plot. Also this information is submitted with the approval of the newly assessed normative monetary value of land. The taxpayers of the land fee have the right to file monthly tax returns which exempts them from the obligation to submit annual tax declarations. Such tax returns should be filed not later than 20 February of the current year and within 20 calendar days of the month following the reporting one.[90]

For newly allocated land plots or, a newly concluded land lease agreement, the payer of the land fee submits a tax declaration within 20 calendar days of the month following the reporting one. In the case of a change in the nature of the object and / or the base of taxation within the year, the payer of the land fee submits a tax declaration (within 20 calendar days of the month following the one when the changes occurred). The assessment of the amounts of tax payable for individuals is performed by the controlling bodies which, by 1 June of the current year, give to a payer a tax decision notice. In the case of a transfer of the ownership of the land plot from one owner to another within a calendar year, the tax is paid by the previous owner for the period from January 1 of this year to the beginning of the month ownership of the specified land plot was transferred; and by a new owner, from the month ownership was acquired. In the case of a transfer of ownership of the land plot from one owner to another within a calendar year, the controlling body sends a tax decision notice to the new owner having received information of the transfer.

Tax base (reporting) period for land payment is a calendar year. Tax base (reporting) year begins from 1 January and finishes in 31 December of the same year (for newly

[89] Art. 46 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[90] Art. 286 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).

established enterprises and organisations, and also as a result of the acquisition of ownership and / or right to use new land plots, it can be less than 12 months).

The procedure for the land tax assessment is provided by Art. 286 of Tax Code of Ukraine. The basis for land tax assessment are the data of State Land Cadastre.

2.10 Valuation

For the valuation of all tangible objects, the appraisal of property is obligatory in cases prescribed by Ukrainian legislation[91], international treaties, and in accordance with contracts, as well as at the request of one of the parties to the contract or by the parties' consent. Also the valuation of property is obligatory for the purposes of taxation in accordance with the law[92].The "assessed value" for the purposes of taxation, and for the charging and paying of other compulsory payments is understood to be the market value calculated according to the national standards and other normative legal acts in the field of property and property rights valuation.

Data contained in the property valuation report or the report on the expert monetary valuation of land plots prepared for the purposes of taxation, are entered into the single database of valuation reports. Such data is prepared in the form set by the State Property Fund of Ukraine and are supplementary to the report. The validity period of the valuation report is specified in the report and does not exceed six months from the date of the valuation. Documents on the determination of the appraised value of the valuation object are kept in the archive of the subject of appraisal activity in paper or electronic form for a minimum of one year.

The property valuations for taxation purposes are carried out by those organisations experienced in appraisal activity which meet the requirements laid down by legislation and employ at least one appraiser holding the qualifying certificate of the subject of appraisal activity. In addition, such an appraiser must hold a specialist qualification in either "Tangible Property Valuation" or the "Appraisal of Integral Property Complexes, Shares, Securities, Property Rights and Intangible Assets.[93]

When the subject of appraisal activity (i.e. the assessor) files the application of an intention to carry out an appraisal for taxation purposes, the State Property Fund of

[91] See On Appraisal of Property, Property Rights and Professional Appraisal Activity in Ukraine: Law of Ukraine of 12 July 2001, No.2658-III, in: Official Bulletin of Ukraine. 2001 (34). Art. 1577.
[92] See Art. 7 of On Appraisal of Property, Property Rights and Professional Appraisal Activity in Ukraine: Law of Ukraine of 12 July 2001, No.2658-III, in: Official Bulletin of Ukraine. 2001 (34). Art. 1577; On the Carrying out Property Appraisal for the Purposes of Taxation, Charging and Paying of other Compulsory Payments Levied in Accordance with the Law: Resolution of the Cabinet of Ministers of Ukraine of 21 August 2014, No.358, in: Official Bulletin of Ukraine. 2014 (68), Art. 1897.
[93] On Appraisal of Property, Property Rights and Professional Appraisal Activity in Ukraine: Law of Ukraine dated July 12, 2001, No.2658-III, in: Official Bulletin of Ukraine. 2001 (34). Art. 1577.

Ukraine provides for the assessor access to the relevant entry on the database of valuation reports so that data from the valuation report can be entered into the database.

For the determination of the amount of land tax payable, or the amount of State duty payable on sale, following an inheritance and the donation of land plots, the normative monetary evaluation is used[94]. The normative monetary evaluation is defined as a "capitalized rental income from the land plot determined, in accordance with the legislation, by the central executive body responsible for the State policy in the field of land relations".[95] By "legislation" in this case is implied the 2006 „Procedure for normative monetary value of agricultural land and human settlements" approved by State Committee of Ukraine on Land Resources, Ministry of Agrarian Policy of Ukraine, Ministry of Construction, Architecture, Housing and Utilities of Ukraine and Ukrainian Academy of Agricultural Sciences of 27 January 2006.[96] This provision does not meet international standards for the appraisal of land because it ignores the factors of market pricing. Instead, it uses the so-called normative monetary valuation, though, as the first step towards the introduction of actual market experience, it can be considered as a positive interim step.[97]

In order to determine the value of real estate and land plots and rights to them in civil transactions relating to land plots (purchase and sale, exchange, gift, inheritance),[98] the expert appraisers are required to undertake a valuation the concept of which is defined in legislation. as being the "result of the land plots value determination and the rights related to them by the evaluator [appraiser] using a set of approaches, methods and assessment procedures which provide for the collection and analysis of data, calculations and registration of results as a report".[99] The main shortcoming of this method of the expert monetary valuation of land is the absence of any subjectivity, and thus, it does not meet international standards of assessment of the taxable objects of real estate for tax purposes.

Other objects of real estate (residential property and incomplete construction) are subjected to evaluation in order to determine the income the parties obtain in a purchase-

[94] Art. 5 of the Law of Ukraine „On Land Valuation": Law of Ukraine dated December 11, 2003, No.1378-IV. Available at: http://zakon5.rada.gov.ua/laws/show/1378-15.
[95] See Art. e 14, clause 14.1, sub-clause 14.1.125 of Tax Code of Ukraine: Law of Ukraine of 2 December2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[96] „Procedure for normative monetary value of agricultural land and human settlements" approved by State Committee of Ukraine on Land Resources, Ministry of Agrarian Policy of Ukraine, Ministry of Construction, Architecture, Housing and Utilities of Ukraine and Ukrainian Academy of Agricultural Sciences of 27 January 2006.
[97] For more details see Saatskiy, D. Mass Land Valuation – Just and Efficient Basis for Calculation of Land Tax. Land Management Bulletin. 2010 (3). pp.44-47.
[98] Art. 6, clause 6 of On Land Evaluation: Law of Ukraine of 11 December 2003, No.1378-IV, in: Bulletin of Supreme Council of Ukraine. 2004 (15).
[99] On Approval of Methodical Recommendations Regarding Expert Assessment of Land Plots: Resolution of the Cabinet of Ministers of Ukraine of 11 October 2002, No.1531, in: Official Bulletin of Ukraine. 2002 (42).

sale (exchange) of these objects[100] and in the case of their inheritance (gift).[101] According to Item 1.11, Chapter 2 of Section II of the „Rules on Notary Practice in Ukraine", approved by the order of the Ministry of Justice of Ukraine of 22 February 2012,[102] the evaluation of immovable objects for the purpose of transfer is performed by the entity of assessment activity (that is the private owned economic entity), the sole activity of which is the evaluation for tax purposes and the assessment and payment of other mandatory payments collected in accordance with the law, which obtains a corresponding certificate of the estimating entity. The results of their evaluations are distinguish by the individual characteristics of the properties involved, and are therefore inconsistent with the process of mass evaluation of real estate for the purpose of taxation.

The legal mechanism for contesting the results of a real estate valuation by taxpayers is absent in Ukraine, as there are no specially created bodies for that purpose, and national courts do not accept such appeals. This is because of the imperfect legal constructions of officially approved forms of legal acts which are issued by these appraisers. And, because these valuations are not the acts of the State or a separate State body, being only the expert conclusions of the professional involved. Thus, the second principle of the objectivity of the functioning of the mechanism of real estate taxation in Ukraine is not observed.
The introduction of real estate valuation and appraisal is at an early stage in Ukraine, and requires further improvement. Necessary improvements include the completion of data collection about real estate, the development and implementation of appropriate software, the processing of the obtained data, the determination of the facts which impact on real estate valuation, and public disclosure of all related information.

The normative monetary valuation of land plots (i.e. the capitalised rental value) is used to determine the land tax and the rent payment for land. The central executive body, which implements State policy in the field of land relations, is responsible for the administration in the sphere of land and the evaluation of land plots. This central executive body, regulates the normative monetary valuation by applying the consumer price index for the previous year, as an annual indexation factor to assess the taxable value of agricultural lands, lands of human settlements and other non-agricultural lands as of 1 January of the current year. This is achieved using the formula:

$$Ki = I : 100,$$

where:
Ki is the indexation coefficient; and
I is the index of consumer prices for the previous year.

[100] See Art. 172, clause 172.3 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).
[101] Ibid., Art. 174, clause 174.1.
[102] See On Approval of the Procedure of Notary Acts Executing by Notaries of Ukraine: Order of the Ministry of Justice of Ukraine of 22 February 2012, No.766/6, in: Official Bulletin of Ukraine. 2012 (17). Art. 632.

If the consumer prices index does not exceed 100 %, the value of 100 is used. The indexation coefficient of normative monetary valuation of land is used cumulatively depending on the original date of normative monetary valuation of land that fixed in land cadastre.[103]

The central executive body responsible for State policy in the field of land relations is provided with information from the Council of Ministers of the Autonomic Republic of Crimea, for the regional Kyiv and Sevastopol city states administrations not later than 15 January, which ensures the formation and implementation of the State tax and customs policies, and is therefore in a position to inform land owners and land users about the annual indexation of the normative monetary valuation of land.

2.11 Revenue performance

Revenue from real property taxation in Ukraine, when compared with that raised in countries comparable in terms of socio-economic development, is significantly lower than the corresponding figures in most of these countries. The payment for land emerged in Ukraine earlier than other property taxes. With regard to its role and place in the budget system of Ukraine, the land tax too is more than modest. For example, over the past seven years the proportion of the land payments in the revenues of the Consolidated Budget of Ukraine ranged between 2.7 % - 3 %. Simultaneously, in absolute terms, the revenues from the payments for land are slightly increasing over time (Table 21.7).[104]

[103] Art. 289 of Tax Code of Ukraine: Law of Ukraine of 2 December 2010, No.2755-VI, in: Bulletin of Supreme Council of Ukraine. 2011 (13-17).

[104] See Zubenko, V.V., Samchynska, I.V., Rudyk, A.Yu. Budget Monitoring: Analysis of Budget Implementation for January-March 2014. Kyiv: Institute budget and Social and Economic Research (IBSER), Project „Strengthening of Municipal Finance Initiative of Implementation", USAID, 2014, 46 p.; Zubenko, V.V., Samchynska, I.V., Rudyk, A.Yu. Budget Monitoring: Analysis of Budget Implementation for January-March 2017. Kyiv: Institute budget and Social and Economic Research (IBSER), Project „Strengthening of Municipal Finance Initiative of Implementation", USAID, 2017, p.90 .

Table 21.7: Share of payment for land in the Consolidated Budget of Ukraine

Indicators/ Years	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**
Revenues, billion UAH	288.6	314.4	398.5	445.5	442.7	456.1	652.1	782.7	1,016.8
Payment for land, billion UAH	8.36	9.54	10.70	12.58	12.80	12.10	14.52	20.41	22.96
Payment for land	**2.9**	**3.0**	**2.7**	**2.8**	**2.9**	**2.7**	**2**	**3**	**2.7**

The proportion of the payment for land in the structure of revenues of local budgets of Ukraine for this period in January to March annually was: in 2009 12.1 %, 2010 – 13.0 %, 2011 – 13.4 %, 2012- 13,4 %, 2013- 13.1 %, 2014 – 12.7 %, 2015 – 11.9 %, 2016 – 14.5 %, 2017 - 12.9% respectively (Table 21.8)[105]. It is the second largest revenue source of local budgets after individual income tax

Table 21.8: Structure of Revenues of Local Budgets in January - March 2009-2017

Types of Revenues / years	January-March 2009	January-March 2010	January-March 2011	January-March 2012	January-March 2013	January-March 2014	January-March 2015	January-March 2016	January-March 2017
Non-tax revenues	11.4	10.5	12.2	12.0	12.7	13.7	25.8	14.0	12.7
Income from capital transactions	3.7	3.4	2.4	1.7	0.9	1.7	1.4	0.8	1.1
Individual income tax	61.6	62.8	61.9	61.8	60.9	60.1	39.8	45.9	48.9
Payment for land	**12.1**	**13.0**	**13.4**	**13.4**	**13.1**	**12.7**	**11.9**	**14.5**	**12.9**
Other revenues from the state taxes	8.2	7.4	6.0	6.5	5.8	4.9	13.7	14.4	13.0
Local taxes (excluding the payment for land)	**1.2**	**1.1**	**3.4**	**4.1**	**7.6**	**8.6**	**8.8**	**11.2**	**12.8**

Sources: State Fiscal Service of Ukraine; State Treasury Service of Ukraine; State Statistics Service of Ukraine; Ministry of Finance of Ukraine; authors' own compilation.

[105] Ibid.

This phenomenon was achieved by the transfer of a part of the land from State and municipal ownership to private ownership as a result of the initial programme of privatisation (though, the lion's share of land is still State-owned); the intensification of the development of the agro-industrial complex of the economy in the last decade, which led, on the one hand, to a mass involvement of State and municipal lands to economic turnover, and on the other hand, to the growth of rental rates for such lands; and the growth of the monetary value of land as the assessment basis of payment for land.

The latter is associated with the coming into force of the Decree of the Cabinet of Ministers of Ukraine „On Amendments to Methodology of Normative Monetary Valuation of Agricultural and Settlements' Lands" of 31 October 2011,[106] which has increased the normative monetary value of arable land 1,756 times.[107]

Thus, any legal restrictions imposed on local executive bodies in the disposal of State-owned land outside settlements are illogical. In particular, as a result of the legislative changes in 2012[108], the power to administer agricultural lands outside of settlements moved from district administration to the territorial directorates of the State Land Agency of Ukraine in the regions and in the Autonomous Republic of Crimea. This negatively impacted on the ratio and total value of revenues of land payments over the post-2012 period.

It should be said, that in Ukraine, the interrupted tradition of land taxation, the clan-oligarchic structure of the State as a whole, including local authorities and, related to this, widespread corruption in this sphere, has an impact on the land taxation system. The imperfect legal structure of land ownership in Ukraine and the legal structure of payment for land it generates, as a result of which tax is paid not by the owner, adversely affects the profitability of land taxation.

The taxation of residential real estate (other than land plots) being imposed on only the part of the living space, has been in place since 1 January 2013, and the availability of only fragmentary information is why it is hard to identify any established trends concerning the profitability of this tax,. Thus, for 2013 the real estate tax was scheduled to raise 24,362,971 UAH throughout Ukraine. It is, in comparison to other budget revenues, very little. Indirect confirmation of this is the fact that for the three first quarters of 2013, the revenue collected from this tax was 42,876,389 UAH, which almost twice exceeded the entire annual budget for the revenues from this tax.[109] Prior to 1 April 2014,

[106] See On Amendments to Methodology of Normative Monetary Valuation of Agricultural and Settlements' Lands: Resolution of the Cabinet of Ministers of Ukraine of 31 October 2011, No.1185, in: Official Bulletin of Ukraine. 2011 (90).

[107] For more details see Getmantsev, D.O., Musiychuk, I.M., Shishkanov, O.A., Shamray, O.V. Direct Real Taxation. Legal Essence and Administration. Scientific-Practical Guide. Kyiv: Jurincom Inter, 2014. p. 113.

[109] Report on implementation of Budgets of the Autonomous Republic of Crimea, Regions, cities of Kyiv and Sevastopol as of 1. 4. 2014. Available at: http://www.treasury.gov.ua/main/uk/doccatalog/list?currDir=212666&documentList_stind=21.

the object of this tax was only residential property areas; however, since then it was changed to that on the total area of buildings.

Taxation of non-residential property in Ukraine has been introduced since January 1, 2015. The analysis of statistical data on this tax during 2015-2017 illustrates its low revenue capacity in Ukraine. Essentially it is same with the revenue capacity of all taxes on immovable property, other than the land plot.

Primarily this is conditioned by the low solvency of the country`s population as the whole, which entails both the minimisation of tax rates and the significant debt of the population with regard to these payments.
The poor general tax culture of the overwhelming majority of the population along with the widespread practice of improper use of tax revenues by the relevant public institutions at all levels in Ukraine do not support the development of such forms of taxation, as well as other forms. The high cost of tax administration also implies a negative impact on the revenue from the tax on immovable property, other than the land plot in Ukraine.

Among the reasons of such phenomenon is the fact that the major part of the whole real estate in Ukraine continues to remain unregistered as objects for the calculation and payment of tax in the relevant State registers of these objects (their registration started only from 2012).

2.12 Possible reforms

Major and comprehensive changes in real estate taxation have occurred in Ukraine in the post-Soviet period, when compared with the state of real estate taxation in Soviet Ukraine. However, in the light of the urgent need to reform this segment of social life, only initial steps have been made, and moreover, these are mostly not of a fundamental nature. Further progress in the reform of real property taxation in Ukraine requires the implementation of paradigmatic changes in this sphere.

Thus, it is important that the Ukrainian legislators are aware of the transformation in social perceptions and the comprehension of the phenomenon of "public". Civil society which has become noticeable in Ukraine in recent years rejects the concept of the "state" as "public", along with the remnants of the clan-oligarchic state. There is a growing desire for a national *"socium"* from the public as the modern Ukrainian society, as classical *"res publica"* - common causes continues to assert itself.

The shift in the mental matrix of the public is caused by the urgent need to change the paradigm of social development within the Ukraine as a whole. This change began with the Ukraine's transition to a market economy, when it gained State sovereignty. The revolutionary transformation of the national *"socium"* has had a major impetus and clear expression in the consequence of Ukrainian Revolution of Human Dignity (in 2014). It

also reflects the transition in the development of Ukraine from a paradigm of State-centrism with its principle „State is a Measure of All Things", to a paradigm of human-centrism with its principle "Human is a Measure of All Things". Therefore, the etatist doctrine of tax law has exhausted itself, because it has stopped meeting the current needs of social development. It must now give place to a human-centric doctrine of tax law.

In Ukraine, deep quality transformations of a paradigmatic nature in a number of spheres in social life have already been introduced or they are currently being undertaken. Foremost, it concerns the metamorphosis of the country's economy as a whole on to a market basis, changes in the military, educational, medical, pension spheres in social ideology and in the national culture. They can and should be logically extended and secured by the circumspect fiscal reform in general, an important part of which should be the fundamental reform of the country's property taxation in Ukraine. The essence of the latter requires a substantial revision, on the basis of creatively considering the world experience, of existing principles and mechanisms of property taxation, which are still predominantly non-market based and, "hybrid", with a tangible domination of those social values that are already passing into history, which are in direct conflict with the new values of the social progress of Ukraine.

Initially it involves the urgent implementation of the matrix of property taxation in Ukraine, produced by the International Monetary Fund, according to which:
"taxes on property are taxes payable on the use, ownership, or transfer of wealth. The taxes may be levied at regular intervals, one time only, or on a change in ownership. Taxes on property are divided into five categories: (1) recurrent taxes on immovable property; (2) recurrent taxes on net wealth; (3) estate, inheritance, and gift taxes; (4) capital levies; and (5) other recurrent taxes on property."[110]

In other words, this refers to the abandoning as the object of taxation only real immovable property – land and/or buildings located on it, which can and should be systematically taxed on a periodic basis. In conformance with the modern taxation doctrine of real estate, the main provisions of which have been successfully verified and confirmed by special OECD studies,[111] the regular taxes on property are the least harmful for sustainable development and economic growth. Ukraine is attempting to get on the path of such growth, and therefore it must take advantage of the proven "recipes" of the world's economic gurus concerning the implementation of an overdue "fiscal manoeuvre", which involves the substitution of direct taxes on personal and corporate income that have the most negative impact on economic advance, by the indirect taxes – Value Added Tax and excise duties, and particularly by the taxes on property within their meaning specified by the International Monetary Fund. Thus, considering the widespread prevalence of

[110] International Monetary Fund (2014): Government finance statistics manual 2014, p. 93. Available at: http://www.imf.org/external/pubs/ft/gfs/manual/gfs.htm .
[111] Arnold, J. (2008), "Do Tax Structures Affect Aggregate Economic Growth?: Empirical Evidence from a Panel of OECD Countries", OECD Economics Department Working Papers, No. 643, OECD Publishing. http://dx.doi.org/10.1787/236001777843.

property taxation in the world, Ukraine has an opportunity to rely on the practical and theoretically acquired experience in this case and to prevent a whole range of risks or at least to reduce their influence, which are inevitable here.[112]

Property taxes also have other fundamental advantages in comparison with other taxes especially from the perspective of tasks that are currently the most important for Ukraine: they can be assessed and collected in a way that minimises corruption and other abuses; they are "fair" from the point of view of public morality; they distort economic incentives for effective work to a lesser extent than all other taxes; they are predictable for taxpayers, and stable source of revenues for the State as a whole and local self-government; they are a powerful motivator for more efficient use of available assets; they are in practice not vulnerable to the most diverse "tax optimisations", so common in Ukraine, and at the same time property taxes effectively impose by mandatory payments so-called "shadow incomes" of both the population and enterprises; they create for local governments, and primarily united territorial communities, qualitatively new opportunities to increase the attractiveness of their territories for living and doing business by increasing the market value of land and real estate.

Reforming the payment for land in Ukraine is particularly topical, but simultaneously extremely complicated because of the overlap of many objective reasons and subjective factors in one, as it is said, Gordian knot. Famously the content of this metaphor implies that it is impossible to untie Gordian knots – they can only be cut off. Thus, according to the Article 13 of the Constitution of Ukraine, land is *de jure* the object of the right of ownership of the Ukrainian people,[113] and is the main source of national wealth.[114] However, in fact the Ukrainian people are distant from their land. The rights of a land owner are exercised on behalf of the people by bodies of Ukrainian State power and the bodies of local government, which, at present, have no appropriate powers. The taxing of land owners will not emerge in Ukraine until a nationwide land reform is implemented, as a result of which the residents of Ukraine become the *de facto* and legal landowners, and not different authorities headed by the State.
The possibility of a sharp change in the course of events in Ukraine in this area resulted from the decision of the European Court of Human Rights (ECtHR) in the case of «Zelenchuk and Tsytsyura v. Ukraine» at the end of the spring in 2018. The Court actually recognized that the current moratorium on agricultural land sales in Ukraine violates the natural rights of Ukrainians. Specifically, the ECtHR has emphasised that the absolute ban on official sales of farm land in Ukraine is in direct contradiction with the European

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[112] Almy, R. (2014), "Valuation and Assessment of Immovable Property", OECD Working Papers on Fiscal Federalism, No. 19, OECD Publishing. http://dx.doi.org/10.1787/5jz5pzvr28hk-en; Blöchliger, H. (2015), Reforming the Tax on Immovable Property: Taking Care of the Unloved, OECD Economics Department Working Papers, No. 1205, OECD Publishing, Paris. Available at: http://dx.doi.org/10.1787/5js30tw0n7kg-en .

[113] See Art 13 of Constitution of Ukraine dated June 28, 1996, No. 254к/96-VR. Available at: http://zakon3.rada.gov.ua/laws/show/254к/96-вр .

[114] See Art 14 of Constitution of Ukraine of June 28, 1996, No. 254к/96-VR. Available at: http://zakon3.rada.gov.ua/laws/show/254к/96-вр .

Convention for the Protection of Human Rights and Fundamental Freedoms and the Constitution of Ukraine.[115] Thus, there are reasonable grounds to expect that logjam will be broken in this important area of social relations.

The absence of any effective private land ownership in Ukraine undermines the rent charge for land and feeds local corruption. As a result of the introduction of amendments to the Tax Code of Ukraine, tax rates and the normative monetary valuation of the land are established by local government within a range determined by the State.

However, the practice of 2015-2017 has already proved that those local authorities, from Kyiv City Council to the Councils of the most remote and backward villages, are not eager to use the revenues from the land tax which are potentially at their disposal. Both, land taxation and the taxation of real estate are permeated with corrupt schemes, which involve representatives of political and social forces. The current practice of land use is likely to remain the outcome of a decision of a corresponding council, but without entering into any lease agreement, and so without proper rent payment. Another source of great loss to local budgets is the rather understated normative monetary value of land which usually remains within the limits of the preceding paradigm. The transition to the taxation of the floor area of real estate in 2014-2015 further strengthens the principle of injustice - the inverse proportionality in taxation. According to the implemented changes, for example, a three-room "elite" apartment in Kyiv in 2015-2017 was taxed at a rate of 0.003 % to 0.006 % of its market value. In comparison, an apartment of equal size and quality in the city of Chernivtsi (Western Ukraine) was taxed at a rate of 0.03 % to 0.06 % of its value; in a typical district center of Ukraine the tax rate was 0.5 % to 0.7 % of its value; and real estate in most Ukrainian villages, but its „elite" part, taxed at a rate of around 1.5 % to 3 % of their market value; and its typical properties at around 5 % to 7 % of their value. This clearly indicates a highly regressive application of tax rates.

This is in contrast to international practice which chooses for the unit of taxation not a floor area but a market value of real property, and differentiates taxable property into many classes, so that the most expensive real estate is taxed at the highest rates.[116] Moreover, a serious obstacle to the development of real property taxation is the so-called inflation tax which has already struck most painfully at the poorest of population. Its specific weight is almost doubled for 2014-201 and affects one-third of the entire population of the country (Table 21.9).

Table 21.9: Dynamics of Minimum Wages (in the equivalent of US $)

[115] Case of Zelenchuk and Tsytsyura v. Ukraine (Applications nos. 846/16 and 1075/16): Judgement of the European Court of Human Rights dated May 22, 2018. [Electronic Resource] – Access mode: http://hudoc.echr.coe.int/eng?i=001-183128 .

[116] See for example: Berezin, M.Yu. Development of the System of Property Taxation. Moscow: Infotropic Media, 2011. p. 59.

Country/ Years	2010	2011	2012	2013	2014	2015	2016	2017	2018
Ukraine	108.9	118.22	134.29	143.55	152.44	77.24	57.42	121.21	132.68

Source: Eurostat; https://finance.i.ua.

Thus, property taxes in Ukraine need urgent paradigm shift on to new legal and economic grounds. This is stipulated by the cardinal ideological and value changes as a whole that have already taken place in the Ukrainian society, on the one hand, and the nature of the most topical problems that have arisen now in Ukraine. Ukraine has already undergone major transformed and it continues to evolve. The nature and direction of these changes have been demonstrated most convincingly for Europe and the world by the Ukrainian Revolution of Dignity in 2013-2014. The implementation of a liberal reform of property taxation in Ukraine in the form of creatively considering world-wide experience has become top-priority, although it continues to be potentially one of the most complex reforms, that is awaiting its turn, its ideologues and organizers. After all, its materialisation will inevitably affect to a greater or lesser extent the intrinsic interests of each Ukrainian. For the time being the country`s population is more willing to accept such a reform than are the institutions of public authority. This is the main feature of the property taxation reform in Ukraine during this period of its development.

In this situation, the best perspective for the nation, first of all, and for society, in general, would be the transition towards the principle of equity and an equal approach to everybody, not only in matter of the taxation of real property, but in terms of taxation as a whole. This should result in real property taxation being implemented at an inversely proportional scale in relation to the concept of property with regard to the taxpayers' ability to pay. This is the most socially equitable, humanistic approach, and its implementation could be one of the most powerful factors in improving human-centric values in the Ukrainian *socium* and the consolidation of Ukrainian society on new fundamental values. Such a change requires the political will of the ruling elite and its rejection demonstrates a high level of complicity with the oligarchs in carving-up the country.

3 Evolution of real property markets

3.1 Restitution of real property

The restitution of real property in Ukraine, being the return of property by the State to its initial legal owners, did not occur. The reasons for this are mostly historical., being firstly, the considerable remoteness in time since private property was nationalisation by the State; secondly, the methods employed in this nationalization as a result of which almost no original legal documents for property remained to their former owners, because the detection of these documents turned their holders into dangerous enemies of that State; and thirdly, the physical removal of former property owners in the course of its expropriation. The brutal Civil War of 1917-1921 and the national liberation events in

Ukraine over that period, the Great Patriotic War, and Stalin's repressions all had an extremely negative effect on the preservation of the former property owners' documents, as well as on the owners themselves.

3.2 Privatisation

In the Soviet Ukraine, almost all property belonged to the State. Legislation implemented in 1992[117] laid the foundation for the legitimate privatisation of State property in Ukraine. The next big step for the creation of regulatory principles to extend the privatisation processes in Ukraine was introduced in 1997,[118] and this was followed by further legislation in 2011[119] being the final in this series. Together, they determined the legal framework of the privatisation processes, their subjects, principles and strategic objectives of property privatisation within their limits.

There are different phases in the development of the privatisation processes in Ukraine. The most widespread were the phases based on a special economic-legal content of each of these stages and their principal legal distinctions among themselves. The representatives of this approach to the allocation of qualitatively separated phases of privatisation in Ukraine usually breakdown into the following stages.

During the first phase (1991-1993), there occurred illegal privatisations (i.e. the appropriation of rental income without private ownership of property), semi-licit privatisations (the alienation of property without privatisation by commercialisation and cooperation), and legal forms of privatisation (including leasing with redemption). Within this period, the most common methods used were individual, non-competitive methods to acquire parts of State property complexes, and the appropriation of State property was achieved by the issuing of privatisation property certificates. At this stage the legislative and other regulatory fundamentals of privatisation were laid down. However special terms of property privatisation (i.e. specifications, under which privatisation is considered void, as a result of non-fulfillment of use conditions for a number of strategic importance objects) were not provided in them.

The second phase (1994-1995) is characterized by the transition to a wide-ranging privatisation of small objects (of which units real estate dominated). During this time the privatised property certificates were introduced into circulation. Real estate became a special object of privatisation, as it became separate from the fixed assets of enterprises, and for the first time normative-legal documents emerge, regulating real estate transactions. The procedure for the privatisation of small State enterprises was

[117] On Privatisation of State Housing Stock: Law of Ukraine of 19 June 1992, No.2482-XII, in: Bulletin of Supreme Council. 1992 (36). P.524.
[118] On Amendments to the Law of Ukraine „On Privatisation of Property of State Enterprises": Law of Ukraine of 19 February 1997, No.89/97-VR, in: Bulletin of Supreme Council of Ukraine. 1997 (17). P. 122.
[119] On State Property Fund of Ukraine: Law of Ukraine of 9 December 2011, No.4107-VI, in: Bulletin of Supreme Council. 2012 (28).

established, and the mass monetary-certificate methods of privatisation begin to play a dominant role.

By the third stage (1996-1999), the privatisation process had become wide-spread, and intense in character. In 1996, the privatisation of small enterprises (at no cost) was largely completed, and the competitively priced privatisation with a significant expansion of its individual technologies began. The privatisation process came to be considered as a significant source of revenues for the State budget, which radically changed the State's approaches to determining the value of privatised property. Also, during this period, there appeared various methodologies for assessing the objects of privatisation on the basis of their market value, and the conditions for the formation of a property market covering all property sectors (residential and non-residential, including commercial) were created. In addition, there emerged transactional services for operating such a market, and a "market value" of real estate (as recognised internationally) emerged.

The nature of the fourth period (since 2000 to the present time) of the privatisation process in Ukraine has a classic market character of privatisation, the establishment of an individual and an entirely monetary approach to the privatisation of the objects of real estate. Normative privatisation of property as a phenomenon had passes, and the post-privatisation period of the real estate market evolvement had begun.[120]

3.3 Limitation on ownership of land and other real estate

The primary limitation on the privatisation of land plots was formulated in Art. 4 of the Land Code in 1992.[121] After the adoption of a new Land Code of Ukraine in 25 October 2001, the State policy on land privatisation in Ukraine changed. This Code identified the lands which had to remain in State ownership, as a result of which the lands in such communal ownership are not subjected to privatisation.[122] Specifically, the lands not subjected to privatisation are the following:

- lands of the nuclear energy and space systems;
- lands under state railways, lands used for air and pipeline transportation in state ownership, and lands used for defense;
- lands of the Nature Reserve Fund, land used for Historical-Cultural and Health improvement purposes, having special ecological, recreational, scientific, esthetic and historical-cultural value (unless otherwise provided by law); lands of the forest fund, (unless otherwise provided by the Land Code);

[120] See, for example: Grytsenko, E.A. Real Estate Market: Regularities of Formation and Functioning (Questions of Methodology and Theory). Kharkiv: Business-inform, 2002. pp. 92-95; Asaul, A.M., Brizhan, I.A., Chevganova, V.Ya. Real Estate Economy. Kyiv: Libra, 2004. pp. 142-147; Mantsevich, Yu.M. Dwelling: Problems and Perspectives. Kyiv: Profi, 2004. pp. 70-76.

[121] See Art. 4 of Land Code of Ukraine: Law of Ukraine of 13 March 1992, No.2196-XII, in: Bulletin of Supreme Council. 1992 (25).

[122] See Art. 83 of Land Code of Ukraine: Law of Ukraine of 25 October 2001, No.2768-III, in: Bulletin of Supreme Council. 2002 (3-4).

- lands of the water fund, except as provided by the Land Code of Ukraine;
- land plots used for the maintenance of activities of the Supreme Council of Ukraine, President of Ukraine, the Cabinet of Ministers of Ukraine, other bodies of state power, the National Academy of Ukraine, and the State Branch Academies of Science; and
- land plots of alienation and compulsory resettlement zones, or radioactively contaminated by the Chernobyl disaster.[123]

The peculiarity of free land privatisation in Ukraine is that it benefits only the citizens of Ukraine. Moreover, their right to acquire land is limited and depends on the designation of the land plots, and a citizen can use the right to acquire land at no cost only once. The right to land privatisation at a cost belongs to a wider range of individuals, but it is also limited.[124] Finally, only native and foreign legal entities which are the owners of buildings, constructions and other objects of real estate located on the land plot have the right to privatise that land for a fee. Natural persons-foreigners can not be the land owners in Ukraine under any circumstances.

Changes in the law on the turnover of agricultural lands were made in 2012, but the introduction of the right of land share to the Statutory Capital of Companies is prohibited until 1 January 2016.[125] In Ukraine, there is a moratorium on land sales. Its removal is also associated with the entry into effect of the law on the turnover of agricultural lands.[126]

3.4 Nature of the real estate market

The establishment of a real estate market in a transition economy, such as post-socialist Ukraine, stems from the inversion of development. Inversion of development is the result of the historical discrepancy between the influence and interaction of economy and politics, and the predominance of non-economic factors in the process of development. Usually in the historical processes, economic changes dictate shifts in policies and in other spheres of the society. However, in an inversion development these transformations take place under the strict influence of political institutions, State value orientations and ideological representations. It involves a variety of contradictions in corresponding phenomena, and a randomness in the implementation of economic, political and legal reforms. According to Hrytsenko[127], the inversion of a real estate market development is manifested in the following phenomena:

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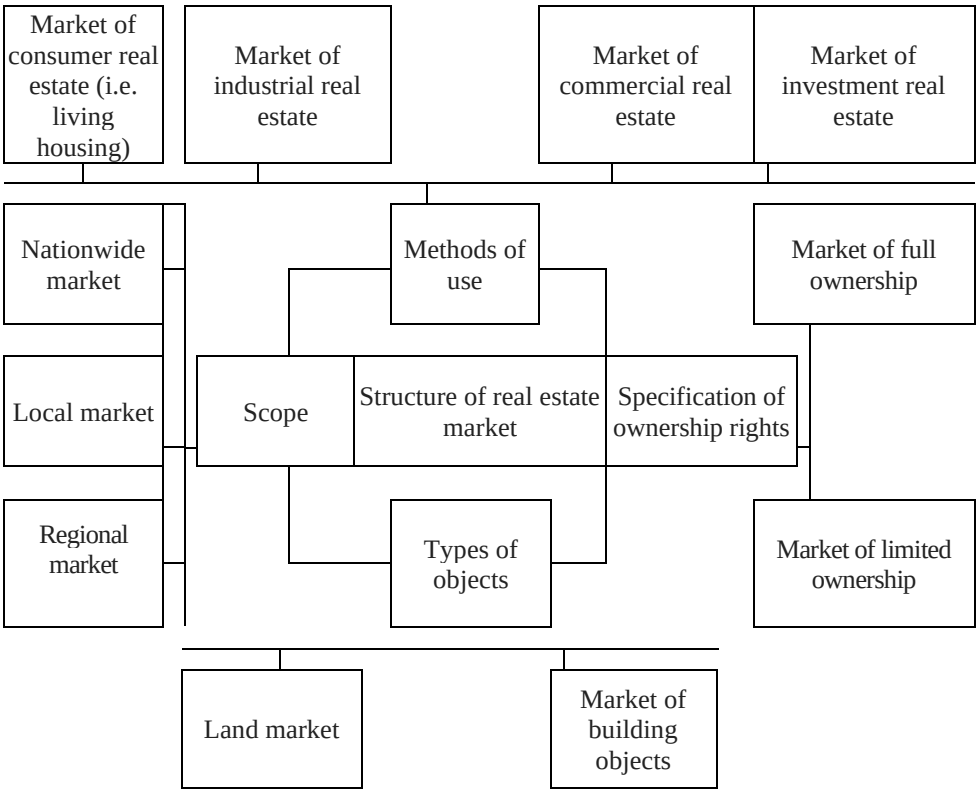
[123] Art. 84 of Land Code of Ukraine: Law of Ukraine of 25 October 2001, No.2768-III, in: Bulletin of Supreme Council. 2002 (3-4).
[124] See Art. 121 of Land Code of Ukraine: Law of Ukraine of 25 October 2001, No.2768-III, in: Bulletin of Supreme Council. 2002 (3-4).
[125] See On Amendments to Land Code of Ukraine: Law of Ukraine of 20 November 2012, No.5494-VI, in; Bulletin of Supreme Council. 2014 (1).
[126] See In Ukraine Law on Moratorium on Sale of Farmland came into force. Available at: http://ura-inform.com/uk/economics/2012/12/20/v-ukraine- vstupil-v-silu-zakon-o-moratorii-na-prodazhu-selkhozzemel
[127] See Hrytsenko, O.A. Real Estate Market: Regularities of Formation and Functioning. Synopsis of D.Sc Dissertation. Kyiv, 2003. pp.17-18.

- in the violation of the regularities of primitive capital accumulation, i.e., privatisation of real estate was initially carried out without the privatisation of land;
- in the change in the general historical logic of the development of ownership forms, since the initial process was the State's involvement in the primary real estate market;
- in the reverse sequence of the formation of the types of real estate market, which started developing from a purely State (and oligopoly) monopoly to a market with the elements of classic competition;
- in the violation of pricing mechanisms, because "market value" was formed by government norms, and housing prices determined the value of all other types of real estate; and
- in the incoherence, inconsistence, and unevenness of the development of separate parts of the real estate market. Thus, primarily, the housing market was formed, followed by the market for commercial and industrial real estate, way behind them, the land market, and only recently have market transactions on investment property began.

The nature of real estate market in Ukraine is represented by its structure (see Figure 21.1).

Figure 21.1: Structure of Real Estate Market in Ukraine[128]



4 Property data

4.1 Cadastres

Today, in Ukraine only the State land cadastre is maintained and available for public use. It has been developed since 2011 and represents a single State geo-information system of data on the lands located within the State border of Ukraine, their designated purpose, restrictions on their use, and also, data on the quantitative and qualitative characteristics of the lands, their valuation, and their distribution among owners and users.[129]

[128] Ibid. P.14.
[129] See On State Land Cadastre: Law of Ukraine of 7 July 2011, No.3613-VI, in: Bulletin of Supreme Council. 2012 (8).

The State land cadastre is maintained for the purposes of information support to State authorities and bodies of local government, individual persons and legal entities in order to:

- regulate land relations;
- ensure the management of land resources;
- facilitate the organization of rational use and protection of lands;
- implement land tenure;
- facilitate land valuation;
- ensure the formation and maintenance of an urban cadastre and cadastres of other natural resources; and
- the collection of land payments.

The principles of the State land cadastre are:

- to fulfill its duty to make entries on all its land-based objects to the State land cadastre;
- achieve a unity of methodology in the maintenance of the State land cadastre;
- ensure objectivity, reliability and the completeness of the data in the State land cadastre;
- make entries to the State land cadastre solely on the basis of and in accordance with the Law of Ukraine („On the State Land Cadastre");
- ensure openness and the availability of data of the State land cadastre, the legality of their collection, dissemination and preservation;
- the continuity of making entries in the State land cadastre about the objects of State land cadastre that change; and
- documenting all data of the State land cadastre.[130]

The State land cadastre maintenance is carried out by the establishment of appropriate State geodetic and cartographic skills, responsible for amendments to the information about the objects of the State land cadastre, and the processing and systematisation of the data on the objects of the State land cadastre. The maintenance and administration of the State land cadastre is undertaken by a central executive body which implements State policy with regard to land relations. In addition, it is a holder of the State land cadastre. The administrator of the State land cadastre is a State-owned enterprise under the management of the central executive body which implements State policy regarding land relations. In addition, it is responsible for measures for the creation and maintenance of the State land cadastre software, for technical and technological support, and the conservation and protection of data contained in the State land cadastre. It is the State Agency of Land Resources of Ukraine.

[130] Ibid.

In 10 September 2014 the Cabinet of Ministers of Ukraine reorganised the State Land Agency into the State Service of Ukraine for Geodesy, Cartography and Cadastre[131], with the functions of the previous body fully preserved. In terms of the development of land taxation, this measure appears to be progressive and positive.[132]

4.2 Registration of legal titles

The basis for the unified system of State registration of rights to real property and their restrictions was introduced in Ukraine in 2004.[133] In this Law were enshrined the legal principles of the creation, within the State land cadastre, of the unified State system of State registration of real rights to land plots and other immovable property, and also the limitation on these rights. However, in practice, because of the opposition from various political-clan lobby groups and their efforts to further their own interests by an arbitrary interpretation of the above-mentioned law, the system of State registration of rights, provided by this law, has not been implemented. Thus, the need to regulate relations, connected with the State registration of rights to immovable property, on a qualitatively new level has arisen. Further legislation[134] was enacted in 2011 to achieve this end, and it also enacted a number of other legislative acts, related to solving the problem outlined above. Such legislation defined and enshrined new approaches to State property and its encumbrances. The focus was not so much on the fact that the property is registered, as on the legitimate rights to it. It meets the latest international trends of the registration of rights to real estate and their encumbrances.

In the development of new conceptual approaches to the registration of legal titles to real estate, further legislation was adopted in 2013 which in particular emphasised that the State registration of real rights to immovable property that are derivatives of ownership is carried out after the State registration of title to such property, in accordance with the requirements of the abovementioned procedure, except for the cases when the State registration of a real right that is a derivative of the ownership, is conducted simultaneously with the State registration of title, and also when the State registration of title had been held since 1 January 2013 according to the law valid at the time.[135] In this Resolution, in particular, was envisaged that the State registration of real rights to land plots be undertaken after the State registration of land plots in the State land cadastre.

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[131] Resolution „On the Optimization of Central Executive Bodies".
[132] For more details see Kulynych, P. State-Land -Agency and State-Geocadastre: Find at Least One Divergence. Law Bulletin of Ukraine. 2015 (5). p. 553.
[133] See On State Registration of Real Rights to Immovable Property and Their Limitations: Law of Ukraine of 1 July 2004, No.1952-IV, in: Bulletin of Supreme Council. 2004 (5).
[134] See On Amendments to the Law of Ukraine „On State Registration of Real Rights to Immovable Property and Their Limitations" and other Legislative Acts of Ukraine: Law of Ukraine of 10 February 2010, No.1878-VI, in: Bulletin of Supreme Council. 2010 (8).
[135] See On Approval of the Procedure of State Registration of Rights to Real Estate and Their Encumbrances: Resolution of the Cabinet of Ministers of October 17, 2013, No. 868, in: Official Bulletin of Ukraine. 2013 (96).

In 2012 the mechanism for the registration of the residences of individuals for the purposes of real property tax was introduced.[136] This mechanism requires that the Ukrainian State Registration Service delivers to the State Fiscal Service information on the residential property owned by individuals, including non-residents. Such information indicates the surname, name and patronymic of the individual, the registration number of the taxpayer's registration card or passport series and number (for natural persons who because of religious beliefs refused to accept the registration number of the taxpayer's registration card and so informed the appropriate authority of State fiscal service and have a corresponding note in the passport), address and type of real estate, type of common ownership (in cases when such property is owned by right of common ownership), the size of share in the right of common ownership (in cases when such property is owned by right of common share ownership), the origin of ownership rights and the date of the State registration of title to the real estate. The transmission of this information is carried out at the central level between the State Registration Service and State Fiscal Service in electronic format by telecommunication channels.

Conclusion

Taxation of real property in Ukraine has a long tradition that traces its roots back to Kievan Rus', but because of internal politics and external factors the development of this tradition was repeatedly interrupted for long periods. It is for this reason that the evolution of real property taxation in post-Soviet Ukraine is largely divorced from any previous historical experience and that complicates the benefits of lessons from the past. The continuity in the development of property taxation in Ukraine was preserved most fully in the selection of its taxable objects, specifically land and property (other than land plots), and the identification of its subject with a legal owner within legal structure of property taxation.

Ukraine needs profound innovative changes in its property tax system. This is conditioned by the fact that in Ukraine, as a result of the Revolution of Dignity and the choice of the European vector of social development, a true revolution of values has already taken place. This continues with a transition from the etatism to human-centrism as a system-forming paradigm of social life and development. The liberal standards and matrices of the organisation of social life in most of its segments are intrinsic for human-centrism. This concerns directly the sphere of taxation in general and primarily property taxes. Ukraine is nurtured by an urgent transformation of both the principles and models of property taxation. Since the fundamental European and world`s progressive values have been recognised by Ukraine as its own values, Ukraine cannot avoid the more complete and systematic use of the progressive world experience in property taxation.

[136] See On Approval of the Procedure of the Necessary Data Presentation by Bodies of State Registration of rights to Real Estate and by the Bodies Exercising the Registration of the Place of Residence of Individuals for Calculating the Tax on Real Property Other than Land Plot: Resolution of the Cabinet of Ministers of 31 May 2012, No.476, in: Official Bulletin of Ukraine. 2012 (42).

Among the all tasks that require an instant solution in the tax area, including the sphere of property taxation, the most crucial issue is the need to return the property tax to its original purpose; for it to become again a common cause for all citizens of Ukraine in order to achieve public goals. And this inevitably requires the formulation of a profoundly different legal construction of property taxation in general, and of a new legal construction for each of the property taxes and compulsory payments in particular. An indispensable and deep cultural transformation is essential in the minds of taxpayers, the main goal of which must be the recognition of the taxes, not as an incursion by public institutions into their well-being and lives, but as the most important civil instrument and means of securing their own welfare and self-confidence. In other words, it is the inevitability of such an anthroposociocultural revolution in the worldview of Ukrainians, which occurred in the population of Ancient Rome at the end of the historical period of Antiquity, but with the diametrically opposed result. It must be the complete restitution, as ts primary function, of the natural purpose of property taxation in Ukraine and that is the formation of resources of public finance. In fact, at present, the revenue receipts from real estate taxation in Ukraine still remains low as compared with the many countries in the world with more long-standing property tax systems.

The main reasons for this are:

- the non-transparency of the land cadastre maintenance and the inventory of land in Ukraine causing a considerable part of it to avoid the taxation net; and
- the imperfection of the legal construction of the tax on real property, other than land plot. Initially, the tax base, as an additional mandatory element of this tax, was residential space, now it is a floor area of the residential property.

Meanwhile, the world experience of real estate taxation supports the view that the tax base should be the "market value" of the object of real property with a simultaneous provision for a certain minimum level of this value which is not subjected to taxation. However, this only works only if there is a healthy, active and comprehensive property market for all types of properties across the entire country. Until such a market exists, "market value" as defined, is a goal to be aimed at. This will complement the fiscal function of real property tax with an extremely important function, being the social redistribution of wealth from the rich to the poor.

An extremely important factor in the low efficiency of real estate taxation still remains, and this is the excessive centralisation of political power in Ukraine and the underdevelopment of local and regional self-governments As a result the latter are deprived of their potential to provide services to their citizens, and at the same time they have no incentive to generate public funds to ensure their financial resources. For this reason, the declared decentralisation of power in Ukraine is arch-necessary.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
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Property Tax Appraisal in the Republic of Moldova

OLGA BUZU

Abstract Moldova is successfully implementing ad valorem property taxation. All necessary and pre-requisite components are already in place. Most properties have been registered in the cadastre and these are taxed on ad valorem base. A system of property tax mass appraisals has been established and is developing within the cadastral framework. A specific feature of the current property tax development stage in Moldova is the co-existence of two different property tax systems. The transition to ad valorem taxation has considerably slowed since its launch in 2007. The reason for the current contradiction is that mass property appraisal efforts are funded from the national budget whereas property tax revenues go to the budgets of local governments; that causes funding decreases as well as delays in mass property registration and appraisal work. About 50% of all private residences located in rural areas have not yet been registered (and consequently they have not been appraised for ad valorem property tax purposes). As a result all properties falling into this category are still taxed according to the old system.

Keywords: • Czech Republic • property tax • immovable property tax • valuation • tax reform

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Introduction

The sustainable economic development strategy, which is in the process of implementation in many countries including the Republic of Moldova, presupposes the preservation and augmentation of national wealth, as well as the social and economic development of cities, towns and other settlements. The property tax is a core land management tool that can ensure the efficient financing of local governments in a situation where local budgets are decentralised. That is why many economies pay so much attention to property taxation issues. Diverse property tax aspects are certainly of interest for the governments in many countries. The main goal is to ensure the "equitable" taxation of property, the application of similar tax rates to all similar properties - whether owned by individuals or by entities, and to determine a uniform basis for the levying of the property taxation.

In Moldova, a major property taxation problem is the length of transition from property taxation based on the area of land parcels and on the book value of non-residential buildings or on the cost-based standard value of residential buildings, to a modern *ad valorem* tax base. This length of transition does not contribute to the implementation of the principle of equitable taxation and gives rise to situations where some taxpayers are paying high tax amounts calculated from market values of their properties, while other taxpayers are only paying a fraction of that amount based on the obsolete State-established "value" rates applied to their properties.

Property taxation is a complex, integrated, multi-aspect system that needs detailed research and a thorough comprehensive analysis. The objective of this chapter is to explain and to critically review the complex nature of property tax and to identify main directions and conditions for its development in Moldova.

The challenge of implementing an *ad valorem* tax base is rather new; and it is very relevant for many economies in transition and in particular for those in Central and Eastern Europe. It should be pointed out that property taxation is hardly ever viewed as an object deserving of scientific research. This issue is not sufficiently explored in many countries and the contemporary studies are often closer to applied research rather than theoretical scientific pursuit based on tax principles and methodology. The works of R. Bahl, R. Bird and E. Slack deserve to be singled out because they are among the scientists who contributed to the development of property tax theory by examining the essential aspects and the role of property tax in different countries, with a special focus on economies in transit to a market-based economy and emerging market economies. The works of J.H. Malme, J.M. Youngman, W.J. McCluskey who researched the developing property tax and property tax appraisals and who undertook a comparative analysis of taxation policies in the diverse transit economies deserve the special attention of researchers, politicians, economists and public officers entrusted with the task of developing and implementing tax policies in their respective home countries. Some recently published works that are of interest include the following.

The monograph of Joseph K. Eckert: *Property Appraisal and Assessment Administration* (1997) is very popular in the CIS (Commonwealth of Independent States) countries; it describes the methodology of mass property tax appraisals and the process for the administration of property appraisals and tax assessment. The work of J. E. Anderson and R. W. England (2014) is of major importance for Moldova being research into the appraisal and taxation of agricultural land because this challenge is vital for Moldova. This work presents theoretical analysis and empirical studies of use-value assessments in property taxation in the United States.

The research efforts in the sphere of property taxation are not systematic within the CIS countries and publications covering this topic are extremely rare.

Of high importance (from the scientific as well as the practical perspective) to property taxation and the intention to implement *ad valorem* taxation systems in economies in transition, which is gaining in popularity, should be the advanced availability of comprehensive and in-depth studies, which will doubtless contribute to greater interest in this topic on the part of our local researchers.

A new market value-based system for property tax appraisal has been in the process of implementation in the Republic of Moldova since 2007. The relevance and importance of such appraisal has been increasing with time, dictating the need for improvements to the current mass valuation methodology and the revision of the roles currently adopted in property tax appraisal by diverse authorities, in particular those of local governments, tax and cadastral authorities.

This chapter presents a comprehensive analysis of the situation regarding property tax appraisal in Moldova, starting with the legal framework and institutional capacity and ending with the challenges of implementing the *ad valorem* property tax system. A more in-depth picture is presented of the issues involved in the development and the maintenance of an adequate database of property values that will be used as the tax basis, of developing mass property valuation methodologies, and the specifics of mass property valuations. Suggestions are made regarding the performance of property revaluations intended to update the databases and to expand the current tax basis.

1 Property tax

1.1 History

Property tax is one of the oldest taxes: it dates back to the period when towns, principalities and whole countries were emerging. The basis for the determination of the tax liability had to be simple, easy to understand and obvious. For example, in medieval times when most houses in the principality of Moldova and in the neighbouring countries had a similar architectural design and were of a similar size, the property tax liability was determined according to a rate per house or per chimney. With the further growth of

settlements and towns, many European cities started charging this tax according to the number of facade windows or the length of the frontage of the house, as an indirect indication of the house owner's prosperity. Many settlements were charging property tax at a flat rate per room in the house. In the late 19th century when the current Republic of Moldova (then known as the Bessarabia Governorate) was a part of the Russian Empire, the basis for charging property tax was the property value determined by employing three market valuation approaches, in accordance with the 1893 law on property valuation for tax.[1] Property tax on agricultural land was payable on the basis of its market value determined by employing the discounted cash flow method. This taxation system was in existence until the start of World War I in 1914.

In Moldova's recent history, the challenge of finding an optimum approach to the taxation of land, buildings and structures emerged in the 1990s after the Republic of Moldova had become a sovereign State and started developing its own legal and regulatory framework, in particular the national tax system. The Moldovan land and property taxes were introduced in 1991. Land tax was payable based on the State-assessed soil quality and on the size of the land parcel. The property tax (on buildings and structures) was payable depending on the property "value" (which did not reflect the established market prices) and employed a system of tax rates laid down in legislation. These tax rates were different for buildings in municipalities, in other towns of Moldova and in villages. The basis of the tax was the cost-based book value of the building in the case of legal entities, and the mathematical "value" of private residences or apartments calculated according to standard cost rates (laid down in the regulations to reflect the construction costs per square meter of the total building area and of the structure/premises area) in the case of individuals. The applicable rates of land tax and property tax (on buildings and structures) evolved with time, but the underlying principle remained the same. A major weakness of this tax system was the mismatch between the tax base and the market value of the taxpayer's property. Such a tax system did not contribute to an equitable distribution of the tax burden among owners of the more valuable and less valuable properties, because the amount of tax payable on similar properties was the same, even though they were located in very different regions of Moldova.

Starting in 2007, Moldova began implementing a new *ad valorem* tax system. Its underlying concept and legal framework had been under development since the late 1990s. However, Moldova is still in transition to this *ad valorem* system, because the valuations for tax purposes have not yet been completed for certain categories of property (mainly private residences in rural areas and for agricultural land). As a consequence, Moldova is currently employing different taxation systems for different property categories (*ad valorem* taxation as well as taxation on the basis of the land parcel area and State-assessed cost-based value/book value of the building). This differentiated approach has been employed for a sufficient length of time to substantiate the conclusion that each taxation system has its own strengths and weaknesses.

[1] Тарасевич Е.И. Оценка недвижимости (Tarasevich E.: Real property valuation). St. Petersburg: SPbU, 1997.

According to the current plans, the five-year-long Land Registration and Property Valuation Project financed by the World Bank will be launched in the Republic of Moldova in near future. One of the principal objectives of this project is to achieve the registration of at least 95% of all real property in Moldova in the real property cadastre, and to perform mass valuations of all real property registered in the cadastre. Thus, it will become possible to apply an ad valorem tax approach to all types of real property only after the initial registration and mass valuation process is completed for all types of real property.

1.2 Position of the property tax

Moldova's tax system is described in the Tax Code,[2] (a corpus of the national laws where each law regulates a major tax or type of State duty). All changes and additions to the Tax Code are subject to approval by Parliament.

The Moldovan Law on Real Property Tax[3] is a component (Title VI) of the Tax Code. The Law was enacted in 2000, and at that time its underlying concept, definitions and approaches were considered to be rather revolutionary in many respects. First of all, the Law introduced the change from the traditional (for all former soviet republics) property taxation system based on the book value or the State-assessed (standardised) value of the buildings and on the area of the land parcel, to an *ad valorem* property taxation system. That was an absolutely novel concept for Moldova; it provided a crucial boost for the emergence of the nation's property valuation activities in general, and for the implementation of mass valuation techniques in particular. It should be pointed out by way of a small historical note that the terms "market value", "valuer" ("appraiser"), "assessor", "appraisal activities", "market valuation methods" were not then in use in the laws and regulations in 2000, and the term "property" was understood to mean only buildings and structures.

Thus, for the first time in the legislation of the Republic of Moldova, the 2000 Law on Real Property Tax:

- defined the term "property" as "land plots and/or all improvements located thereon, such as buildings, structures, apartments and other isolated premises which cannot be moved without direct damage to their intended use";
- treated the land plot and all improvements located thereon as a single taxation object;
- established that the tax basis is the "property value" appraised employing market valuation methods; and

[2] Tax Code (No 1163-XIII as of 24.04.1997). Official Gazette of the Republic of Moldova, No 62, Art.552, 18.9.1997. Republished in Official Gazette of the Republic of Moldova, special ed., 8.2.2007, Art.4

[3] Law on Real Property Tax (No 1055-XIV, as of 16.6.2000). Codified in Tax Code, Title VI. Official Gazette of the Republic of Moldova, No 127-129, Art.884, 12.10.2000.

- established the highest possible and the lowest possible levels for the property tax rate, and gave local governments the authority to set their tax rate within the range thus established, depending on their local budgeting needs and the economic situation in the jurisdiction concerned.

Moldova's Law on Real Property Tax has been structured in a standard way to define the taxation subjects and objects, the property tax basis, the procedures for the computation of the tax liability, and the deadlines for payment of the tax, as well as the matter of tax exemptions. A separate chapter of this Law describes the specifics of property valuation and revaluation for tax purposes (i.e. the institutional and methodological aspects) as well as the framework for the development of tax appraisals as a separate property valuation type. The chapter concluding the Law concerns administration of the property tax.

Property tax is a local tax, and its entire revenues go to the respective local budgets. The role of local governments in property taxation has been growing notably against the background of the policy of the decentralisation of public property and public finance currently under way in Moldova. The relevant amendments made to Art. 279 of the Tax Code[4] gave the local governments authority:
(1) to participate in the financing property tax appraisal work; and
(2) to initiate the process of valuation and revaluation of the property located within their respective administrative-territorial unit.

Only the cadastral offices are authorised to perform valuations and revaluations of property for tax assessment (Article 279 of the Tax Code). The executive bodies of local governments monitor the decisions made by each local government concerning the taxation of property within the territory under its administration, notify such decisions to the State Fiscal Service within ten days of the date of the decision, and make such decisions known to the taxpayers. It should be emphasised here that local governments do not perform valuations of property for tax assessment purposes. As mentioned above, they may finance and initiate the valuation process; however, all property valuations for tax assessment are funded currently only from the public budget and performed across Moldova at the same time in respect of each separate type of property. Each local government approves the property tax rate for the territory under its administration each year.

The units of local taxes and charges (separate units (departments, sections)) within local governments) perform annual computations of the property tax liabilities of individuals and family farms, which latter category has the individual entrepreneur status according to the Moldovan Law and is taxed similar to individuals. Furthermore, these agencies notify the taxpayers of the outstanding property tax and the property tax payment deadlines.

[4] Tax Code (No 1163-XIII as of 24.04.1997). Official Gazette of the Republic of Moldova, No 62, Art. 552, 18.9.1997. Republished in Official Gazette of the Republic of Moldova, special ed., 08.2.2007, Art. 4.

A crucial right granted to local governments is the authority to set the property tax rate. This right enables them to increase the applicable tax rate (and consequently their expected property tax revenues) up to eight-fold of the lowest property tax rate established within the Law. Obviously, tax rate increases are not popular with taxpayers, which is why local governments must have very good reasons to justify the increase of the property tax rate, and subsequently report to the taxpayers on the spending made from the tax revenues.

1.3 Structural components

As mentioned above, property taxation is regulated by the Law on Real Property Tax (2000), which is Title VI of the Moldovan Tax Code, and by the Law on the enactment of Title VI of the Tax Code (2000)[5]. Since Moldova is currently employing two different property taxation systems, the structure and components of each system is discussed separately.

1.3.1 Area-based (for land) and standard-value/book-value based (for buildings) property taxation (old-type taxation system)

The core ideas underlying this taxation system are described in the Law on the enactment of Title VI of the Tax Code. In fact, this Law describes the property taxation system employed in Moldova since 1991. According to the above Law, taxpayers have to pay two different kinds of tax on real estate: a land tax and a property tax (on buildings and structures).

With the evolvement of *ad valorem* taxation, many concepts of the old-type taxation system had to be amended, updated and brought in compliance with the requirements of the new tax system. Thus, payers of the land tax and property tax (on buildings and structures) are the same as the parties described in Title VI of the Tax Code. The approach employed for partial and full exemptions from the land and property taxes (on buildings and structures) is also similar to that under the *ad valorem* taxation system.

The area-based and the cost-based book value property taxation system is applied in respect of the types of property not yet appraised by the cadastral offices for the purpose of *ad valorem* taxation and to properties not yet registered in the real property cadastre. Registration of a certain type of property in the cadastre does not mean this type of property has been appraised for *ad valorem* taxation. An example is agricultural land; this type of property was fully registered during the period from 1999 to 2003, but it has not yet been appraised because there has been no government decision on appraisal of the agricultural land. The following categories of land are subject to the land tax:

- agricultural land (plough-land, pasture land, land under orchards, vineyards and vegetable crops);

[5] Law on the Enactment of Title VI of the Tax Code (2000).

- land under private residences in villages;
- land under special purpose facilities, industrial and commercial facilities; and
- public land not yet appraised by cadastral authorities for taxation purposes.

Table 1 shows the established maximum land tax rates. The applicable rates for charging the land tax and the property tax (on buildings and structures) are set annually by the relevant local governments within the range established in the Law, but in any case not lower than 50% of the maximum tax rate.

Table 22.1: Land Tax Rates

Category of land/buildings, structures		Maximum rate	Scope
Agricultural land	All land other than hay-land and pasture-land: For which soil quality is known; For which soil quality is not known	 MDL[6] 1.5 per grade/hectare MDL 110 per hectare	
	Hay-land and pasture-land: For which soil quality is known; For which soil quality is not known	 MDL 0.75 per grade/hectare MDL 55 per hectare	
	Land under water basins (lakes, ponds, etc.)	MDL 115 per hectare of the reservoir surface	
Land within settlements	Land under residential housing, household plots, land for residential housing construction projects[7]	MDL 1 per 100 m^2	In villages
	Land outside settlements which has been allocated for residential housing construction projects and not yet appraised by the local cadastral office	MDL 2 per 100 m^2 MDL 10 per 100 m^2 MDL 4 per 100 m^2	In urban areas; In Chisinau and Balti; In region centres and other municipalities
	Land of agribusinesses, other land that has not yet been appraised	MDL per 100 m^2 MDL 30 per 100 m^2	In cities, towns, region centres, villages; In Chisinau and Balti
Land outside settlements	Land under structures, mines and open pits; land with soil disturbed by production activities	MDL 350 per hectare	
	Other	MDL 70 per hectare	

Source: Law on enactment of Title VI of the Tax Code (No 1056-XIV as of 16. 06. 2000). Official Gazette: Monitorul Oficial al Republicii Moldova, No 127 – 129, Art. 886, 12. 10. 2000, annex 1.

[6] Moldovan Leu (MDL) is the national currency of the Republic of Moldova. Its exchange rate set by the National Bank of Moldova for 1 November 2017 was EUR 0.05 for MDL 1.

[7] These rates of the land tax apply to all land that has not been appraised for tax purposes, including land not registered in the cadastral system.

The applicable rates of tax on immovable improvements on land (buildings and structures) depend on the intended use of the concerned property and the category of their rights-holders (Table 22.2).

Table 22.2: Rates of Property Tax (on buildings and structures)

Building/structure category	Maximum tax rate	Tax basis	Application scope
For use in agriculture and for other uses, not yet appraised by cadastral authorities	0.1% 0.1%	Book value Value	Legal entities and individual entrepreneurs; Individuals
For commercial/ industrial use, not yet appraised by cadastral authorities	0.3% 0.3%	Book value Value	Legal entities and individual entrepreneurs; Individuals
Apartments and private residences in rural area	0.1%	Cost-based value[8] assessed by cadastral offices Book value	Individuals Legal entities and individual entrepreneurs

Source: Law on enactment of Title VI of the Tax Code (No 1056-XIV as of 16. 06. 2000). Official Gazette: Monitorul Oficial al Republicii Moldova, No 127 – 129, Art. 886, 12. 10. 2000, annex 2.

The applicable tax rate is additionally multiplied by the appropriate adjusting coefficient in the case of private residences, which are used only for dwelling purposes, in rural areas where the total area of the main house exceeds 100 m^2 and the owner of the property concerned is not an entrepreneur. The adjusting coefficients are as follows:

- For areas exceeding 100 and up to 150 square meters: 1.5
- For areas exceeding 150 and up to 200 square metres: 2.0

[8] Cost-based value was calculated before 2004 being the year in which work was started to perform valuations of domestic property in cities and towns for taxation with *ad valorem* tax. This type of "value" is used at present solely for appraisals of residences in rural areas. Cost-based values were calculated by the State; it does not depend on the location of the property and only reflects the estimated cost rates for the construction of similar property.
Cost-based values calculated on the basis of the 1997 prices are still used to assess the property tax according to the old system. In the case of the residences constructed in rural areas after 2004, a committee is created for the commissioning of each residence with the involvement of the representatives from local government and the construction supervision authority to appraise the quasi-market value of the residence on the basis of the available data on market values of similar residences. The appraisal result is an approximate value, and there is no approved methodology for such appraisals.

- For areas exceeding 200 and up to 300 square metres: 10.0
- For areas exceeding 300 square meters: 15.0

Although some of the above adjusting coefficients are rather high, the amount of tax payable on such buildings is not significant, because the cost-based value of private residences has been determined on the basis of the regulations approved in 1997 which employ cost-based value rates derived from 1997 prices.

1.3.2 *Ad valorem* property taxation system

The concept underlying this system and its structural components are described in Title VI of the Moldovan Tax Code. The system establishes payment of a single tax on real property defined within the legislation as land plots, buildings, structures, apartments and other isolated premises that cannot be moved without direct damage to their intended use.

The taxation object is immovable property, including land plots located within as well as outside the territory of settlements; buildings, structures, private residences, apartments and other isolated premises, including construction projects close to completion (i.e. 50 and more % complete) and which have not been completed within three years of the project start date.

It should be noted that *ad valorem* taxation can only be applied to properties duly registered in the real property cadastre and appraised in accordance with Title VI of the Tax Code.

Payers of the property tax are the entities and individuals, whether resident or non-resident in Moldova, that are:

- owners of real property located in the Republic of Moldova;
- tenants on privately-owned agricultural real property, unless their rental contract explicitly states otherwise;
- holders of the property rights to possess, manage and/or use real property in public ownership;
- tenants or lessees of real property owned by public authorities and institutions financed from a public budget at any level;
- leaseholders under a financial lease agreement in respect of real property;
- tenants or lessees on privately-owned real property of a non-resident, unless their rental/lease contract explicitly states otherwise.

Table 3 shows the property tax rates under the *ad valorem* taxation system.

Table 22.3: Property Tax Rates

Taxed property types	Property tax rate		Applicability scope as of 01 May2017
	Lowest possible	Highest possible	
Residential properties (apartments, private residences with their grounds and with ancillary buildings, structures and annexes)	0.05%	0.4%	All properties of this type located in cities, in towns and in the villages that form part of the municipalities of Chisinau and Balti[9]
Garages (car storages) in associations of garage owners	0.05%	0.4%	All properties of this type located in cities and towns
Land plots in associations of gardening plot owners, with/without buildings/structures thereon	0.05%	0.4%	All properties of this type located throughout Moldova
Agricultural land with business facilities located thereon (facilities the for primary treatment of wine products, for storage of fruit and vegetables, mills, refrigerated storage facilities, warehouses, machinery maintenance and repair shops, etc.)	0.1%	0.3%	All properties of this type
Properties differing in their intended use from the above-listed properties (commercial and industrial properties)	0.3%	0.3%	All properties of this type located in cities, in towns and in other settlements as well as outside settlements

Source: Elaborated by the author on the basis of Law on Real Property Tax (No 1055-XIV, as of 16. 6. 2000). Codified in Tax Code, Title VI. Official Gazette: Monitorul Oficial al Republicii Moldova, No 127-129, Art.884, 12.1 0. 2000.

1.3.3 Exemptions from the property tax

The Moldovan law grants multiple partial and full exemptions from property tax. They are granted to qualifying taxpayers under the new *ad valorem* tax system as well as under the old-type system.

Fully exempted from real property taxes (including land tax, property tax (on buildings and structures), and the *ad valorem* property tax) are owners who are:

- governments and authorities;
- establishments and institutions funded from the State budget;
- associations of handicapped persons and companies established by such associations;

[9] The two largest cities in the Republic of Moldova.

- penitentiaries;
- State-owned health care facilities;
- diplomatic missions; and
- religious associations (solely in respect of the property used by such associations for the exercise of their religion).

Exemptions from the property tax (in respect of the taxpayer's residence and any attached household land) are also granted to diverse categories of individuals: including old age pensioners, handicapped and disabled persons, families of Afghan War veterans; and persons who had participated in the post-Chernobyl clean-up.

Exemptions from property tax are granted solely for the applicable standard property value stated in the schedule to the Law on Real Property Tax. Such values were established separately for each city and town as an average appraised value of a two-room apartment derived from mass appraisal data. Exemption from the property tax (on buildings and structures) is granted uniformly in respect of all houses located in rural areas (up to the amount of MDL 30,000 (1,485 EUR)).

Exemptions from the land tax are granted in respect of:

- lands which are botanical gardens, national parks, forestry land and water ways (unless used commercially);
- land of research institutes with a focus on agriculture and forestry; and of cultural facilities; land under natural, historical and cultural monuments;
- land under perennial plantations not yet fruit-bearing;
- community land in settlements; and
- land under railroads, motorways, ports, aircraft landing strips (but not other areas of an airport).

Additionally local governments are entitled to grant full exemption from the property tax or postponements to individuals and entities in a particular fiscal year in cases of:

- natural calamity or fire that has caused loss or considerable damage to property, crops and perennial plantations;
- allocation of land for the evacuation of enterprises with harmful environmental impacts. In such cases full tax exemption can be granted for the scheduled duration of the construction project;
- long-term disability or death of the property owner evidenced with the relevant medical certificate or death certificate. This applies to all types of property - commercial as well as domestic.

1.4 Tax administration

The authority in charge of the development and implementation of tax policies in Moldova is the Ministry of Finance. The State Fiscal Service is an administrative authority is subordinated to the Ministry and which contributes to the implementation of

tax policies, handles tax administration tasks, directs and controls the activities of tax offices in local governments in respect of local taxes and charges, develops methodologies and procedures for the calculation of tax liabilities and deals with the collection of taxes.

The State Fiscal Service closely cooperates with the Department of Cadastre of the Agency for Public Services[10] in the sharing the information required for the calculation of property tax liabilities. Cadastral offices provide the State Fiscal Service with information concerning taxation objects and taxpayers on a daily basis. Based on the information from cadastral authorities, the State Fiscal Service makes arrangements for the maintenance of the Fiscal Cadastre and the monitoring of information regarding each taxpayer and taxation object. The State Fiscal Service determines the approaches and modes for the maintenance of the Fiscal Cadastre and for accessing the information contained therein.

The Tax Code establishes certain administrative procedures and arrangements designed to ensure the necessary source information for cadastral authorities in order to enable them to undertake tax appraisals of properties. In particular, cadastral authorities are entitled to request the necessary information about the property being appraised from notaries public, real estate agents and property owners. Taxpayers are obliged to disclose the requested information to cadastral authorities. If the taxpayer refuses to disclose the requested information, the property is appraised for tax purposes on the basis of the available cadastral information about similar properties.

Property tax charges are calculated by different parties involved in tax administration. Tax charges in respect of the property owned by individuals who are not registered as individual entrepreneurs and the property of family farms are calculated annually by the local government departments for local taxes and charges. These departments also notify taxpayers of the amounts payable, by serving on them property tax notices. Taxpayers that are legal entities and individual entrepreneurs calculate the amount of their annual tax liabilities independently and submit their calculations (not later than 25 June of the concerned tax period) to their local offices of the State Fiscal Service.

The taxpayers have to pay their property tax to the local authority where the taxed property is located, in two equal instalments (payable respectively by 15 August and by 15 October of the current year). The taxpayers who have fully settled their tax liability for the current year by 30 June become entitled to an exemption, which is 15 % of the calculated tax charge for the year.

[10] In August 2017 a new public institution –the Agency of Public Services – was created in the Republic of Moldova as part of the public administration reform. *Cadastru* State Enterprise was included in that agency as the Cadastral Department. The functions of the Cadastral Department include valuations of property for tax assessment.

1.5 Valuation

Because there are two property taxation systems currently in use in Moldova, two different valuation systems are employed in this country. The basis for the *ad valorem* property taxation is the so-called *appraised value*, which is in fact the market value determined employing the standard market analysis and valuation approaches. The Law says that property tax valuation activities are covered by a State monopoly and can only be performed by cadastral authorities, which employ property valuers.

The old-type property taxation system uses the *state-assessed book value* of residential property, which territorial cadastral offices had calculated many years ago on the basis of standard value rates. A weakness of this approach is, in particular, the complete disregard of the property's location as a value driver. As a result, some abstract values (often purely symbolic in nature) are used as the basis for the calculation of the property tax charge.

The following discusses in more detail the underlying concepts, specifics and stages of determining the appraised value for tax purposes.

1.5.1 The legal framework for property tax valuation

The development of a new system of valuation for property tax purpose started in the late 1990's in parallel with the implementation of the property cadastre service in the Republic of Moldova. The following laws and regulations establish the legal framework for the new system of property valuation for tax purposes:

- Tax Code of the Republic of Moldova, Title VI: *Real Property Tax* (2000);
- Law on Valuation Activities, Chapter V: *Real Property Valuation for Taxation* (2002);
- Governmental Decision on *Programme for Implementation of Real Property Valuation for Taxation* (2003);
- Governmental Decision on *Regulation on Real Property Valuation for Taxation* (2004).

According to Art. 279 of the Tax Code, property has to be appraised using mass appraisal techniques in the case of standard or uniform properties and, on a case-by-case basis in respect of unique, non-standard properties. The Tax Code also establishes the following valuation approaches for appraisal of the market value of the property. The valuation approach adopted depends on the intended use of the property being appraised, with the following methods being available:

- sales comparison approach;
- income approach; and
- the cost approach.

The terminology used to describe the diverse valuation approaches and even the concept of *market value* was absolutely novel for Moldova's laws and regulations at the beginning

of the millennium. The Tax Code also established the main requirements for a tax valuation. They can be summarised as follows.

Such valuation is:

- carried out exclusively by cadastral authorities;
- carried out based on a single uniform methodology for the same property type across the country;
- carried out within the deadlines set by Parliament;
- carried out in stages (by type of real properties);
- based on the information in the database of the cadastre; and is
- carried out only after the registration of the real properties in the cadastre.

The valuation result is the "appraised value" determined in accordance with market transaction evidence and with the traditional valuation methods. By its nature, the "appraised value" is the market value based on the current use (i.e. the market value of the property type defined without the principle of highest and best use).

The Law on Valuation Activities, Chapter V: Real Property Valuation for Taxation (2002) describes the core principles of the valuation methodology for tax purposes. That Law has made it possible for all parties involved in property taxation to understand the new concept of property tax appraisal and its relationship with the nationwide efforts involved in the initial registration of property. It also singled out the main stages of the appraisal process. The Law also required the mandatory coordination of the tax appraisal result with the property owner, and gave the taxpayer the right to challenge the valuation result via cadastral authorities. This Law has a separate chapter regarding the settlement of disputes regarding appraisals.

The stages for the implementation of the new tax valuation system as well as the issues of financing the valuation process, and of the social and economic consequences of a switch to this new property tax valuation system are dealt with in the Governmental Decision: Programme for Implementation of Real Property Valuation for Taxation (2003)[11]. The methodology for tax valuation of property is described in the relevant regulation approved by a governmental resolution.[12]

1.5.2 Institutional specifics of valuation

The key specific feature of property tax valuation is that the valuer is always an employee of the same organisation within the real property cadastre service – *Cadastru* State

[11] Governmental Decision on *Programme for Implementation of Real Property Valuation for Taxation* (No 670 of 9. 6. 2003).
[12] Government Decision no. 1303 of 24.11.2004.

Enterprise[13]. This organisation is the sole entity authorised to develop the real property cadastre and undertake valuations for tax purposes in the Republic of Moldova. This enterprise has a head office in Chișinău, which coordinates and organises all its work, and 39 branch offices – the local cadastral offices across Moldova. This enterprise performs registrations in respect of all properties located in Moldova, whether mass-scale initial registrations or individual registrations, on the basis of applications from the property owners. The emergence and maintenance of the real property register has been in progress since 1998; it exists as an electronic register as well as in hardcopy. The register stores core legal information about each unit of real property to enable the identification of the property, its owner (rights holder) and the encumbrances on property rights, if any. The data on the property value appraised for tax purposes has been added to the information in the register since 2004.

An economic component emerging from the real property cadastre system is contributing to improved reliability and better performance of the cadastral system. Tax appraisals of real property make use of the cadastral information system and the database for the subsequent development of a new tier of data reflecting the technical characteristics and values of real properties. According to Article 27 of the Law on Valuation Activities, tax appraisal of real property can only be performed after the relevant real property and its owner (rights holder) is properly identified and the property is duly registered in the cadastral system.

The data generated during the registration of real properties forms part of the legal component in the real property cadastre; the legal component comprises a unique cadastral number and address of the real property, as well as a description of its intended use and information regarding the holder(s) of rights to the property. Mass valuation efforts add information regarding the physical and economic characteristics of real property items being appraised to the cadastral database, and the relevant data is added into the cadastral economic component (*ValueCad*) after the appraisal is completed. Integration of these components makes the cadastral database more comprehensive and reliable. A part of the data is available to the public online at no cost. An online search by the property address will show the property on the map of the place where it is located and provide the main technical characteristics and the appraised value of the property. More detailed information, and in particular the information on holders of property rights to the property and on the encumbrances of these property rights, is also available online for a fee and subject to the conclusion of a contract with the Cadastral Department.

The lessons learnt from the implementation of the new property tax appraisal system in Moldova allow for certain preliminary conclusions regarding the strengths and weaknesses associated with the institutional specifics of the system.

[13] After the reform of the central public administration in Moldova in 2017, *Cadastru* State Enterprise and all its branch offices were included in the Agency of Public Services. *Cadastru* State Enterprise was reorganized to the Cadastral Department.

The inextricable link between the property valuation system and the real property cadastre ensures a high level of reliability with regard to the valuation results as well as accurate identification of each property and its owner (rights holder); the valuation is based on the entire database of property transactions registered in the cadastre.

At the same time, this close linkage of property valuations with the real property cadastre leads to the emergence of additional problems associated with the implementation of the new property tax valuation system. A major problem is that not all properties are yet registered in the cadastre, making it impossible to appraisal those unregistered properties. As of 1st May 2017, about 460,000 residences in rural areas and approximately 300,000 land plots (household garden plots) outside settlements have not yet been registered in the real property cadastre system. Thus, these property types have not been covered by mass appraisal efforts and are still taxed according to the old-type tax system.

The main cause of this problem is the excessively liberal law which does not establish fixed deadlines for the mandatory registration of properties in the cadastre. As a result, the cadastral database is not complete and not all properties can be identified and appraised. This excessive liberality of the law is most prominent in case of the late registration of transactions, in particular transactions involving domestic (residential) properties and agricultural land. Therefore the cadastral database may store information about the property owners which is no longer accurate, during the time between the initial registration and the mass appraisal, or during the time between the initial mass appraisal and the revaluation. This situation may lead to problems with the identification of the taxpayer.

This problem will be solved in the next few years because, according to the current plans, the five-year-long Land Registration and Property Valuation Project financed by the World Bank will be implemented in Moldova to complete the initial mass registration and appraisal of all real property.

The financing of the valuation process for property tax purposes should be singled out from the other institutional problems. Until now, all property tax valuation operations have been financed from the national budget. However, increased tax revenues resulting from the switch to the new *ad valorem* taxation system are flowing to the local governments. Certain amendments were introduced to the Tax Code in 2016, which allow the financing of the new system to come also from the budgets of local governments and from other sources, but this provision has not yet found application for practical purposes.

1.5.3 Property tax appraisal methodology

Real property is appraised in Moldova according to uniform methodologies that is in compliance with the national laws. The concept of real property appraisal for tax purposes began to take shape in Moldova in late 1990's in parallel with the development of the national real property cadastre.

As mentioned in the above, the Tax Code allows two types of tax valuation processes– mass appraisal (in respect of standardised uniform properties) and individual appraisals (in respect of unique properties). The two valuation approaches involve the employment of relevant market approaches and valuation methods.

The property tax valuation methodology is described in Chapter V of the 2002 Law on Valuation Activities and (in more detail) in the Regulation on Real Property Valuation for Taxation. The mass appraisal exercise is based on the data gathered during the mass property registration process and includes the following stages:

- classification of similar properties into groups;
- identification of the most significant property value drivers (for each property type);
- development of a network of 'beacon' or standard properties for each property type;
- development of valuation models for each property group or type;
- development of valuation zoning maps for each settlement, showing each property type within each settlement;
- the valuation of all properties;
- notification of the valuation results to the owners of the reappraised properties to give owners an opportunity to challenge results; and the
- input of the appraised values into the real property cadastre data base.

Each of these stages includes certain procedures, work processes and work types. For example, the first stage involves the development of the property classification to be employed. As mass appraisals are undertaken within the real property cadastre framework, the property classification developed for valuation purposes should be the same as the cadastral classification.

An analysis of information on property transactions is performed to identify the various value drivers affecting the property value. At this stage, the most significant challenge is to determine the level of reliability of the information on prices in the registered transactions. It is not a secret that many countries (and in particular the economies in transit to the market) have demonstrated a trend towards the understatement of actual transaction prices in formal deeds, with the intention of saving additional costs on, for example, state duty charges, commission fees of the involved notaries public, and capital gain tax charges. The Republic of Moldova is no an exception in this case. An analysis of property transactions undertaken during 2004-2010 in Chişinău has demonstrated that the parties to the transaction had understated the transaction price in 90% of all registered property sale/purchase agreements.[14] This statement concerns sale and purchase agreements to which the both parties are individuals (natural persons). The contracts show the actual transaction price in case of the transactions between legal entities. The situation has not changed during subsequent years.

[14] According to the output data of the relevant pilot projects, conclusions of the analysis performed by *Cadastru* Enterprise/Data of the Agency for Land Relations and the Cadastre.

This indicator was even lower in 2017. In March 2018 experts of the Agency for Land Relations and the Cadastre performed an analysis of the transactions involving private residences which were finalised in Chișinău during 2017; this analysis was based on the data provided by the Cadastral Department of the Agency of Public Services. Out of 420 transactions involving private residences, only 18 contracts (i.e. about 4 percent of the total number of the transactions) reflected the market value of the property. The deliverables of this analysis can be found on files of the Agency.

After the identification of an optimum number of value drivers having the most significant effect on property values, diverse approaches are employed to determine the extent of such an influence. Approaches can include comparison of paired sales (for similar properties), and economic and mathematical analysis, of which the most popular is the correlation and regression analysis. Subsequently, after the valuation model goes through its test runs, these drivers (property characteristics) are summarised for all properties nationwide, which is a very expensive exercise. That is why the main task at this stage is to identify the least possible combination of value drivers which are most significant in affecting the market value of the properties being appraised.

'Beacon' properties are determined for each property type in each settlement after an analysis of the real property cadastre database. The property chosen as the 'beacon' is a typical property with the characteristics that are present in most of the properties within a certain property group. For example, the beacon property for the valuation of the apartments located in Chișinău (according to the analysis as of 2004) was a two-room (i.e. one bedroom apartment) with a total area of about 50 square meters, which is located in a five-storey building constructed sometime between 1975 and 1980. The material used for the building's walls comprises small blocks of cut limestone; the building is connected to all utilities, but does not have an elevator nor a rubbish chute. The beacon apartment is located on one of the middle floors (i.e. in the second to the fourth storey).

A valuation model is developed as the next step; the model's form depends on the employed valuation method(s). Provided that the database on sales of such property type is large and comprehensive enough, the sales comparison method is employed for the valuation of standard properties (apartments, private residences, land plots). In such a case the valuation model can be described by the formula:

$$ApV = SP_a + A_{a/o} \quad (1)$$

Where:

ApV = the appraised value of the property;
SP_a = the selling price of the reference property; and

$A_{a/o}$ = the adjustment for differences in the quantitative and qualitative characteristics between the reference property and the property being appraised.

In the common situation where the property being appraised comprises land and building(s) and other structure(s) located thereon, the valuation model has the following form:

$$ApV = LV + IV \quad (2)$$

Where:

LV = the land value; and
IV = the value of improvements on that land (buildings, structures, perennial plantations, etc.).

This model can be transformed subsequently into various sub-models to better take into account the diverse value drivers in the case of different property types. Out of the vast range of valuation models (additive, multiplicative and hybrid), multiplicative models are preferable for valuations of the most common property types, such as standard apartments, isolated premises, land without improvements. Such models describe the comparative sales analysis as follows:

$$ApV = b_0 \times \pi b_i^{Xi} \times \pi X_j^{bj} \quad (3)$$

Where:

b_0 = the constant expressed in monetary units and reflecting the baseline value of a unit of area;
X_i = the binary qualitative variables (that can equal 0 or 1);
b_i = the coefficients expressing the existence or presence of such characteristics;
X_j = the quantitative or scalar qualitative variables; and
b_j = the numbers corresponding to these variables.

The model is calibrated (i.e. the coefficients for the model are calculated) employing general-type multiple regressive analysis, as well as a linear or multiplicative multiple regressive analysis approach.[15]

[15] Эккерт Дж. К. Организация оценкии налогообложения недвижимости (Eckert J.K. Property assessment and assessment administration). Moscow: Star INTER, 1997, p.55.

Valuation zoning maps are developed separately for each settlement and each property type therein. Personnel of the local cadastral offices in the territories play a key role in that process. Working in cooperation with professional participants of the real property market (valuers, real estate agents, notaries public), they develop draft valuation zoning maps for approval by the local governments.

Mass-appraisals for property tax include the following operations:

- mass gathering of information on all properties in a particular category;
- input of that information into the *ValueCad* cadastral system;
- calculation of the appraised values;
- assessment of the results and quality assurance;
- notification of the appraised values to taxpayers;
- introduction of adjustments to the cadastral database on the basis of applications submitted by taxpayers and after consideration of each application on a case-by-case basis; and the
- approval of valuation results and the transmission of the database on the appraised values of all properties covered to the main office of the national fiscal service for the computation of the respective property tax charges.

Each stage in the mass valuation process needs thorough preparation, which includes the development of the work process sequence as well as the determination of standard time consumption rates and tariff rates for individual operations.

Most stages of mass appraisal are automated. Thus, real property identification and the value zone assignment is performed employing GIS data. The *ValueCad* software developed by the *Cadastru* Enterprise is used for mass appraisals. The processes of generating notices to tax payers concerning the valuation results and the data transmission to national tax authorities are also automated. The State Tax Service subsequently sends this information, using its own system, to the local governments.

1.5.4 The outcome of implementing the new real property assessment system for tax purposes

According to the Tax Code, property tax valuation has to be performed in stages, by property type; consequently the new taxation system also had to be implemented in stages. This outcome was the only one possible albeit not a desirable one. In reality, it led to a situation where owners of the properties classified into different types have been treated unequally for a number of years: some of them are paying *ad valorem* tax on the basis of the market value of their property and the others pay property tax on the basis of State-assessed values which are a fraction of the market value. For example, *ad valorem* taxation of residential properties located in urban areas has been employed in Moldova since 2007, whereas owners of residential properties located in rural areas are still being charged their property tax on the basis of the symbolic State-assessed book values. The

current situation with regard to the registration of properties and their mass appraisal for implementation of *ad valorem* taxation is presented in Table 22.4.

Table 22.4: The relationship between mass property registrations, mass appraisals and the new taxation system

Property type	Number of properties	Mass initial registration (timeline)	Valuation date	New tax system (implementation year)
Apartments	335,000	2000-2002	1 June 2004	2007
Private residences in urban areas	175,000	2001-2003	1 June 2005	2007
Garages (for the storage of vehicles)	50,000	2006-2007	1 June 2007	2010
Commercial and industrial properties	90,000	Registration during valuation	1 June 2009	2010
Agricultural land to include: - land with buildings; - garden plots; - summer house plots; - arable land	4,010,000 30,000 900,000 80,000 3,000,000	 2009-2010 Not completed 2006-2007 1998-2003	 1 June 2011 Valuation not started 1 June 2007 Valuation not started	 2012 Not applicable 2010 Not applicable
Private residences in rural areas – total - to include in Chisinau and Balti municipalities	930,000 26,000	550 000 properties registered during 2010	Valuation not started 1 June 2011	Not applicable 2012
Special purpose properties, other properties	110,000	Only some properties registered on the basis of voluntary applications from their owners	Valuation not started	Not applicable
TOTAL	5,700,000	-	-	-

Source: Produced by the author on the basis of: Buzu, O. Property Assessment and Taxation in the Republic of Moldova - Land Tenure Journal. 2015 (2). P.71.

From Table 22.4, it is clear that Moldova has achieved good progress since the start of the implementation of the new valuation system. The valuation efforts have covered all residential properties in urban areas, all commercial and industrial properties, garages

constructed by the associations of garage owners[16], and the land of the household gardening associations. By the end of 2011, the valuations had been completed in respect of agricultural land and structures located thereon as well as private residences located in the villages that form part of the municipalities of Chișinău and Bălți (being within the greater city areas). Mass information-gathering has started in respect of private residences located in rural areas throughout Moldova. Thus, preparatory work is currently in progress for subsequent mass valuations. However, no fixed deadlines have been established for the completion of property tax valuation work.

1.6 Revenue performance

An increase in tax revenues to the local government budgets was the most important consequence of the transition to the new system of real property appraisals and real property taxation. Table 22.5 presents an analysis of revenues from the property tax from 2007 to 2015.

The revenues from the property tax grew by 59% during the period covered by the analysis, against the background of the practically unchanged revenues from the land tax (which grew by 4.5% - whereas the revenues from the property tax grew 3.4-fold). The growth rate of the revenues from the property tax was so high because, since 2010, the owners of commercial and industrial real property have been paying this tax on the basis of the appraised value rather than the inequitable cost-based book value of the relevant properties. Since 2012, the new *ad valorem* tax system has been applied across Moldova to the private residences in the villages that form part of the municipalities of Chișinău and Bâlți (being within the greater city areas), and to agricultural land together with commercial structures located thereon. The reason for the growth of the tax revenues during subsequent years is that local governments have amended their own property tax rates within the limits allowed by the Tax Code. Moreover, tax appraisals have been performed in respect of all new properties constructed or created after the mass appraisal of the concerned type of real property.

During 2007–2015, the revenues from all taxes paid to the national public budget grew 2.2-fold, whereas the tax revenues to the budgets of local governments decreased by 8% over the same period. However, property tax is starting to play a more significant role in the tax revenues of local governments. Its portion in these tax revenues grew from 8.9% in 2007 to 15.4% in 2015.

[16] These associations appeared in the late 1980's – early 1990's. Their objective was to get a large number of family-sized car storage garages constructed within the site allocated to the association. The construction was financed jointly by the natural persons being association members. The site for this construction was allocated to the association by the local government at no cost. The average number of members (family garage owners) in such association is about 130–150.

Table 22.5: Real property tax revenue

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015
Land tax	174,225	97,768	182,957	180,501	181,310	179,449	185,440	184,300	182,073
Tax on real property	52,032	64,283	69,722	100,540	99,352	121,012	128,553	149,500	177,174
Total	226,257	262,051	252,679	289,248	280,779	310,248	313,992	333,800	359,248
Tax revenue to central budget	10,733,225	12,616,030	10,382,252	11,491,678	14,530,822	16,575,678	18,336,000	21,929,200	23,648,522
Tax revenue to local budgets	2,546,785	2,348,366	2,177,397	2,141,618	2,400,396	3,657,200	4070500	2,924,500	2,334,800
% of property tax in local budget tax revenue	8.9	11.2	11.6	13.5	11.7	8.5	7.7	11.4	15.4

Source: Calculations made by the author on the basis of Financial Reports on State and Local Budgets Formation //www.mf.gov.md/reports.

1.7 Possible reforms

The implementation of the new progressive *ad valorem* property taxation system has been underway in the Republic of Moldova for some time. Nevertheless, certain financial, economic and political circumstances do not make it possible to apply this new system to all properties. Major challenges faced at this stage are as follows:

- Not all properties have been duly registered in the real property cadastre because of the lack of finance required for the completion of cadastral work and for the initial mass-scale property registration efforts. Consequently, their tax assessment cannot be made. The financing of that work from the State budget was suspended in 2007 because of the financial and economic crisis and has not yet been resumed. Although the local governments were given the right to finance tax appraisals of property from their local budgets, not a single local administration (*'primaria'*) has exercised that right as yet;
- Public property has not yet been registered in the cadastre because the physical boundaries have not yet been agreed and the exact owners have not yet been identified for some public properties administered by State and local governments;
- No revaluations have been performed to update the appraised values of the properties already covered by the tax valuation programmes. That is why the appraised values in use at the present are no longer at the level of current market

prices for the concerned properties and are increasingly becoming out of date. As a consequence, tax revenues collected by local governments are not sufficient to adequately finance the development of their jurisdictions;
- Another reason for the passive attitude taken by authorities in respect of property tax revaluations is the government's concern about the scale of possible negative public reaction which may result from increased property tax charges. Initiating such a public reaction would be very risky on the eve of the forthcoming parliamentary elections.

At the same time, the lack of a clearly defined strategy for the completion of the real property cadastre and the country-wide implementation of the new property tax system can lead to the emergence of more significant problems. Moldova could lose all the advantages it has gained from having a multifunctional real property cadastre, its well-developed system of mass property valuation and its *ad valorem* taxation system, in the event that all these new features continue to apply only to a proportion of all properties. The problem of unfair taxation and injustices will become more and more acute and ultimately lead to adverse social consequences.

A major challenge faced by Moldova during recent years is the de-centralisation of public finances and public property. Particularly acute is the issue of ensuring actual autonomy of local government units in towns and villages. The solution will require in particular the establishment of an adequate source of revenue, which in itself requires a stable and up-to-date basis for property taxation, and a switch to *ad valorem* property taxation to ensure an equitable re-distribution of the tax burden.

As result of recent research, the following were identified as further potential improvements to the current property taxation and property tax valuation systems:
- Development of the arrangements for the joint funding of real property valuation and revaluation efforts by central and local governments, and, in particular, the establishment of a targeted real property valuation development fund;
- Introduction of amendments intended to improve tax valuation laws in order to clarify the role of local governments in the implementation of the new real property valuation and taxation system in Moldova;
- Development of mass valuation techniques and approaches that will involve local governments in gathering the initial data and information about real property and holders of rights to real property within their jurisdiction;
- Development of the arrangements and of the relevant legal and regulatory framework for the monitoring of real properties and for the updating of the cadastral data;
- Review of the existing system of property tax exemptions with the aim of reducing the list of individuals and legal entities currently qualifying for tax exemptions;
- Development of the arrangements and procedures to handle taxpayer complaints. There is as yet no clearly laid down procedure for pre-trial handling of disputes

regarding property registration, the identification of the property's characteristics and the tax appraisal of the property; and

- Improvements to the legal and regulatory framework are also necessary to ensure that the property market develops into a healthy and active system, and that there is transparency in property transactions and prices.

2 Evolution of Real Estate Market

2.1 Emergence of the Real Estate Market

The emergence of the real estate market in the Republic of Moldova is somewhat different from the developments in Moldova's neighbouring states - Ukraine, Romania, and Russia. In the early twentieth century, the current Republic of Moldova was part of the Russian Empire and its official name was the *Bessarabia Governorate (Bessarabia* for short). Land nationalisation started in Bessarabia in 1917 after the All-Russian Congress II of Peoples' Deputies had passed the relevant decree on land. However, one year later, Bessarabia became a part of Romania, and the process of land nationalisation was terminated. In 1940, Bessarabia and Northern Bukovina became a part of the Soviet Union and all Soviet laws, including the law on nationalisation of land, were re-enacted on their territory. All land, including subsurface resources, forests and water resources, was declared public (i.e. State) property.

In Moldova, during 1940-1991, all real estate was deemed to be public property, excepting a very low percentage of residences and condominiums built at the cost of and, in case of residences, frequently by their residents. Instead, they were considered the personal ("individual") property of their residents. However, even where residential real estate was the personal property of its residents, the land under it and the surrounding grounds were State property. The prices at which such residential real estate changed hands were called 'black market prices', and they were only known to a limited circle of sellers and purchasers. The term 'market value' was in use solely as a derogatory term that meant 'profiteering value'. Thus, the notions of 'private property' and a 'real estate market' had fallen out of use and had been unknown for several decades, until 1991, when Moldova launched its national programme to privatise State property.

Moldova began its transit to a market economy in all sectors in the early 1990's. The right to have real estate in private ownership was recognised in the Moldovan Law: *On Property* (no. 459-XII of 22. 1.1991). This Law describes diverse types of titles and rights to real estate, such as the right to own, to hold in economic management, to manage on trust, to use (distinguishing between the right to use for an unlimited duration, the right to use inherited real estate, the right of lifelong residence, the right to use non-residential premises, mortgage rights and easement rights). Each of the above rights is subject to

official registration according to the established procedure in the real property register maintained by the Moldovan *Cadastru* State Agency.[17]

2.2 Privatisation

The Moldovan privatisation programme was implemented in several stages. Stage 1 (1991-1993) involved the development of the core legal and regulatory framework to underpin the privatisation concept and tools, as well as the privatisation methods which would be employed in diverse economic sectors. That stage included the development of the first methodology guidelines on the valuation of the real estate subject to privatisation.

The actual efforts to privatize apartments and certain industrial and commercial facilities started during Stage 2 (1994-1996). Such industrial and commercial facilities were privatised through sale at auctions. Major manufacturing enterprises and commercial facilities were offered for sale at bidding tenders, with smaller facilities, at traditional "open outcry"[18] (“knock down”) auctions. Real estate could be purchased using special privatisation vouchers – so-called 'national patrimony vouchers’ issued free of charge to all citizens of the Republic of Moldova. The value of the national patrimony voucher issued to each citizen of Moldova comprised two value components:

(1) the fixed component which was the same for all citizens of Moldova (including for the infants born before the period during which the vouchers were issued); and
(2) the variable value component which accrued to each citizen individually depending on the total length of the citizen’s record of employment with Moldovan enterprises, institutions and organisations.

It was during that stage that the primary real estate market actually emerged because most of State-owned housing and a considerable percentage of the commercial and industrial facilities became privately owned and therefore tradable.

Privatization Stage 3 started in 1997 with the enactment of the Law on Statutory Prices and on the Procedure for the Sale and Purchase of Land. That Law allowed the sale and purchase of all land, including agricultural land. Agricultural land was privatised in the following way: all former collective farm members were given differently sized plots of land, with the new plot area being in proportion to the new owner’s period of service and work contribution.

The next stage began in 1999 and continued until mid-2000's, and that was when the real estate market infrastructure emerged and started taking its current shape. The real

[17] In accordance with the Law on Real Property Cadastre (Law no. 1543-XIII of 25. 2.1998).
[18] An “open outcry” (“knock down”) auction is a public sale of real estate in accordance with the auctioning rules laid down in advance. The basic feature general for all auctions is the competition among the prospective buyers. The sale is awarded to the winner in the auction according to the outcome of the competition for the right to buy the auctioned property.

property cadastre was established for the statutory registration of real property; laws were enacted on valuation activities; and a market emerged for real estate-related agency services.

The privatisation process is now complete, with most of the Moldovan real properties in private hands. According to the National Statistics Bureau of Moldova, in 2016 only 1.8 percent of domestic properties, 7.7 percent of industrial facilities and 16 percent of agricultural land were owned by the State or by local governments. Only the real estate of strategic, national, cultural or historical significance, as well as the real properties necessary for public administration and the reserved land pool, are still in State or municipal ownership.

2.3 Limitations on land/property ownership

According to the Land Code of the Republic of Moldova, land can be in public as well as private ownership in Moldova. The State guarantees equal protection to these two types of ownership. The Law says that private owners of land can be foreign investors as well as Moldovan nationals.

For the first time in Moldova's modern history, the 1997 Law on Statutory Prices and Procedures for the Sale and Purchase of Land stated that land could be sold and purchased. This Law established the terms, conditions and procedures for the sale of public land in diverse situations, depending on whether such land is intended for construction projects and not occupied, or surrounding a privatised building/structure, or intended for household gardening. The Law pays special attention to sale of agricultural land.

Limitations apply on the sale of land to foreigners and foreign entities as well as to entities with foreign investments in their share capital. Art.4 (3) of the Law on Statutory Prices and Procedures for Sale and Purchase of Land says that public land can be sold to individuals and entities that are Moldovan residents as well as to foreign investors; agricultural land and designated forest land is an exception from that rule and can only be sold to Moldovan residents (individuals as well as entities).

The Law grants the right to sell and to purchase agricultural land to the State, to individuals who are Moldovan nationals and to legal entities that have no foreign investments in their share capital. If a foreigner or a stateless person comes to own any of the Moldovan agricultural land or designated forest land by virtue of inheritance according to the Law or under a testament, such land can only be transferred to a Moldovan national and only in the case that the deed of transfer takes effect during the transferee's lifetime.[19]

[19] Article 6 Paragraph 3 of the Law on Statutory Prices and Procedures for Sale and Purchase of Land.

Another limitation on land ownership is the fact that Moldova does not allow restitution of the expropriated land to its former owners or their heirs. Instead, they can only be given land plots to own under the terms and conditions established by the Land Code.

2.4 The nature of the property market

2.4.1 The Moldovan real estate market and its major trends

The Moldovan real estate market is relatively young; it emerged in the mid-1990's as a result of the implementation of the national programme of privatisation, de-monopolisation and de-regulation of property.
The introduction and development of the cadastral system for real estate, as well as the large scale efforts undertaken for the initial registration of real estate, (which started in 1998 and are still underway), enable the presentation of some rather accurate statistical data on the real estate market.

According to the Agency for Land Relations and Cadastre, there were about 5.7 million of real properties in Moldova as of the start of 2017. The market segmentation by function of real property is as follows:

- apartments (325 thousand properties);
- private residences being dwelling houses, located on their own plot of land (about 1 million properties);
- industrial and commercial real estate (about 100 thousand properties); and
- agricultural real estate (about 4 million properties).

The other segments cover special purpose properties, garages, and garden/summer house plots in the country owned by urban dwellers.

The market activity rate is determined by the number of transactions completed in respect to real estate during a certain period of time. Recent analysis of the market activity during 2000-2015 leads to the conclusion that the Moldovan real estate market is generally quite active. The market emerged and grew during 2000-2008, and since 2009 has been going through a phase of stabilisation and subsequent decline. Recently (during 2013-2015), the number of transactions completed in respect to real estate has been on the rise and exceeded the 2009 level (refer Table 22.6). In 2015, the number of such transactions was 111% of the base 2009 level. The transaction number growth rate has also been increasing year-on-year: the number of transactions grew by 2.4% in 2014 as against 2013, and the 2015 growth rate was already 6.7% year-on-year.

Although Moldova is not large, its real estate market is quite different in the country's different geographical areas. The market is at its most active in the capital city of Chişinău (in 2015, Chişinău accounted for 12.9% of the total number of transactions registered in

Moldova).[20] The region rated second by the number of completed transactions is Cahul (4.4% of the total transactions nationwide); still lower in the ratings are: Orhei, Floresti and Drochia (with respectively 3.7%, 3.6% and 3.4% of the total transactions). The markets are the least active in Vulcănești and Basarabeasca, being two small towns in the south of the Republic of Moldova, (with each accounting for less than 1% of the total transactions). Basarabeasca (population: 12,500) is the central town of a small region and a major railroad junction station. Vulcănești has the population of 15,000. Unemployment rates are high in the both towns; most of the currently existing jobs are in public and community services, regional administrations and the businesses of sole traders. The migration of the population is high.

Table 22.6: Rates of growth in the number of real estate transactions during 2009 - 2015

	2009	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**
Number of real estate transactions	286,819	249,690	277,354	276,539	291,767	298,656	318,594
Growth rate	100%	87%	96.7%	96.4%	102%	104%	111%
Year-on-year growth rate	-	87%	111.1%	99.7%	105.5%	102.4%	106.7 %

Source: Calculations made by the author on the basis of the data provided by the Agency for Land Relations and Cadastre.

Table 22.7 shows the breakdown by transaction type of all real estate transactions completed in 2015. The type of transactions prevailing within the entire spread is property sale/purchase. For example, sale/purchase transactions account for 65.5% of the transactions in the Autonomous Territory of Gagauzia, for 44.7% in the Anenii Noi Region and for 44.4% in the Soroca Region. [21] [22]

[20] The author's calculations are based on the data from Agency for Land Relations and Cadastre.
[21] This is the only territorial unit officially named "autonomous territory" in Moldova. Excluding this territorial unit, the rest of Moldova is subdivided into "regions"(raions).
[22] In the AT Gagauzia and in Anenii Noi and in Soroca regions the main object of sale/purchase transactions is agricultural land.

Table 22.7: The spread of transacitons in certain regions of municipalities of Moldova in 2015

#	Municipality/ Region	Transaction type (as % of the total)				
		Sale/ Purchase	Inheritance	Gift, Exchange	Other	Total
	Total for Moldova	***34.7***	***29.7***	***19.9***	***15.7***	***100***
1	Chișinău Municipality	38.3	22.1	14.6	25.0	100
2	Bălți Municipality	37.8	24.5	13.6	24.1	100
3	Anenii Noi	44.7	25.0	14.8	15.5	100
4	Cahul	40.6	29.5	14.2	15.7	100
5	Drochia	38.1	26.0	24.3	11.6	100
6	Floresti	42.8	29.6	18.1	9.5	100
7	Hîncești	30.9	31.4	18.9	18.8	100
8	Orhei	33.8	33.9	21.5	10.8	100
9	AT Gagauzia	65.5	15.3	11.0	8.2	100
10	Sorocha	44.4	27.8	20.5	7.3	100
11	Strășeni	26.7	32.6	23.2	17.5	100
12	Ungheni	27.2	30.8	23.2	17.5	100

Source: Calculations made by the author on the basis of the data provided by the Agency for Land Relations and Cadastre.

The transaction types prevailing in Chișinău Municipality during 2015 were: sale/purchase (38.3%), other (24.9%), and inheritance (22.1%). The breakdown was approximately similar by transaction type throughout the period under analysis. In 2009, sale/purchase transactions accounted for 39.1%, other transactions for 27.4%, and inheritance for 19.7% of the total transactions completed in Chișinău (refer Table 22.8).

Table 22.8: Transactions of real estate in Chișinău in 2009-2015, by type

Year	Transaction type				Registration type		
	Sale/ Purchase	Inheritance	Gift, Exchange	Other	Mortgage	Rental	First registration
2009	12,199	6,147	4,284	8,536	5,220	1,205	16,804
2010	14,119	6,389	4,247	7,868	7,390	1,156	15,654
2011	16,896	7,159	4,615	7,905	8,656	993	20,421
2012	16,340	6,631	4,221	7,264	8,776	614	21,220
2013	15,903	7,089	4,333	7,941	9,372	860	25,125
2014	16,092	7,340	4,602	9,094	11,775	795	21,787
2015	15,757	9,087	6,013	10,251	8,322	802	26,019

Source: Calculations made by the author on the basis of the data of the Department Cadastru //www.cadastru.md.

The spread of the sale/purchase transactions completed in Chișinău by property type did not register any significant changes by real estate type during the period covered by our analysis (refer Table 9). Apartments accounted for 55-60% of transactions; private residences for 6.7-7.7%; land for construction projects for 15-25%; and commercial and industrial properties 4.6-6.3% of the total number of the completed real estate sale/purchase transactions.[23]

Table 22.9: Real estate sale/purchase transactions completed in Chișinău in 2009 - 2015 by real estate type

Year / Real estate type	2009	2010	2011	2012	2013	2014	2015
Apartments	6,632	7,577	9,043	9,300	8,939	9,503	10,211
Private residences	936	945	1,079	1,169	1,082	1,183	1,129
Commercial properties	622	891	981	917	937	780	1,074
Agricultural land	562	458	1500	783	1,026	746	864
Land for construction projects	3,072	3,737	3,535	3,127	2,817	2,663	2,450
Other	375	511	758	1,044	1,102	1,217	1,293
TOTAL	12,199	14,119	16,896	16,340	15,883	16,092	17,021

Source: Calculations made by the author on the basis of the data of the Department Cadastru //www.cadastru.md.

However, the structure is somewhat different by real estate type for Moldova in general. Although transactions involving agricultural land accounted for 77.8% of the total completed transactions in 2009, their portion decreased to 68% in 2015. The real estate types which registered growth in the number of transactions completed in 2015 were: apartments (from 7.7% in 2009 up to 13.3% in 2015); private residences (from 4.9% in 2009 up to 6.7% in 2015); and commercial properties (from 1.4% in 2009 up to 2.3% in 2015).[24]

[23] The percentages have been calculated using the data presented in Table 22.9.
[24] The percentages have been calculated using the data presented in Table 22.10.

Table 22.10: The structure of sale/purchase transactions in Moldova, by real property type

Year	Land for construction projects	Apartments	Agricultural land	Private residences	Commercial property	Other	TOTAL
2009	10,476	11,004	111,420	7,003	1,987	1,294	143,184
2010	10,861	12,357	67,331	6,831	2,422	1,472	101,274
2011	10,275	14,263	71,035	7,473	2,643	1,774	107,463
2012	9,157	14,692	69,814	7,313	2,419	2,067	105,462
2013	9,058	14,196	72,641	7,476	2,463	2,253	108,087
2014	8,774	14,690	75,941	7,755	2,455	2,345	111,960
2015	8,375	15,120	77,417	7,581	2,656	2,414	113,563

Source: Calculations made by the author on the basis of the data of the Department Cadastru //www.cadastru.md.

Sale/purchase is the most common transaction type involving all types of real estate generally in Moldova, the only exception being the private residence segment (refer Table 22.11). Registration of inheritance rights is the second-most popular transaction type in the case of land, and other transactions, and also in case of apartments, commercial properties and properties classified as 'Other'. The prevalent transaction types involving private residences are: registration of the rights to inherit (37%); gifts and exchanges (21.8%); and Other (21.0%), whereas sale/purchase was the least frequent transaction type (20.2%). This low frequency of sale/purchase transactions with private residences can be explained mainly by the presentation of this group of transactions without subdividing it into transactions within urban residences and transactions within rural residences, although they originate in two different segments of the real property market which demonstrate different trends. The real property market is only recently emerging in rural areas and so inheritance accounts for the highest number of transactions involving rural residences. The total number of rural residences is five-fold those of the urban residences in Moldova, and that is why the overall frequency of the residence sale/purchase transactions seems to be low.

Table 22.11: The structure of transactions in real estate in Moldova in 2015 (%)

Real estate type	Other	Gift, Exchange	Sale/ Purchase	Inheritance	TOTAL
Land for construction projects	20.3	15.2	42.1	22.4	100.0
Apartment	32.1	10.7	38.9	18.3	100.0
Agricultural land	11.7	20.7	36.4	31.2	100.0
Private residence	21.0	21.8	20.2	37.0	100.0
Commercial property	29.9	6.5	56.4	7.2	100.0
Other	28.3	11.2	47.2	13.3	100.0

Source: Calculations made by the author on the basis of the data of the Department Cadastru //www.cadastru.md.

During the period covered by our analysis, agricultural land was the most traded real estate type in all regions of Moldova. However, the number of sale/purchase transactions involving agricultural land is decreasing. In 2015 the number of agricultural land sale/purchase transactions was about 68% of the 2009 level (Table 22.12). The number of registrations of the rights to inherit grew by 18.4%; the number of real estate gifts grew by 92%; and the number of transactions classified as 'Other' grew more than two-fold.

Table 22.12: Rates of growth in the number of transactions in agricultural land in Moldova during 2009 – 2015

Year / Transaction type	2009	2010	2011	2012	2013	2014	2015
Sale/purchase	114,420	67,331	71,035	69,814	72,641	75,941	77,417
Growth rate: Absolute	100%	59%	62.1%	61%	63.5%	66.4%	67.7%
Year-on-Year	-	0.59	1.06	0.98	1.04	1.05	1.01
Inheritance	56,006	55,066	59,940	57,720	63,910	60,649	66,300
Growth rate: Absolute	100%	98%	107%	103%	114%	108.3%	118.4%
Year-on-Year	-	0.98	1.089	0.96	1.11	0.95	1.09
Gifts, exchange	22,808	25,885	37,327	43,214	41,437	39,860	43,868
Growth rate: Absolute	100%	113.5%	163.7%	189.5%	181.7%	174.8%	192.3%
Year-on-Year	-	1.135	1.44	1.16	0.96	0.96	1.10
Other	10,672	11,608	13,143	14,947	17,974	21,775	24,854
Growth rate: Absolute	100%	108.8%	123.2%	140%	168.4%	204%	232.9%
Year-on-Year	-	1.088	1.132	1.137	1.203	1.211	1.141
TOTAL	200,906	159,890	181,445	185,695	195,962	198,225	212,439
Growth rate: Absolute	100%	79.6%	90.3%	92.4%	97.5%	98.7%	105.7%
Year-on-Year	-	0.796	1.135	1.023	1.055	1.012	1.072

Source: Calculations made by the author on the basis of the data provided by the Agency for Land Relations and Cadastre.

The number of mortgages is an important development characteristic for the national economy. The number of registered mortgages grew almost two-fold in Moldova during 2009-2015. Loans secured by mortgages on agricultural land were popular throughout the

entire period analysed; however, the portion accounted for by this real estate type in the total number of mortgages underwent significant changes.

Agricultural land accounted for 27.6% of all mortgages in 2009; by 2015 the portion of such mortgages was already as high as 49%. In 2015, loans secured by mortgage on apartments accounted for about 24% of all mortgage loans, and commercial property mortgages made up 13.6% of the total number of registered mortgages. The percentages were calculated on the basis of the data presented in Table 22.13.

Table 22.13: Mortgages registered in Moldova during 2009 - 2015

Year / Real estate type	2009	2010	2011	2012	2013	2014	2015
Land for construction projects	556	1,074	1,213	1,145	1,209	1,152	925
Apartment	3,193	4,577	5,398	5,909	6,541	7,514	6,020
Agricultural land	3,500	4,124	5,317	6,174	7,966	9,553	12,344
Private residence	1,566	2,451	3,069	3,069	2,811	2,819	1,936
Commercial property	2,903	4,381	4,455	4,455	4,413	4,579	3,420
Other	556	613	978	978	1,108	2,156	544
TOTAL	12,664	17,220	21,730	21,730	24,048	27,773	25,189

Source: Calculations made by the author on the basis of the data provided by the Agency for Land Relations and Cadastre.

The crisis that hit the financial and banking sector of Moldova in 2015 was doubtless the decisive driver for the number and spread of the mortgage loans registered that year. The spread of the mortgage loans across the various property types was more balanced and diverse during 2014. The data for 2015 demonstrated a decline of 12% in the number of apartment mortgages; 23% in private residence mortgages; and 18% in commercial property mortgages registered to secure the attached loans. At the same time, the number of loans secured by mortgage of agricultural land grew by more than 42%. This situation is easy to explain because agricultural land is deemed to be a very secure asset and is particularly attractive during an economic crisis because it is hardly ever affected by devaluation.

3 Property data

3.1 GIS/cadastres

The start of the emergence of the real property cadastre in the Republic of Moldova was 1998, when the Law on the Real Property Cadastre was enacted that year.[25] The launch

[25] Law of the Republic of Moldova: *On the Real Property Cadastre*(no. 1543-XIII of 25. 2. 1998). // Official Gazette: *Monitorul Oficial al Republicii Moldova*, 1998, no.44-46, Art. 318.

of the project to establish a cadastre in Moldova was a rather progressive event reflecting the dedication of the new emerging democracy to the ideas of modern development and alignment with the best and most up-to-date international practices in the sphere of regulating property relations.

Starting in the early 1990's, soon after Moldova became a sovereign State, work was in progress to develop the legal and regulatory framework for the privatisation process and the registration of property rights. At that time, Moldova was employing a number of different systems for the registration of real property and had no legal framework for registration of real property rights, so some lack of confidence regarding the reliability of the property rights was experienced. The system employed at that time for transfers of land was very complicated. The system of real property valuations had been moribund for many years because all real property, excluding private residence houses, was in public ownership and valuations of individual properties were made solely for accounting purposes. The privatisation of public property revealed the major weaknesses of the former system for the registration of real property rights.

During 1996-1997 Moldova launched the first pilot project to develop its real property cadastre with financial assistance from the World Bank and advisory support from international players UMA-GEOMATIC (Canada) and ILIS (the Netherlands). An outcome of this project was the approval by the Moldovan Parliament of the Law on the Real Property Cadastre. According to this Law, the real property cadastre is an integrated multifunctional system for the State registration of real properties and the rights thereto, and for the appraisal of the value of such properties.[26] The cadastre is created with the following objectives:

- to identify, describe, appraise and register real properties and the rights thereto;
- to protect public and private interests in the legal relations concerning real property;
- to develop a system for the protection of the real property rights holders; and
- to create an accessible system for providing information to the real property market participants, including land and rights holders, and authorities, including tax authorities.

The cadastre has the following main tasks:

- Creation of a well-functioning, healthy and active real estate market;
- Ensuring and guaranteeing respect of real property rights;
- Ensuring the accessibility of the cadastral information to all real property market participants and public administrations;
- Increasing the revenues of local budgets and improving their structure with the local authorities' right to determine optimal rates to be charged for the use of real property;
- Attracting investments in real property; and
- Ensuring efficient daily management across Moldova.

[26] Art. 2 of the Law: *On the Real Property Cadastre*(no. 1543-XIII of 25. 2. 1998).

The items subject to registration in the cadastral system are: properties (land plots, buildings, structures, isolated premises, engineering lines and other facilities and items inextricably connected with land); and rights (to own, to possess, usufruct rights, superficies, mortgage rights, etc.).

A strong side of the multifunctional cadastre developed in Moldova is the emergence of a unified database resulting from the integration of the rights registration system into the real property cadastre. This integration ensures compatibility of the data in the cadastral system and in the registration system. Thus, there is no need for interdepartmental coordination of any changes in the methodology employed to develop the cadastral database because such changes are made within a single system. In addition, the costs to maintain a single uniform database are lower than in case of two separate databases. Maintaining of a single system leads to lower consumption of working time, labour and finances for its development, maintenance, updates and ensures its security.

The real property cadastre is formed on the basis of the performed cadastral (survey) work with the subsequent gathering of data and the registration of information on real properties and their rights-holders. The first registration of real properties was funded from the State budget and the costs of selective cadastral work, with subsequent registration of the property and its rights-holder(s) in the real property register at the request of the concerned individual or entity are at the expense of the applicant. The level of fees for both the mass and selective registrations and the associated cadastral work are established as flat amounts according to a special methodology[27] and submitted for approval to the Agency of Land Relations and Cadastre.

The Agency of Land Relations and Cadastre is an authority within the central government system which is in charge of developing and maintaining the real property cadastre. The agency is the originator of the *Cadastru* State Enterprise and its branches i.e. local cadastral offices across Moldova. This enterprise has its branches in all regional centres of Moldova, in the two municipalities and in the towns of Ceadir-Lunga and Vulcanesti. The Law on the Real Property Cadastre describes in detail the functions of the cadastral system and its bodies.

The Agency of Land Relations and Cadastre ensures the implementation of a uniform policy for cadastre development and maintenance, and for property tax valuation; it organises and controls the operations of its subordinate entities, and in particular the *Cadastru* State Enterprise and its branch offices. In addition, the Agency coordinates at an interdepartmental level all activities associated with the development and maintenance of the cadastre and the performance of other related functions.

[27] Law of the Republic of Moldova: *On Approval of the Methodology for Calculation of Tariff Rates for the Services Offered by the Specialized Cadastral Enterprise and Its Branch Offices* (no. 393-XVI of 8.12.2006). // Official Gazette: *MonitorulOficialalRepubliciiMoldova*, 2007, no.18-20, Art. 61.

The specialised cadastral enterprise accumulates and stores cadastral information, develops and perfects the cadastral information system, and it holds, maintains, operates and administrates the central databank. It also develops the necessary guidelines for the maintenance and filing of cadastral documentation regarding the procedures for providing access to cadastral information and for performing tax appraisals of real property. In addition, it designs and establishes the interfaces between the electronic cadastral register and other electronic registers; and it provides systematised cadastral information to governments, entities and individuals.

In accordance with the Law, the branch offices of the specialized cadastral enterprise (the cadastral offices in territories) are in charge of the State registration of real properties. This task includes: starting a separate cadastral file on each property and producing other documents that are necessary to maintain the cadastre; the provision of cadastral information in response to consumer requests, ensuring the security and completeness of cadastral information; tax valuation of properties; and other related activities.

During 1999-2015, local cadastral offices across Moldova registered 5.1 million properties, including over 3.5 million properties covered by the mass registration process. The number of agricultural land plots registered during the same period was 3.753 million (including 2.8 million plots registered in the mass registration process). Furthermore, the registered properties included 710,000 private residences with household land plots in urban and rural areas, and 335,000 apartments. Land plots accounted for 73.4%; private residences with household land plots for 11.65%; apartments in multi-storey apartment houses for 5.72%; and other property types for 1.3% of the total number of registered properties.[28]

The network of local cadastral offices in the territories covers the entire Republic of Moldova. As of 1 April 2016, the number of personnel employed in this organisation was 1,123, of which 42% were employed in Chișinău, the capital city of Moldova.[29] One cadastral office provides services to 107,000 customers on average, which is similar to the current situation in many other Eastern European countries.[30]

Efforts are still in progress to develop and maintain the real property cadastre. Registration does not yet covered all real properties. However, it can be stated that a system for registration of properties and rights associated with real property has already been established in Moldova.
The legal framework is also in place for the operation of the real property market. The number of transactions involving real property is growing each year and the real property

[28] According to the calculations made by the authors on the basis of the data sourced from the Agency of Land Relations and Cadastre in Moldova.
[29] According to the calculations made by the authors on the basis of the data sourced from the Agency of Land Relations and Cadastre in Moldova.
[30] Buzu, O., Gutu,V., Gutu D. Tax valuation of real property as a component of the real property cadastre (*Оценканедвижимогоимуществадляналогообложениякаксоставнаячастькадастранедвижимогоимущества*).- Chișinău, 2004, Page 16.

cadastre makes a major contribution to this growth as a guarantor of real property rights and the legitimacy of the completed transactions involving real property.

The automated information system (*LegalCad*) has been developed in Moldova as the aggregate of local databases on real properties and their rights-holders. The information about the property is deemed true and reliable, if entered in the register. The local cadastral offices in the regions are responsible for the accuracy and security of the data in the real property cadastre.

Conclusion

Moldova is successfully implementing *ad valorem* property taxation. All necessary and pre-requisite components are already in place. Most properties have been registered in the cadastre and these are taxed on *ad valorem* base. A system of property tax mass appraisals has been established and is developing within the cadastral framework.

A specific feature of the current property tax development stage in Moldova is the co-existence of two different property tax systems. The transition to *ad valorem* taxation has considerably slowed since its launch in 2007. The reason for the current contradiction is that mass property appraisal efforts are funded from the national budget whereas property tax revenues go to the budgets of local governments; that causes funding decreases as well as delays in mass property registration and appraisal work. About 50% of all private residences located in rural areas have not yet been registered (and consequently they have not been appraised for *ad valorem* property tax purposes). As a result all properties falling into this category are still taxed according to the old system.

The importance of property tax is currently not high on the basis of the total tax revenues flowing to the consolidated budget of Moldova, because:

- Only 14% of all properties are currently taxed according to the *ad valorem* system. However, this small percentage accounts for about 50% of all property tax revenues;
- Moldova has not undertaken any property tax revaluations. That is why the taxation basis data is becoming increasingly out of date and the appraised values are becoming increasingly inequitable because the difference between them and the actual market values of the concerned properties is growing; and
- The tax law grants a large number of diverse property tax exemptions.

However, there has been another upsurge in interest in the registration of all properties and their appraisal for tax purposes, in view of the policy being implemented with the intention to decentralise the budgets of local governments from the national budget. The recent amendments to the law have granted local governments the right and authority to fund their local property registration and appraisal efforts, so it can be expected that the transit to *ad valorem* taxation should be completed in near future.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
M. Radvan, R. Franzsen, W. J. McCluskey & F. Plimmer

Problems with Cadastral Value in the Russian Federation

ALEKSEI PAUL

Abstract There are three taxes on real estate in the Russian Federation. These are the tax on the property of organisations, the land tax, and the tax on the property of individuals. The Russian authorities have tried but have not manage to introduce a single tax on real property. This is because of the differences in the taxes applied to different taxpayers (organisations and individuals) and because of the different tax bases (inventory value, average annual value and cadastral value). The main problems in the operation of the land and real estate taxes are connected with the evaluation of the cadastral value of real estate. Often the cadastral value is higher than the market price for real estate. That leads to a great number of litigation seeking the correction of cadastral value. Another problem is related to the administration of the taxes undertaken by the Federal Tax Service. Some subjects of the Russian Federation and municipalities complain that the federal authorities are not interested enough in the effective and efficient administration of the real estate taxes because the yield is transferred to sub-federal budgets. Finally, there are some problems concerning the consolidation of the State Real Estate Cadastre and the Unified State Register of Rights to Real Estate and Transactions associated with it to the Unified State Register of Real Estate. These problems include different data for the same property object as well as the paucity of specialists in cadastral works and the relevant property software.

Keywords: • Czech Republic • property tax • immovable property tax • valuation • tax reform

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Introduction

The Russian tax system was established in 1991. At that time the federal legislation introduced three taxes on real estate: the tax on the property of organisations, the tax on the property of individuals, and the land tax. Later these were all included in the Tax Code of the Russian Federation. So, currently, questions of real estate taxation are analysed in the Commentaries to the Tax Code, and in a great number of academic papers and contributions. At the same time reforms in the sphere of real estate taxation are continuing. The main problems are concerned with a transfer to cadastral value as a tax base, and its valuation. This also leads to a great number of legal cases as taxpayers seek to contest the tax base. As a result, there are many scientific and practical surveys and reviews of judicial practice concerning the challenges made to cadastral value.

A significant role in real property taxation is played by the State registration of real estate and real estate transactions. Currently, the Russian authorities are seeking to consolidate the State Real Estate Cadastre and the Unified State Register of Rights to Real Estate and Transactions which is associated with it. However, there are some technical and other problems connected to the creation of the Unified State Register of Real Estate, which are delaying its completion.

This chapter[1] is aimed at explaining the real property tax regulations and administrations in the Russian Federation. It includes a short historical background as a lead into the modern real estate taxation system. It describes features of tax administration concerning real estate tax (the tax on property of organisations, the tax on property of individuals and the land tax) and reports on the role of the taxes in the revenues of the Russian budget system. A special emphasis is made on the structural components (elements) of the real estate taxes.

Significant attention is paid to the valuation of real estate, and the problems associated with the cadastral value which is the tax base for the real property taxes.

There are some notes in connection with the real estate market within the Russian Federation, including issues of restitution, privatisation and its current state.

The chapter concludes with a description of the current system of cadastral registration as well as the State registration of rights on immovable property and transactions associated with it.

[1] Публикация подготовлена в рамках поддержанного РФФИ научного проекта № 17-03-00702 «Налоговый суверенитет и защита прав налогоплательщиков: опыт ЕС и ЕАЭС» (The publication was prepared within the framework of the RFBR-supported scientific project No. 17-03-00702 "Tax sovereignty and protection of taxpayers' rights: the experience of the EU and the EAEC").

1 Property taxes

1.1 History

The establishment of the Russian tax system began in the second half of the nineteenth century because of the rapid growth of State expenditures and the transition from a subsistence economy to monetary one.[2] Between 1875 and 1898 tax reform was carried out, as a result of which the tax system in Russia included direct taxes such as the land tax, the real estate tax, the public housing tax, the sales tax and the levy on income from capital.[3]

The land tax, introduced in 1875, replaced the capitation or poll tax. It was the first time in the history of Russia that a tax was paid by the nobility as well by other citizens. The objects of taxation were all lands except for those which were State-owned land. A tax rate was varied depending on the quality of land.

A real estate tax (on houses, factories, warehouses and other buildings) was introduced in place of the poll tax and was also collected from the city population. It was levied at a rate 0f 9 - 10%.

In the last three decades of the XIX century in Russia, there was a significant increase in the urban population. Apparently, this was the reason for the introduction in 1894 of the State residential taxes which applied to occupiers of apartments regardless of whether they were the owner or tenant. The tax rate was differentiated depending on the price of apartments.[4]

During the Soviet period, individual taxes did not have significant importance for the State budget. The Union of Soviet Socialist Republics (USSR) could withhold revenues from State-owned organisations as a means of funding its activities. By the beginning of mid-1980s reforms, more than 90 % of the State budget comprised payments from such organisations. Taxes from individuals made up only 7-8 % of the total State revenue.

In 1991, the Russian Parliament established a new tax system. The Law on Tax System Basics provided for three taxes on real estate: the tax on the property of organisations, the tax on property of individuals, and the land tax. However, the tax on the property of individuals was divided into a tax on real estate and a tax on vehicles.

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[2] See Буланже М. (Boulanger, M.): Податная политика Петра Великого (Taxable policies of Peter the Great), Налоговый вестник (Tax Bulletin) no. 1 (1997); 4. Козлов С., Дмитриева З. (Kozlov, S., Dmitrieva, Z.): Налоги в России в XIX в. Курс лекций и материалы для семинарских занятий (Taxes in Russia up to the XIX century: Lectures and materials for seminars), СПб. (SPb.), 2001.

[3] Кучеров И. (Kucherov, I.): Налоги и криминал (Taxes and crime). M. (M.), 2000.

[4] Титов А. (Titov, A.): Исторический очерк о развитии государственно-правового регулирования налоговой сферы России (Historical essay on the development of state-legal regulation of tax sphere Russia, Финансовое право (Financial Law), no. 10 (2012), P. 27–31.

The tax on the property of organizations was included in the Tax Code of the Russian Federation (the Tax Code) in 2003. The land tax was codified also in 2003. At the same time, regulations concerning the tax on the property of individuals were settled by the Tax Code as recently as 2014; and now Russia is experiencing a transition period.

Currently, the tax on the property of organisations is a regional tax, whilst the tax on the property of individuals as well as the land tax are local taxes.

In 2011, the Russian Government adopted the Main Guidelines of Tax Policy for 2012 and introduced a three year planning period of 2013 - 2014. In the Main Guidelines, it was proposed to introduce a single tax on real property. However later the Russian authorities rejected the reform.

1.2 Position of property taxes

The main provisions concerning all taxes in the Russian Federation are included in the Tax Code. The Constitution of the Russian Federation[5] and the Tax Code[6] stipulate that taxes and fees shall be imposed by a law, i.e. by an act of representative authorities (federal, regional or local).

The Tax Code has two parts. Part 1 of the Tax Code prescribes the common rules of tax law including orders of the imposition of tax, tax administration and tax control. Part 2 of the Tax Code covers federal taxes and fees, as well as the basic structural components of regional and local taxes and fees (such as the definition of taxpayers, objects of taxation, tax bases, tax periods, the order of calculating and the limit of the tax rates), including the tax on the property of organizations[7], the land tax[8] and the tax on the property of individuals[9]. Regional and local representative authorities define tax rates (within federal limits) as well as determine the order and due date for payment.

All the taxes in the Russian Federation are administered by the Federal Tax Service, i.e. by the federal State authority. The Federal Tax Service controls tax calculations and tax payments, as well as the collection of the taxes and returns (offsets) of overpaid sums.

Notwithstanding that all of the revenues from the property taxes go to regional or local budgets, sub-federal authorities have no rights to administrate them, and have only a limited ability to influence some structural components of the taxes. In general, regional and local representative authorities are able to define tax rates and the procedure and deadlines of the tax payments. In addition, they are able to specify the tax base and tax exemptions. As a rule, regional and local representative authorities adopt special laws

[5] Art. 57.
[6] Art. 3.
[7] Chap. 30.
[8] Chap. 31.
[9] Chap. 32.

(decisions) on every regional and local taxes which funds their activities, although sometimes regional taxes fund local (not regional activities. This is regulated by the laws on budgets, not by tax laws.

1.3 Structural components

1.3.1 Taxpayers

Taxpayers of the tax on the property of organisations, as well as the tax on the property of individuals, are indicated in the titles of the taxes. For the tax on the property of organisations it is important to divide "organisations" into Russian organisations and foreign organisations. Foreign organisations are further classified into foreign organisations that have a permanent establishment within the Russian Federation and foreign organisations that have not.

The land tax is imposed on both organisations and individuals. Unlike taxpayers of both the taxes on property, taxpayers of the land tax could be either owners or persons that have the right of permanent use, and the right of a lifetime heritable tenure.[10] However, the Tax Code does not levy the land tax on land tenants (leaseholders) nor on persons that have a right of to use the land free of charge e.g. public organisation and religious organisations.

1.3.2 Objects of taxation

The land tax and the tax on the property of individuals are real property taxes.

The object of the land tax is a land parcel within the territory of the municipal entity that introduced the land tax. The land parcel should have defined borders to be an object of the land tax. In practice, it means that a land parcel should be registered in the State Real Estate Cadastre.

However, the land tax is not imposed on certain types of land:

- Land parcels withdrawn from circulation, in accordance with the legislation of the Russian Federation (e.g. land under a State conservation park or under nuclear establishments);
- Land parcels unavailable for sale/purchase, in accordance with the legislation of the Russian Federation, such as land under especially valuable objects of cultural heritage, the objects included in the World Heritage List, historical and cultural reserve, objects of archaeological heritage and under museum-reserve;
- Forest lands;

[10] The right of ownership as well as the other mentioned rights is liable to official registration in the Unified State Register of Real Estate. Therefore, the obligation to pay land tax is imposed on a taxpayer from the moment of such registration.

- Land parcels limited in availability in accordance with the legislation of the Russian Federation under State-owned water resources; and
- Land parcels included in the common property of an apartment building.

The tax on the property of individuals is levied on particular types of real estate, including:

- A dwelling house;
- Apartment, room;
- A garage and a car parking space;
- A single real estate complex;[11]
- Objects under construction; and
- Other buildings, structures, constructions, premises.

The tax on the property of organisations is not just a real property tax. Its objects are both movable and immovable property included on the balance sheet as capital assets. The immovable property becomes the object of the tax because it is included on the balance sheet as fixed assets without regard to the official registration of ownership rights on it.[12]

The object of the tax for foreign organisations that do not have a permanent establishment in the country is all their real property located in the Russian Federation.

The Tax Code excludes from the objects of tax on the property of organisations the following:

- Land parcels and other natural objects (water bodies and other natural resources);
- Property belonging to the federal military (or similar) executive authorities if the property is used for military defence, civil defence, safety provisions and law enforcement in the Russian federation;
- Objects that are recognised as part of the cultural heritage (historical and cultural monuments) of the Russian Federation;
- Nuclear facilities used for scientific purposes, storage of nuclear materials and radioactive substances and radioactive waste storage;
- Icebreakers, nuclear-powered ships and ships provided nuclear servicing
- Space objects;
- Vessels registered in the Russian International Register of Vessels; and

[11] A single real estate complex is an aggregation of buildings, constructions and other objects that either have a joint purpose and are inextricably physically or technologically linked or located on the same land parcel. The single real estate complex should be included in the Unified State Register of Property Rights and Transactions as a single real property unit (art. 133.1 of the Civil Code of the Russian Federation, Act no. 51-FZ/1994, as amended).

[12] See Decree of the Supreme Commercial Court of the Russian Federation, no. 148/2011.

- Fixed assets included in the first or second amortisation groups in accordance with the Classification of Fixed Assets approved by the Government of the Russian Federation.[13]

1.3.3 Tax bases

In general, the tax base for the taxes on real property is the cadastral value of the property. It is determined in accordance with the federal law on valuation activity in the Russian Federation.[14] According to the Law, a State cadastral evaluation consists of the following stages:

- The decision to make the State cadastral evaluation;
- The formation of a list of real estate objects to be evaluated;
- The selection of the valuer / appraiser for the determination of the cadastral value and the initiation of the necessary contract for the work to be undertaken;
- The determination of the cadastral value and the presentation of a valuation / appraisal report;
- Approval of the results of the determination of the cadastral value; and
- The registration of the results of cadastral value in the State Real Estate Cadastre.

The decision for the State cadastral evaluation is made by executive regional or local authorities. That decision should be made no more than once every three years.

The Federal Cadastral Chamber of the Federal Service for State Registration, Cadastre and Cartography compiles the list of real estate objects to be valued. The executive regional or local authorities select a valuer or appraiser for the determination of the cadastral value by tender. The valuer / appraiser compiles a valuation report in accordance with special rules.[15] The valuation report should be approved by the act of executive regional or local authorities. Finally, The Federal Cadastre Chamber registers the results of the process in the State Real Estate Cadastre. The cadastral value is the only tax base for the land tax.

The tax on the property of individuals as well as the tax on the property of organisations could have different tax bases.

The Tax Code prescribes that the tax base of the tax on property of individuals could be an inventory value. This is connected with the reform of the tax and transition period. The inventory value is used as a tax base if the regional representative authority does not

[13] The first or second amortization groups of fixed assets include property whose useful life is up to three years (see Act no. 1/2002, Government Decree "On the classification of fixed assets included in depreciation groups", as amended).
[14] See Act no. 135-FZ/1998, Federal law "On valuation activities in the Russian Federation", as amended.
[15] See Act no. 382/2011, Order of Ministry of Economic Development "On approval of requirements to report on the determination of the cadastral value", as amended.

introduce the cadastral value system of taxation.[16] However, after 2020, the cadastral value will be the only tax base for the tax on the property of individuals and the inventory value will be phased out.

An inventory value of property is based on a replacement cost, adjusted for wear and tear, and reflecting the prices of construction materials, works and services. It is determined by bureaus of technical inventory, being specialist organisations which maintain State technical records and a technical inventory. The inventory value is calculated with an allowance for a "deflator" coefficient which reflects changes in consumer prices and which is increased annually.[17]

The cadastral value is the tax base for the tax on property of organisations if tax objects are:

- Administrative and business centres, shopping centres and premises within them;
- Non-residential premises whose purpose is the allocation of offices, retail facilities, catering and domestic services;
- The immovable property of foreign organisations that do not have a permanent establishment within the Russian Federation; and
- Dwelling houses and residential premises not shown on the balance sheet as fixed assets.

The tax on the property of organisations could use an average annual value as a tax base in cases where the cadastral value is not determined. The average annual value of property is calculated as the quotient of the division of the amount received as a result of the sum of the value of the replacement cost of the property on the first day of each month of the tax period and the last number of the tax period, by the number of months in the tax period, increased by one.

1.3.4 Tax rates

The Tax Code provides for *ad valorem* tax rates for all the taxes on property. The Russian Federation prescribes the maximum limit of the rates. Specific rates are defined by regional representative authorities for the tax on the property of organisations, and by local representative authorities for the land tax and the tax on property of individuals, within the limits imposed by the State.

The tax rates depend on the tax bases.

The tax on the property of organisations has a 2.2 % maximum tax rate if the tax base is an average annual value. For a cadastral value tax base there are several tax rates applicable, depending on the location of the taxable property within the Russian

[16] Regional representative authorities shall introduce the cadastral value system of taxation till 2020.
[17] A "deflator" coefficient is determined by the Ministry of Economic Development of the Russian Federation.

Federation, and reflecting the transition period. For Moscow, the maximum tax rates were 1.5 % in 2014, 1.7 % in 2015 and 2 % in 2016 and future years. For the other locations within the Russian Federation, the maximum tax rates were 1.0 % in 2014, 1.5 % in 2015 and 2 % in 2016 and future years.

The Tax Code provided for two groups of land tax rates:
1) 0.3 % for the following land parcel uses:
   - Agricultural lands or lands in areas of agricultural use in settlements and used for agricultural production;
   - Under housing, housing and community amenities as well as land acquired (granted) for housing construction;
   - Acquired (granted) for private farming, gardening, animal production and suburban gardening; and
   - Limited in availability in accordance with the legislation of the Russian Federation and used for defence, security and customs purposes;
2) 1.5 % for all other land parcels.

Local representative authorities are allowed to establish different tax rates depending on the categories of land and (or) the permitted use of land.[18] As a result, the local tax land statutory acts provide for more tax rates than the Tax Code.

At the same time, it is difficult for taxpayers to benefit from a reduced rate because there may be problems in demonstrating the necessary legal grounds to justify such a benefit. Tax authorities point out that in order to qualify for the reduced rate a taxpayer has to meet two requirements:
1) the land parcel should belong to suitable (preferential) category or permitted use; and
2) the taxpayer has to use the land parcel in accordance with the preferential category and permitted use.[19]

Tax rates for the tax on the property of individuals depend on the object of taxation and the tax base.

If the tax base is determined as a cadastral value, the tax rates are:
1) 0.1 % in relation to:
   - Dwelling houses, apartments, rooms;
   - Objects under construction, if the object is a dwelling house;
   - Single real estate complexes, which include at least one dwelling house;
   - Garage and car parking space;

[18] The categories of land and the permitted use of land are defined by Art. 7 of the Land Code of the Russian Federation, Act no. 136-FZ/2001, as amended. The category and the permitted use of a land parcel are contained in the State Real Estate Cadastre.
[19] Act no. 03-05-04-02/34879 / 2014, Directive of the Ministry of Finance of the Russian Federation.

- Household structures and constructions the area of which does not exceed 50 square metres and which are located on land provided for private farming, suburban gardening, and individual housing construction;[20]

2) 2.0 % in relation to commercial real estate (administrative and business centres, shopping centres and premises within them, non-residential premises whose purpose is the allocation of offices, retail facilities, catering and domestic services) as well as objects of taxation whose cadastral value exceeds 300 million RUB (4,435,000 EUR)[21]; and
3) 0.5 % in relation to other objects of taxation.

In order to determine the inventory value of the tax base, the inventory value is multiplied by a "deflator" coefficient and the tax rates depend on the inventory value. The tax rates are in show in Table 23:1:

Table 23.1: Tax rates of the tax on property of individuals (in case of inventory value tax base)

An inventory value multiplied by a deflator coefficient	Tax rate
Up to 300,000 RUB	Up to 0.1 %
Over 300,000 RUB to 500,000 RUB	From 0.1 to 0.3 %
Over 500,000 RUB	From 0.3 to 2.0 %

Source: Art. 406 of the Tax Code.

The Tax Code allows for the scaling the tax rates depending on:

- The cadastral value of real estate (total inventory value multiplied by the "deflator" coefficient);
- The type of real estate;
- The location of the real estate; and
- The types of territorial zones where the real estate is located.

1.3.5 Tax exemptions

The Tax Code allows some exemptions concerning the taxes on property. Regional and local representative authorities are entitled to establish tax exemptions as well. Tax legislation provides for tax exemptions concerning certain types of taxpayers as well as certain kinds of property.

There are some similar exemptions for organisations concerning both the tax on property of organisations and the land tax. They are established for:

[20] Local representative authorities could reduce the 0.1 tax rate to zero or increase it but not more than a factor of three.
[21] In fact, the tax rate on the property of individuals for commercial real property is the same as the tax rate on the property of organisations.

- Penitentiary organisations;
- Religious organisations;
- National social organisations for persons with disabilities;
- Organisations that have property which are State roads and their infrastructure;
- Residents of the special economic zones;
- Management companies in accordance with the federal law "on the innovation centre 'Skolkovo'";
- Shipbuilding organisations that are located in an industrial special economic zone; and
- Organisations which are participants of free trade zones.

In addition, the Tax Code provides for some exemptions concerning the tax on the property of organisations: specifically, these are:

- For pharmacy organisations;
- For organisations producing special prosthetic and orthopaedic equipment;
- For bar (legal) associations; and
- For national research centres.

Regarding the tax on the property of individuals, there are exemptions for the following categories of taxpayers:

- Heroes of the Soviet Union and Heroes of the Russian Federation, as well as persons awarded the Order of Glory of all three classes;
- Disabled persons in Disabled Groups I and II;
- Persons disabled since childhood;
- Veterans of the Civil War, the Great Patriotic War and participants of other military actions of the Soviet Union;
- Persons affected by accidents associated with nuclear objects;
- Military personnel as well as former military personnel whose total period of military service is 20 years or more;
- Persons involved in the testing of nuclear and thermonuclear weapons as well as in the elimination of accidents at nuclear weaponry;
- Families of deceased military personnel;
- Pensioners;
- Parents and spouses of military personnel and civil officials who died in the discharge of their duties;
- Individuals engaged in professional creative (art) activities in relation to their workshops, studios, galleries and libraries; and
- Individuals with regard to buildings or structures the area of which does not exceed 50 square meters, and that are located on land provided for suburban farming, or the gardens of individual housing constructions.

1.4 Administration

The administration of the property taxes is regulated by the Tax Code. The Tax Code deals not only with the structural components of the taxes but also includes special administration rules related to the real estate taxes.

The real estate taxes are administered by inspectors of the Federal Tax Service within the district where the real property is situated. Regional and local authorities are not able to administrate any taxes. Sometimes the regional authorities of the Russian Federation and its municipalities complain that the Federal Tax Service is not interested enough in the administration of the real estate taxes because the revenue they raise are transferred to sub-federal budgets.

The process for the calculation of real estate taxes depends on the type of taxpayer. Organisations calculate all the taxes on property themselves, while the taxes for individuals (including individual entrepreneurs) are calculated by the tax authorities.

Organisations are required to calculate both the taxes and their quarter advance payments.

The tax on the property of organisations is paid into the regional budgets; while the land tax goes to the local budgets. This is reflected in their calculation. The amount of the tax on the property of organizations is calculated and levied separately in respect of property at the location of the organisation; for the property of each separate division of the organisation at their respective locations; for real property situated outside the location of the organisation at their respective locations and its separate divisions; and for property if its tax base is the cadastral value and property levied at different tax rates.

The land tax is calculated taking into account the location of land parcel.

There is no advance tax payments required of individuals. Tax authorities calculate the land tax and the tax on the real estate property of individuals using data from the Federal Service for State Registration, Cadastre and Cartography, and send a tax notice of the amount due to the taxpayer. If individuals intend to make use of tax exemptions, they should submit the required documents to the tax authorities themselves.

From 2015, individuals are required to report their real property to the tax authority if they do not receive a tax notice and have not pay the tax for their real property.

If taxpayers falls into tax arrears. They are required to pay an additional per cent as a penalty (poena), that is one three-hundredth of the amount outstanding, at the current refinancing rate of the Central Bank of the Russian Federation for each day of delay.[22]

[22] From 2016, a refinancing rate set equal to the so-called key rate of the Central Bank of the Russian Federation that is 7.25 % from March 26, 2018 (www.cbr.ru/eng/). The penality, 'poena', is the amount outstanding * 1 / 300 * refinancing rate (7.25 / 100) * days of delay.

In the case of tax arrears, the tax authorities sends to the taxpayer a tax demand. If the taxpayer does not pay off the arrears, the tax authorities start tax enforcement proceedings. The Tax Code provides for two procedures of tax enforcement: for individuals (non-entrepreneurs) and another for organizations and individual entrepreneurs.

Any outstanding taxes are enforceable from individuals in the court only. At the same time, there is a non-judicial enforcement for organisations and individual entrepreneurs. For such taxpayers, the tax authorities make a formal decision to recover the debt from the money in the taxpayer's bank accounts and send a collection order to the bank holding the accounts of the taxpayer. If there is insufficient funds in the bank accounts, the tax authorities make a formal decision to recover the debt from other property belonging to the taxpayer and send a writ of enforcement to the Federal Bailiffs Service.

1.5 Valuation

At the moment, there are some problems concerning the cadastral value of a real estate, which is established using a mass appraisal methodology.

Firstly, problems of fixing a cadastral valuation arose with the land tax because the land tax was the first tax whose tax base was a cadastral value.

The Tax Code provides for neither the principle of a cadastral value as a tax base, nor an order for its calculation using mass appraisal. Therefore, taxpayers have contest the legitimacy of the land tax because of the absence of the definition of the cadastral value in the tax legislation. However, the Constitutional Court of the Russian Federation held that the regulation under which a cadastral value has been established as the tax base complies with the Constitution of the Russian Federation, even though it is not provided for in the Tax Code. The Court explained that the fact that the cadastral value is not established as a tax base in the Tax Code (but in subsequent regulation) nor the regulation of the State cadastral valuation (mass appraisal) within the Land Code could not be regarded as undermining the use of the cadastral value for land tax purposes.[23]

Such a composite regulation of the land tax base affects the tax legislation within land law. Earlier, regional authorities could change the cadastral value of land parcels at will. However the Constitutional Court of the Russian Federation has decided that the legal acts of regional executive authorities which approve the cadastral value came into effect in accordance with the Tax Code (Art. 5) and this has produced legal consequences for taxpayers.[24] Thus, they should use the new cadastral value from the date determined in accordance with Art. 5 of the Tax Code.

[23] See Decision of the Constitutional Court of the Russian Federation, no. 1047-O-O/2009.
[24] See Decision of the Constitutional Court of the Russian Federation, no. 17-P/2013.

However the main problem is the fact that the cadastral value has not been determined appropriately. There was a great number of litigations connected with the evaluation of land parcels, with taxpayers asserting that the cadastral value of the land parcel (which is established by mass appraisal) was inconsistent with the market value established as an individual valuation.

The Constitutional Court of the Russian Federation held that the State cadastral valuation of land parcels has some economic basis. But it has shown its preference for market value (over cadastral value) for tax purposes.[25] As a result, the Constitutional Court of the Russian Federation came to the conclusion that the application of a mass valuation methodology for the calculation of cadastral values could not be considered as a violation of taxation equity and does not provide for bias nor the unjustified nature for the tax base of the land tax, if it does not exclude the use of individually determined market values.[26]

Based on this decision, the results of the State cadastral valuation could be disputed in court as well as in the special commission that consists of regional executive authority members, cadastral registration authority members, representatives of the business community and self-regulatory organizations of valuers / appraisers, and an individual valuation substituted as the tax base.

The reasons for the revision of the cadastral value are:

- Inaccurate information about the real property used to determine its cadastral value; and
- Determination of market value for the real property on the date that the cadastral value was determined, if the taxpayer challenges the cadastral value.

An order for the revision of cadastral value is prescribed by the Federal Law "On valuation activities in the Russian Federation" (Art. 24(18)).

There were a number of litigations concerning the date when the new (market) value tax base could be applied for taxation. Taxpayers insisted that the market value should be applied from the original date used for the valuation, or from the date specified in report of the valuer / appraiser. Thus, taxpayers thought that it was necessary to recalculate the land tax for the previous tax periods on the basis of market value. However, the tax authorities only applied the new (market) value for the next tax period and beyond. The Constitutional Court of the Russian Federation provided some legal basis for the tax authority's opinion. The Court said that an establishment of the cadastral value equal to the market value did not refute the presumptive accuracy of the previously established cadastral valuation.[27]

[25] See Decision of the Constitutional Court of the Russian Federation, no. 2016-O/2014.
[26] See Decision of the Constitutional Court of the Russian Federation, no. 280-O-O/2011.
[27] See Decision of the Constitutional Court of the Russian Federation, no. 2016-O/2014.

As a result, from 2015 the Tax Code (Art. 391) prescribes that changing a cadastral value during the tax period cannot be taken into account for calculating the land tax due for current and previous tax periods. However there are two exceptions:

- Changing a cadastral value in order to reflect a technical error made by the cadastral registration authority is taken into account beginning with the tax period when the technical error was made;
- In the case of changing the cadastral value by the commission or by a court, information about the new (market based) cadastral value is taken into account from the beginning of the tax period when the application for a review of the cadastral value was submitted, but not before the recording of the revised cadastral value in the State Real Estate Cadastre.

The above-mentioned challenges concerning the land tax could affect the other taxes on property. Currently, there are a lot of challenges to the cadastral value of real property, where taxpayers seek to alter the basis of the cadastral value of real property, for the real estate tax on the property of organisations and on the property of individuals.

It is likely that the outcome of those new litigations will be developed under the influence of land tax cases.

1.6 Revenue performance

Table 23.2: Consolidated budget of the Russian Federation

	2015			2016	
	I half	9 months	Year	I quarter	I half
	billion roubles				
Revenues	12,748.6	19,496.2	26,922.0	5,876.1	12,521.5
of which:					
profit (income) tax of organisations	1,501.9	2,094.3	2,599.0	640.9	1,483.2
income tax of individuals	1,245.4	1,953.2	2,807.8	616.3	1,350.6
insurance premium for compulsory social insurance	2,485.2	3,811.5	5,636.3	1,252.4	2,741.3
value added tax:					
for goods (works, services) sold on the territory of the Russian Federation	1,303.7	1,900.3	2,448.5	731.7	1,341.2
for goods, imported into the territory of the Russian Federation	784.8	1,268.1	1,785.4	442.0	893.0
excise on goods (products):					
produced on the territory of the Russian Federation	478.4	748.3	1,014.4	305.4	601.3
imported into the territory of the Russian Federation	21.7	35.6	54.0	10.0	25.5
aggregate income tax	186.6	264.3	347.8	87.7	206.3
property tax	472.8	777.2	1,068.6	201.4	476.9

tax, dues and regular payment for usage of natural resources	1,671.6	2,498.7	3,250.7	584.0	1,305.9
revenue from external economic activities	1,553.1	2,485.9	3,295.3	538.7	1,127.9
revenue from use of State and municipal property	546.0	829.3	1,149.2	205.1	458.7
payments for natural resources usage	106.3	150.6	198.7	53.9	113.9
uncompensated revenue	48.7	73.6	105.0	26.2	51.8

Source: http://www.gks.ru/wps/wcm/connect/rosstat_main/rosstat/en/figures/finances/.

Table 23.3: Buildings Constructed

	Number of buildings		Total construction volume of buildings, mln. cu. m		Total floor space of buildings, mln. m^2	
	2014	2015	2014	2015	2014	2015
Buildings constructed – total	**30,4194**	**30,6391**	**617.8**	**622.8**	**138.6**	**139.4**
including:						
residential buildings	28,2956	28,6129	404.4	415.7	104.4	106.2
non-residential buildings	2,1238	20,262	213.4	207.1	34.2	33.2
of these:						
industrial	3,364	3,145	55.1	48.8	5.2	4.8
agricultural	2,337	2,494	24.5	27.3	4.6	5.1
commercial	7,875	7,162	70.5	72.0	12.0	11.6
office	1,362	1,257	11.2	10.0	2.5	2.1
educational	1,132	1,228	17.1	19.5	3.9	4.5
for health system	662	765	3.5	4.0	0.8	0.9
other	4,506	4,211	31.5	25.5	5.2	4.2

Source: http://www.gks.ru/wps/wcm/connect/rosstat_main/rosstat/en/figures/construction/.

Table 23.4: Dwellings completed (mln. m^2 of total floor space)

Years	Buildings constructed, total	including		Share in total building commissioning, percent%	
		by population at own expense and credits	by house-building cooperatives	residential houses of population	residential house of house-building cooperatives
1992	41.5	4.9	2.1	11.8	5.0
2000	30.3	12.6	0.7	41.6	2.4
2005	43.6	17.5	0.6	40.2	1.4
2010	58.4	25.5	0.3	43.7	0.6
2011	62.3	26.8	0.4	43.0	0.6
2012	65.7	28.4	0.3	43.2	0.4
2013	70.5	30.7	0.5	43.5	0.7
2014	84.2	36.2	0.4	43.0	0.4
2015	85.3	35.2	0.6	41.2	0.7

Source: http://www.gks.ru/wps/wcm/connect/rosstat_main/rosstat/en/figures/construction/.

Table 23.5: Basic characteristics of apartments constructed

	1992	2000	2005	2010	2011	2012	2013	2014	2015
	Total								
Number of flats (apartments), (thousands)	682	373	515	717	786	838	929	1124	1195
Their average size, sq. m of total floor space	60.8	81.1	84.5	81.5	79.3	78.4	75.8	74.9	71.4
Of which by flat types, percent of total housing commissioning:									
one-room	18	20	28	34	36	38	39	41	43
two-room	32	29	32	32	31	32	31	31	30
three-room	40	34	27	23	21	20	20	19	18
four-room and more	10	17	13	12	12	10	10	9	9
	By housing and construction cooperatives								
Number of flats (apartments), (thousands)	37	11	9	5	6	4	8	7	11
Their average size, sq. m of total floor space	56.1	67.1	69.3	69.1	59.5	66.1	59.0	56.3	54.9
	By population at own expenses and credits								
Number of flats (apartments), (thousands)	61	106	127	192	201	211	228	268	272
Their average size, sq. m of total floor space	80.1	118.8	138.3	132.6	132.9	134.4	134.4	135.2	129.6

Source: http://www.gks.ru/wps/wcm/connect/rosstat_main/rosstat/en/figures/construction/.

Table 23.6: Price indices in primary market for dwellings in the federal districts of the Russian Federation (end of period; percent of end of previous period)

	1998	2000	2005	2010	2012	2013	2014	2015
Russian Federation	**156.9**	**113.1**	**117.5**	**100.3**	**110.7**	**104.8**	**105.7**	**99.7[1)]**
by federal districts:								
Central	154.2	105.1	113.8	100.8	108.9	106.7	107.5	100.7
North West	177.3	112.0	109.3	99.2	113.8	99.8	102.3	98.6
South [2)]	120.6	106.7	122.1	100.4	105.1	102.3	105.5	100.9
North-Caucasian	…	106.1	108.3	101.4	106.5	103.5	106.1	105.2
Privolzhsky (Volga)	142.6	124.6	121.5	99.6	112.9	105.5	106.4	101.4
Urals	153.9	120.6	133.5	100.3	110.1	102.4	105.7	95.9
Siberian	117.6	121.6	126.4	100.1	110.9	106.8	104.6	97.1
Far East	141.5	116.1	127.4	99.5	117.7	103.8	102.2	103.4

1) Excluding data on the Crimean Federal District.
2) 1998 – including North-Caucasian federal district.
Source: http://www.gks.ru/wps/wcm/connect/rosstat_main/rosstat/en/figures/prices/.

Table 23.7: Price indices in secondary market of dwelling in federal districts of the Russian Federation (end of period; percent of end of previous period)

	1998	2000	2005	2010	2012	2013	2014	2015
Russian Federation	**191.3**	**116.3**	**118.0**	**102.7**	**112.1**	**103.6**	**105.1**	**96.8[1)]**
by federal districts:								
Central	173.6	106.2	115.0	105.0	110.4	100.4	105.4	98.2
North West	265.0	114.4	108.0	98.0	117.6	101.3	106.5	96.2
South [2)]	169.7	109.1	121.8	101.0	107.4	104.1	102.9	103.0
North-Caucasian	…	115.3	111.0	96.8	104.6	104.3	108.6	101.8
Privolzhsky (Volga)	173.4	127.3	120.0	102.0	115.6	107.4	105.4	98.1
Urals	180.7	123.8	130.6	100.0	110.1	104.6	104.9	93.7
Siberian	156.7	121.1	123.9	102.0	110.8	105.1	105.5	93.9
Far East	195.6	118.2	121.6	103.4	118.3	100.7	103.0	99.7

1) Excluding data on the Crimean Federal District.
2) 1998 – including North-Caucasian federal district.
Source: http://www.gks.ru/wps/wcm/connect/rosstat_main/rosstat/en/figures/prices/.

Because so many of the land plots do not have exact boundaries and there are errors in the registered data, it is hard to calculate the number of land parcels. Even experts define the figure with an accuracy of plus or minus 29 million parcels.[28]

[28] http://www.anobti.ru/arc/2015/index.shtml .

1.7 Possible reforms

The main direction of future developments in the sphere of real estate taxation is the completion of the transition from and inventory value tax to a cadastral value tax base.

From 2015, the Tax Code has introduced the cadastral value as a tax base for the tax on the property of individuals and, in some cases, for the tax on the property of organisations. To use the cadastral value system of taxation, it is necessary for the results the of cadastral valuation process to be formally approved. So, within the next few years, regional authorities should initiate the procedure of cadastral valuation, approve its results and adopt a decision on the transition to the cadastral value system of taxation.

As for the tax on the property of individuals, the transition period is already established from 2015 until 2020. During that period, regional representative authorities should set a unified date for the transition from an inventory value tax base to a cadastral value one. From 1 January 2020, the only tax base for the tax on the property of individuals will be the cadastral value; the inventory value of taxable items will no longer be used.

Furthermore, for the first four tax periods from the beginning of calculating the tax on the basis of the cadastral value, the amount of the tax will be defined in accordance with the following formula:

the tax on the property of individuals = (the tax calculated on the basis of cadastral value – the tax calculated on the basis of inventory value) * K + the tax calculated on the basis of inventory value,
where K is:

- 0.2 - in relation to the first tax period in which the tax base is defined as a cadastral value;
- 0.4 - in relation to the second tax period in which the tax base is defined as a cadastral value;
- 0.6 - in relation to the third tax period in which the tax base is defined as a cadastral value; and
- 0.8 - in relation to the fourth tax period in which the tax base is defined as a cadastral value.

These rules should ensure a gradual transition to the new order of tax calculation.

2 Evolution of real estate markets

2.1 Property restitution

In 1917 the Decree of the Central Executive Committee "On the Prohibition of real estate transactions" forbade any civil law transactions of land.[29] In fact, it meant the exclusion of any real estate from being traded. Adopted in 1922, the Civil Code of the Russian Federation completely abolished the division of property into 'movable' and 'immovable' in Soviet legislation, thus repealing the rights of private ownership in land.

Instead of that classification, the legislation introduced the notion of 'personal property' that could be used by individuals for personal consumption. In accordance with the Civil Code adopted in 1964, the list of personal property objects included a dwelling house and a dwelling apartment in a block of flats (in housing construction cooperative). Buildings and structures could be owned by collective farms and other cooperative organisations, and buildings and structures of institutions and organisations had been withdrawn from being traded, and their alienation was not allowed. The land, subsoil, waters, forests and housing were all State-owned.

The notion of "real estate" was reinstated by the Law "On Property in the Russian Soviet Federated Socialist Republic"[30] in 1990. It included in the objects of property, the real estate of industrial enterprises, property complexes, land, mining leases, buildings, and structures.

In 1991, the Fundamentals of Civil Legislation of the USSR and the Republics reinstated the division of property into movable and immovable.[31] As a result, immovable property included land and all items that were firmly connected with it, such as: buildings, constructions, other property complexes, and perennial plantings.

Modern legislation does not provide for any restitution or compensation for real property nationalised during the Soviet period. The Land Code prescribes that land that was nationalised before 1 January 1991, in accordance with the legislation applied at the time of the nationalisation, is not returnable, and that there is no right to compensation for the nationalisation of such land (Art. 25).

Thus, Russian legislation does not provide for any restitution nor compensation concerning property nationalised in the Soviet period. Makovsky (2002) points out that such restitution would mean: "almost another revolution, another redistribution of property. Since 1917 at least four generations in our country were replaced. These circumstances are combined with war, repression, population migration and the collapse

[29] See Decree of the Central Executive Committee "On the Prohibition of Real Estate Transactions", dated December 14, 1917.
[30] See Act no. N 443-1/1990, Law "On Property in the Russian Soviet Federative Socialist Republic".
[31] See Fundamentals of Civil Legislation of the USSR and the Republics, dated 31.05.1991.

of the USSR. So if now somebody tried to restore what has been until 1917 this will be scary. The healed wounds will be torn again".[32]

2.2 Privatisation

In the Russian Federation, the privatisation of real property began with the privatisation of enterprises. There were both voucher (until the summer of 1994) and monetary privatisation processes. The first statutory act regulated privatisation was the Decision of the Supreme Soviet "On measures for preparation of State and municipal property privatisation on the territory of the Russian Federation".[33] The next Act of the privatization was the Law "On privatisation of State and municipal enterprises in the Russian Federation".[34] In 1997 the second Federal law "On privatisation of State property and bases of privatisation of municipal property in the Russian Federation" was adopted.[35] And currently, the Federal Law "On privatisation of State and municipal property" is in force.[36]

At the beginning of the privatization process, State and municipal enterprises were acquired without land. Organisations obtained a property complex (buildings and constructions) with either a right of permanent use or a tenants' right over the land parcel on which the properties were located.[37] The Law "On land reform" provided for the right to transfer land under the buildings belonging to enterprises to private ownership,[38] but the lack of instructions and obligations to privatise the land and enterprises simultaneously as well as the high redemption price, actually impeded this process.[39] As a result, the most important task of property reform, which was to privatise the land under buildings (constructions) and to create a single property enterprise complex on the basis of land parcel, was only achieved later.

In 2001, the Land Code of the Russian Federation abandoned limited property rights on land (such as the right of permanent use and the right of lifetime heritable tenure) for

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[32] See Маковский А. (Makovsky, A.): Проблемы реституции и добросовестного приобретения культурных ценностей (The issue of restitution and bona fide acquisition of cultural values), Трудная судьба судьба культурных ценностей (The difficult fate of cultural values), M. (M.), 2002, P. 315.

[33] See Decision of the Supreme Soviet "On measures for preparation of the privatization of state and municipal property on the territory of the Russian Federation", no. 1104-1/1991.

[34] See Act 1531-1/1991, Law of the RSFSR "On privatization of state and municipal enterprises in the Russian Federation".

[35] See, Act no. 123-FZ/1997, Federal law "On privatization of state property and bases of privatization of municipal property in the Russian Federation".

[36] See Act no. 178-FZ/2001, Federal law "On privatization of state and municipal property", as amended.

[37] See Будникова Ю. (Budnikova, YU.): Общая характеристика выкупа земельных участков приватизированными предприятиями с начала проведения земельной реформы (General characteristics of the land acquisition of privatized enterprises since the beginning of the land reform), Экологическое право (Environmental Law no. 5 (2008).

[38] See Act no. 374-1/1990, Law "On land reform".

[39] See Новоселова О. (Novoselova, O.): Эволюция российского законодательства в сфере регулирования оборота земельных участков, занятых недвижимостью (Evolution of the Russian legislation in the field of regulation of land occupied property), История государства и права (History of State and Law) no. 19 (2014).

future transactions. In accordance with the Land Code, individuals are not entitled to the right of lifetime inheritable possession of land parcels; and the right of permanent use of land parcels are only permitted to State (local) institutions, public enterprises and State (local) authorities. All other organisations were obliged to re-register their right of permanent use of land by 1 July 2012. Individuals could, however, continue to use the right of permanent use, but there were to be no future acquisitions of such a right.

The terms and conditions of land privatisation depend on types of land. The Federal Law "On privatization of State and municipal property" regulates the privatisation of land parcels under real estate only. The other lands are privatised in accordance with the Land Code; in addition there is a special Law "On Agricultural Land Transactions".[40]

Agricultural land privatisation was a part of agricultural reform. Earlier the Law "On Land Reform" that transferred lands of collective farms to the collective, shared or joint ownership of agricultural enterprises and citizens were able to initiate agricultural land privatisation. The Government of the Russian Federation adopted a conceptual solution not to include agricultural lands in the voucher privatisation; instead, the purpose of the agricultural land privatisation process was to transfer the agricultural land only to people who worked in collective farms or in adjoining spheres. Thus, the lands were divided equally between employees and retirees of collective farms and those people engaged in the community, such as local schools, in rural areas.[41] The main problem with that division was that there were no clear physical borders created for the transferred land parcels, just a declaration of the land area. As a result, according to some authors, over the past two decades, it is much more difficult to achieve market transaction in lands which are divided into such shares, than with the lands that were left in State ownership during the mass privatisation processes.[42]

According to the State statistical monitoring of land resources, by 1 January 2014 there were 132.9 million hectares in the ownership of individuals and organisations; this was 7.8 % of the total land area within the Russian Federation (being 1,710 million hectares). Individuals owned 117.0 million hectares (6.9 %), and in the property of organisations there were 15.9 million hectares (0.9 %). The area of land under State and municipal property was 1,576.9 million hectares or 92.2 % of the land fund.

The housing funds in the Russian Federation have their own rules for privatisation. In 1991 the Law "On privatization of housing funds in the Russian Federation" was

[40] See Act no. 101-FZ/2002, The Federal law "On Agricultural Land Transactions", as amended.
[41] See Калинин Н. (Kalinin, N.): Правовое регулирование оборота земель сельскохозяйственного назначения (Legal regulation of agricultural lands), Имущественные отношения в Российской Федерации (Property relations in the Russian Federation) no. 12 (2013).
[42] See Липски С. (Lipsky, S.): Правовое регулирование земельного вопроса в современной России (Legal regulation of the land question in modern Russia), Имущественные отношения в Российской Федерации (Property relations in the Russian Federation) no. 5 (2014).

adopted.[43] The Law prescribes that the privatisation of residential premises is a free transfer of the residential premises in the State and local housing funds to individual ownership on a voluntary basis which individuals could choose to exercise (Art. 1). The period of free privatisation of the housing funds has repeatedly been extended; and from 2017 it became not limited in time.

2.3 Limitations of land/property ownership

Russian legislation prescribes some limitations to real property ownership.

According to the Civil Code, legislation could prescribe restrictions for some property transactions. In particular, some objects can belong only to certain participants of legal relations[44]. For example, there are the following restrictions:

- Unified air traffic management systems can only be federal property (the Aviation Code, Art. 7);
- The alienation of the centralised systems of cold water supply and (or) its removal, as well as non-centralised systems of cold water supply to private ownership is not permitted;[45]
- Natural resources and immovable property located within the boundaries of the State natural reserves are federal property and are not tradable;[46]
- State irrigation systems and State-owned water development facilities cannot be transferred to the ownership of individuals and organisations);[47] and
- Spacecraft and ground-based space infrastructure facilities related to satellite navigation systems and created at the expense of the federal budget are the property of the Russian Federation.[48]

Some restrictions are provided for land parcels. Thus, according to the Land Code, foreign citizens and organisations cannot have ownership rights over lands parcels located on State border territories nor within the other special territories of the Russian Federation. Thus, foreign citizens and foreign organisations cannot own land parcels within the boundaries of a seaport;[49] and foreign citizens and organisations are entitled only to tenant rights on agricultural land.[50]

[43] See Act no. 1541-1/1991, Law of the Russian Federation "On privatization of housing funds in the Russian Federation".
[44] Art. 129.
[45] See Act no. 416-FZ/2011, Federal law "On the Water Supply and Sanitation", as amended.
[46] See Act no. 33-FZ/1995, Federal law "On Specially Protected Natural Areas", as amended.
[47] See Act no. 4-FZ/1996, Federal law "On Land irrigation", as amended.
[48] See Act no. 22-FZ/2009, Federal law "On Navigation Activity", as amended.
[49] See Act no. 261-FZ/2007, Federal law "On seaports in the Russian Federation and on Amending Certain Legislative Acts of the Russian Federation", as amended (Art. 28).
[50] See Act no. 101-FZ/2002, Federal law "On Agricultural Land Transactions", as amended (Art. 3).

2.4 Nature of the property market

In recent years, the real estate market in the Russian Federation has become highly capital-intensive. The Federal government officially recognises that, today, real estate is not just a tradable "good" but also a financial investment instrument and, as such, it is in strong demand, and constantly increasing in price.[51] However the real estate sector is sensitive to an economic downturn. As some specialists report, the current recession will affect the markets of both commercial and housing real estate, but the consequences will vary. The commercial real estate market will suffer more, whereas the situation with housing developers will be determined by the duration of the tough monetary policy and the economic downturn.[52]

After 2014, the economic situation did not affect the sales of housing. In fact, developers have increased their sales. In this way, the population tends to save money by investing in real estate. From December 2014, the demand for residential property increased by 70 %; and 90 % of these purchases were for investment purposes, and not the acquisition of property for the occupation of the purchasers. According to some experts, it is most likely that, in the near future, the investors will sell their acquired property and the market will be flooded with residential accommodation that will inevitably reduce the prices of residential real estate.[53]

In the sector of commercial real estate, the situation has seriously deteriorated. Firstly, the market has still not recovered from increases in the real estate taxes which has impacted on income from real estate, particularly in the case of older and poorer quality properties. Secondly, the market is already oversupplied with commercial property. Particularly affected are offices and shops, and there is, as yet, no sign of a recovery.

3 Property data

3.1 GIS/cadastres

Geodetic and cartographic activities are regulated by the Federal Law "On Geodesy, Cartography and Spatial Data".[54] Geodetic and cartographic activities are licensed.[55]

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[51] See Чернышев А. (Chernyshev, A): Проблемы государственного регулирования рынка недвижимости в России (Problems of state regulation of the real estate market in Russia), Правовые вопросы недвижимости (Legal issues of real estate) no. 1 (2014).
[52] See Гордеева Ю. (Gordeeva Yu.): Что ждет российский рынок недвижимости в 2015 году (What changes are going to be with the Russian real estate market in 2015), http://realty.rbc.ru/experts/03/03/2015/562949994189110.shtml.
[53] http://realty.utro.ru/article/9575.
[54] See Act no. 431-FZ/2015, Federal Law "On Geodesy, Cartography and Spatial Data and on Amendments to Some Legislative Acts of the Russian Federation", as amended.
[55] See Act no. 99-FZ/2011, Federal Law "On licensing of certain types of activities"", as amended, (art. 12).

The Government of the Russian Federation established the Federal Centre of Geodesy, Cartography and Spatial Data Infrastructure to implement its policies regarding cartographic-geodesic activities. The Centre is within jurisdiction of the Federal Service for State Registration, Cadastre and Cartography.

The establishment of the State Real Estate Cadastre initially began with its responsibility for land parcels and, later, was extended to the other forms of real estate. The Land Cadastre was established in 2000, by the Federal law "On State Land Cadastre"[56], which determined the legal nature of "land". The Civil and the Land Codes prescribes that land transactions are only possible after the State cadastral registration of a land parcel, because such registration gives to the land parcel the characteristic of a legal object. Thus, the fundamental importance of the land cadastral registration lies in the fact that there can be no land parcel as a legal object (property) without its registration in the Cadastre. Therefore any transactions in land are only possible after the land has been registered in the State cadastre.

There was, at the time, a different regulation for buildings, structures and another real estate. The bureaus of technical inventory kept a State technical registration of real estate (except for land) and prepared a technical specification for it.

In 2007, the Federal law "On State Real Estate Cadastre" was adopted.[57] It provides for the development of the State Real Estate Cadastre of both land parcels and the other real estate. The unification of the State cadastre of real estate was an important step towards the unity of the legal status of land and the real estate on it. At that time, the State Real Estate Cadastre was defined as a systematic collection of information about immovable property as well as information about the borders of the Russian Federation, about the borders between the subject territories of the Russian Federation, the boundaries of municipalities, the boundaries of settlements, areas of cultural heritage (historical and cultural monuments) and the other information[58].

In 2017, the Federal law "On State Registration of Real Estate" come in force[59]. This law comprehensively regulates relations on the registration of real estate covering cadastral registration as well as the State registration of rights to real estate.

The State Real Estate Cadastre contains information about real property including the basic characteristics of the property which defines such property as a specific thing, as well as the characteristics that are determined and changed as a result of land formation (demarcation), of the clarification of land boundaries, of the construction and reconstruction of buildings, structures, premises and car parking areas and of the re-planning of premises. The State Real Estate Cadastre contains additional information,

[56] See Act no. 28-FZ/2000, Federal law "On State Land Cadastre".
[57] See Act no. 221-FZ/2007, Federal law "On State Real Estate Cadastre".
[58] See Act no. 221-FZ/2007, Federal law "On State Real Estate Cadastre", as amended, (Art. 1).
[59] See Act no. 218-FZ/2015, Federal law "On State Registration of Real Estate".

including information on the cadastral value of the property, the category of land, the designation of a building, a property, a structure, a construction or a single real estate complex.

The State cadastre registration is undertaken by the Federal Cadastral Chamber that is within jurisdiction of the Federal Service for State Registration, Cadastre and Cartography.

The Federal Cadastral Chamber exercises authority concerning, for example, the receipt of applications for State cadastral registration, providing for information contained in the Unified State Register of Real Estate, and the division of the territory of the Russian Federation into cadastral areas and cadastral quarters.

It is possible to view the Public Cadastral Map[60] as well as to request information about real estate[61] from the Internet page of The Federal Service for State Registration, Cadastre and Cartography.

3.2 Title registration

In 1998, a State registration of rights in real estate and real estate transactions was introduced. The Russian Parliament adopted the Federal law "On State registration of rights in immovable property and transactions with it".[62]

In 2015, a new federal Law on State registration of real estate was adopted[63]. The Law came in force from 2017.

The State registration of rights in immovable property is a legal act of recognition and confirmation of origin, change, transfer, termination of the right of certain persons to immovable property, as well as the restriction of such rights and encumbrances of immovable property. The State registration of rights is undertaken by the creation of an entry to the Unified State Register of Real Estate.
The State registration of a right in the Unified State Register of Real Estate is the only evidence required by the law of the existence of the registered right. The status of real estate rights which are registration in the Unified State Register of Real Estate to immovable property can only be challenged in court.

The State registration of rights in real estate and transactions involving it is performed by the Federal Service for State Registration, Cadastre and Cartography.

[60] http://pkk5.rosreestr.ru/.
[61] https://rosreestr.ru/wps/portal/p/cc_present/EGRN_1.
[62] See Act no. 122-FZ/1997, Federal law "On state registration of rights to immovable property and transactions with it", as amended.
[63] See Act no. 218-FZ/2015, Federal law "On State Registration of Real Estate".

The legislation provides for the State registration of ownership rights and other proprietary rights, including: a right of economic management, a right of operational management, a right to lifetime inheritable possession, a right of permanent use, as well as other rights in accordance with the Civil Code of the Russian Federation. Along with the State registration of proprietary rights on immovable property, other rights are also subject to State registration including restrictions (encumbrances) on the rights (such as easements (servitudes), a mortgage, trust administration, tenancy, and the leasing of residential premises).

From 2017, Russian legislation united the State Real Estate Cadastre and the Unified State Register of Rights to Real Estate and Transactions associated with it. As a result, there is now a Unified State Register of Real Estate. However, there are some technical and other problems concerning that consolidation, such as different data concerning the same real estate object, and different representation of information.

The data contained in the Unified State Register of Real Estate are public (except for information limited in access by federal law), and provided by the Federal Service for State Registration, Cadastre and Cartography at the request of any persons including through mail and Internet.

Conclusion

There are three taxes on real estate in the Russian Federation. These are the tax on the property of organisations, the land tax, and the tax on the property of individuals. The Russian authorities have tried but have not manage to introduce a single tax on real property. This is because of the differences in the taxes applied to different taxpayers (organisations and individuals) and because of the different tax bases (inventory value, average annual value and cadastral value).

The role of the property taxes for the budgetary system of the Russian Federation is of little monetary importance. The taxes are revenue sources for regional and local budgets which also enjoy other revenues.

The main problems in the operation of the land and real estate taxes are connected with the evaluation of the cadastral value of real estate. Often the cadastral value is higher than the market price for real estate. That leads to a great number of litigation seeking the correction of cadastral value.

Another problem is related to the administration of the taxes undertaken by the Federal Tax Service. Some subjects of the Russian Federation and municipalities complain that the federal authorities are not interested enough in the effective and efficient administration of the real estate taxes because the yield is transferred to sub-federal budgets.

Some attempt should be made to reduce the number of federal exemptions for real estate taxes which limit the revenue to sub-federal authorities.

Finally, there are some problems concerning the consolidation of the State Real Estate Cadastre and the Unified State Register of Rights to Real Estate and Transactions associated with it to the Unified State Register of Real Estate. These problems include different data for the same property object as well as the paucity of specialists in cadastral works and the relevant property software.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
M. Radvan, R. Franzsen, W. J. McCluskey & F. Plimmer

Georgian Progress in Property Taxation

RUSLAN AKHALAIA & SHALVA KILASONIA

Abstract Since the 1990s, Georgia has adopted and repealed a multitude of legal acts governing Property Tax and has conducted major reforms of its tax system, including the repeal of dozens of taxes. However, the Property Tax survived all these reforms, and, currently it is one of the six taxes generating income for the Georgian State. Current Georgian tax policy is aimed at the simplification of the tax system and keeping the tax rates low to raise countries' competitiveness in attracting foreign investments. In order to offer more guarantees to the foreign investors, a Constitutional restriction was set on the increase of tax rates and the introduction of new taxes. In the light of this, it is unlikely that Property Tax rates will increase in Georgia in the foreseeable future. At the same time, the Government's need for revenues increases from year to year. Therefore, the repeal of the Property Tax on real estate is also unlikely. Hence, one should not expect material changes in the taxation of the real estate in Georgia in the near future.

Keywords: • Czech Republic • property tax • immovable property tax • valuation • tax reform

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Introduction

After gaining independence from the Soviet Union, Georgia declared itself an independent democratic republic oriented towards building a free market economy. Further to this goal, Georgia embarked on a scheme of privatisation, introduced new laws recognising and guaranteeing property rights. In the early 1990s, Georgia also introduced various laws governing different types of taxes (including property taxes). Since then, Georgia has passed hundreds of laws redesigning or reshaping its tax system, including three successive tax codes. Within a relatively short period of time, Georgia has managed to transform itself from a country with a chronic budget deficit into a country with excess revenues. This goal was largely attained by the simplification of the tax system: specifically with a dramatic reduction in the number of taxes and tax rates.

Though the past reforms have proved effective, the debate still continues about the adequacy of Georgia's tax system (including its property tax) in relation to the needs of Georgia. These debates could lead to another wave of tax reforms.

From this perspective, it is interesting to speculate as to what could be the next step in the development of the property tax in Georgia, and whether there is any major current factor in reference to which dramatic changes to the property tax could be anticipated in the near future. Further to these questions, and based on the evolution of the property tax system in Georgia after the dissolution of the Soviet Union, this chapter offers views about possible future developments.

The focus of this chapter is mainly based on a review of the historical legislative acts and current tax regulations of Georgia. With regard to potential future developments, anecdotal statements made by various actors (politicians, academics, practitioners, etc.) have also been reviewed. Regrettably, Georgian scientific literature with respect to property tax remains sparse; though, Georgian institutions of higher education have started dedicating more and more resources to the study and research of tax laws which should help Georgia to remedy this deficiency.

1 Property Tax on Real Estate

1. Historical Overview

The roots of the current Georgian system of real property taxation can be traced back to the early 1990s when Georgia gained its independence from the Soviet Union on 9 April 1991 as a result of the independence referendum held on 31 March 1991. After the declaration of independence, one of the milestones in the formation and development of the Georgian tax system, including the taxation of real estate, was the adoption of the Law on the Basis of Georgian Tax System on 21 December 1993.[1] This Law, among other

[1] Law of Republic of Georgia on the Basis of Georgian Tax System, 21 December 1993.

things, set out framework for the individual laws then to be adopted with respect to specific taxes. It also provided the list of local taxes[2] and Statewide taxes which included the Enterprises' Property Tax, Individuals' Property Tax, and the Land Tax.[3]

Shortly after the adoption of the law on the Basis of the Tax System of Georgia, two other laws were adopted which provided for real estate taxes: the Law on the Enterprises' Property Tax[4] and the Law on the Individuals' Property Tax.[5]

Under the Law on Enterprises' Property Tax,[6] all legal persons incorporated under Georgian law, as well as their branches having their own balance and bank account, as well as non-residents conducting business through their permanent establishments in Georgia, qualified as the taxpayers of the Enterprises' Property Tax. These entities, among other things, paid the Enterprises' Property Tax on intangible assets, fixed assets, uninstalled equipment and the construction of fixed assets in progress.[7] The value of land, and other assets was deducted from the tax base,[8] and the tax rate applied amounted to one percent.[9]

A separate law on the Individuals' Property Tax governed the taxation of individuals' property. Under this Law, all individuals who had in their private ownership a taxable object qualified as taxpayers: the taxable objects, subject to exemptions, comprised:
(a) residential house, apartment, cottage, garage, other buildings and structures located on Georgian territory; and
(b) vehicles, boats, yachts, cutters (boats), helicopters, planes and other vehicles.[10]

The Individual's Property Tax on taxable real estate was assessed on the object's so-called inventory value. The tax rate was equal to 0.1 percent and the tax was payable on an annual basis.[11] The Individual's Property Tax was calculated by the Revenue Service on the basis of the inventory value of the real estate as of 1 January of each calendar year. Utility services of Georgia provided the Revenue Service with the information necessary for the tax assessment.

Another milestone in the development of the Georgian tax system was the adoption of the first Tax Code of Georgia in 13 June 1997 ("First Tax Code").[12] Upon the adoption of the

[2] Art. 16, Law on the Basis of Georgian Tax system.
[3] Art. 15, Law on the Basis of Georgian Tax system.
[4] Law of Republic of Georgia on the Enterprises' Property Tax, 24 December 1993.
[5] Law of Republic of Georgia on the Individuals' Property Tax, 24 December 1993.
[6] Art. 1, Law on Enterprises' Property Tax.
[7] Art. 2, Law on Enterprises' Property Tax.
[8] Art. 3(1)(d), Law on Enterprises' Property Tax.
[9] Art. 5(1), Law on Enterprises' Property Tax.
[10] Art. 2, Law on Individuals' Property Tax.
[11] Art. 3(1), Law on Individuals' Property Tax.
[12] Tax Code of Georgia, published in Parliamentary Gazette No. 3, date: 13 June 1997; available at: https://matsne.gov.ge/ka/document/view/31690: Accessed December 3, 2017.

First Tax Code, the laws on the Basis of Tax System of Georgia, Individuals' Property Tax and the Enterprises' Property Tax were repealed.

The First Tax Code provided a systematic and codified regulation of all taxes existing in Georgia. It included norms defining, among other things, all taxes levied in Georgia, taxpayers, tax bases, exemptions from each tax, compliance and basic procedures of tax administration. At the time of its introduction, the First Tax Code provided for twelve Statewide taxes and seven local taxes.

The Statewide taxes included the Property Tax, while the local taxes included the Land Tax. The Property Tax under the First Tax Code applied to individuals as well as enterprises. Individuals paid property tax if they owned the property subject to the property tax. Under the First Tax Code, the Property Tax was assessed on:
(a) the area of the real estate (buildings and structures), not used for commercial purposes; and
(b) on the value of the property used for commercial purposes.[13]

Under the First Tax Code, Georgian enterprises, their branches having separate balance and bank account, as well as Georgian permanent establishments of the foreign (i.e. non-Georgian) enterprises, also qualified as liable for the Property Tax.

The Property Tax applied to the fixed assets, uninstalled equipment, construction in progress and intangible property recorded in the balance sheet of the enterprise. A rate of 1 percent[14] was applied to the value of the enterprises' fixed assets.[15]

The value of the taxable property was the annual average net book value of the property which was calculated as the average of the net book values of the property at the beginning and end of the year.

Under the First Tax Code, the Land Tax applied to individuals as well as juridical persons who owned or possessed land plots in Georgia.[16] The tax applied to agricultural lands as well as non-agricultural lands.[17] The tax was assessed on the area of the land plot, and the tax rate varied depending on the quality and location of the land.

The First Tax Code caused great dissatisfaction in the business community, as it imposed a high tax burden on the business, and contained many ambiguous clauses, which often times worked to the detriment of taxpayers acting in good faith. In addition to this, corruption and other malpractices (e.g. use of public authority for private ends) were

[13] Art. 137, First Tax Code, https://matsne.gov.ge/ka/document/view/31690: Accessed December 3, 2017.
[14] Art. 137, First Tax Code, https://matsne.gov.ge/ka/document/view/31690: Accessed December 3, 2017.
[15] Art. 141, First Tax Code, https://matsne.gov.ge/ka/document/view/31690: Accessed December 3, 2017.
[16] Art. 146, First Tax Code.
[17] Art. 147(1), First Tax Code.

rampant at that time in public services (including the Revenue Service) which undermined the interests of both the business community and the State.

The public dissatisfaction with the political system existing in Georgia at that time lead to the so called "Rose Revolution" in 2003, as a result of which the then President and government of Georgia were forced to leave office. The new political power which took over, fought against corruption, deregulated business and mitigated the tax burden for businesses. Subsequently, on 22 December 2004, the Parliament of Georgia adopted the second tax code[18] (the "Second Tax Code") replacing the First Tax Code.

The Second Tax Code decreased the number of taxes from nineteen (not including import duties) to eight taxes (including import duties). A few years after the adoption of the Second Tax Code, the number of taxes was further reduced to six. The introduction of the Second Tax Code positively affected the Georgian economy; for example, there was a reduction in the shadow economy and the State revenues increased dramatically.

Notably, the Property Tax survived these changes in tax policy and the tax laws. Under the Second Tax Code, the Property Tax continued to be applied to individuals as well as enterprises and certain non-profit-making organizations.[19]

Under the Second Tax Code, enterprises paid the Property Tax on the following items included in their balance sheet: fixed assets (except biological assets and property leased from a Georgian resident enterprise), uninstalled equipment, construction in progress, intangible property and leased out property.[20] Non-profit-making organizations paid Property Tax on the same items, if such items were used for economic purposes. [21]

Individuals were liable for the Property Tax in respect of the property they owned (including, buildings and structures), construction in progress and some movable objects (e.g. planes, helicopters, and cutters). Individuals engaged in economic activities paid the property tax on the items (except biological assets and the property received from non-residents) recorded on their balance sheet, uninstalled equipment and intangible property, as well as property leased out.[22]

Individuals, as well as enterprises and non-profit-making organizations paid Property Tax with respect to the land they owned as of 1 April of each year. In addition to this, each

[18] Tax Code of Georgia, dated 22 December 2004, Legislative Gazette of Georgia, No. 41, 30/12/2004 available at: https://matsne.gov.ge/ka/document/view/32842.
[19] Khmaladze, V., Shavishvili, I., Khatiashvili, D. Commentary on the Tax Code of Georgia. Tbilisi: Federation of Professional Auditors and Accountants of Georgia, 2005. pp. 620-622.
[20] Art. 272(1), Second Tax Code. See also Khmaladze, V., Shavishvili, I., Khatiashvili, D. Commentary on the Tax Code of Georgia. Tbilisi: Federation of Professional Auditors and Accountants of Georgia, 2005. pp. 623-628.
[21] Art. 272(3), Second Tax Code.
[22] Art. 272(4), Second Tax Code.

person was liable for the Property Tax with respect to the State-owned land, which was used or occupied by the taxpayer.[23]

Even though the improvement caused by the introduction of the Second Tax Code was quite clear, the search for a better tax system continued, and this resulted in the repeal of the Second Tax Code in 2010 and introduction of the current tax code[24] (the "Third Tax Code"). As part of the same policy, the Parliament of Georgia adopted amendments to the Constitution on 15 December 2010 as a result of which the introduction of new Statewide taxes (excluding excise taxes) or an increase in the rates of Statewide tax required the approval of the voters through a nation-wide referendum.[25] In exceptional instances, the Government may temporarily increase nation-wide taxes for no more than three years.[26] The Property Tax survived this wave of reforms and remains active under the Third Tax Code. Notably, under the current tax code, the Property Tax is a local tax; therefore, the restriction on the increase of tax rate set out in the Constitution of Georgia, does not apply to the Property Tax.

Thus, from the very beginning of the modern tax system, which dates back to 1993, the Georgian tax system provided for a property tax. The tax base and tax rates varied under the different laws and tax codes and it evolved to what it is now under the Third Tax Code. All key components of the modern property tax of Georgia are described in more detail below.

1.2 Overview of tax laws relevant for property and property transactions

The tax system in Georgia is based on the Constitution, international treaties, the Third Tax Code, and the sub-legislative acts adopted on the basis of the Third Tax Code. The tax system is relatively simple. It provides only for five State-wide taxes and only one so-called local (i.e., municipal) tax. The State-wide taxes are the Personal Income Tax, Corporate Profit Tax, Value Added Tax (VAT), Excise Tax, and an Import Tax. The only local tax is the Property Tax.[27]
The Third Tax Code is the major legal instrument governing taxation in Georgia. In particular, this Code defines, among other things, taxes existing in Georgia, persons liable to taxes, the tax bases, tax rates (special considerations apply to the Property Tax), exemptions, and the filing and tax payment deadlines.

The Third Tax Code sets out the major structural elements of the Property Tax and the procedures of its administration (filing and payment); however, the municipalities have the right to decide whether to introduce the Property Tax on their territory.[28] If a

[23] Art. 272(1), Second Tax Code.
[24] Tax Code of Georgia, dated 17 September 2010, Legislative Gazette of Georgia, No. 54, 12/10/2010 available at: https://matsne.gov.ge/ka/document/view/32842.
[25] Art. 94.4, Constitution of Georgia.
[26] Art. 94.4 of the Constitution of Georgia and Art. 1.6 of the Organic Law of Georgia on Economic Freedom.
[27] Art. 6(6) of the Third Tax Code.
[28] Art. 6(4), Third Tax Code.

municipality introduces the Property Tax on its territory, the municipality may also decide the level of the tax rate within the cap set out in the Third Tax Code.[29]

The revenues collected from the Property Taxation are eventually directed to the budgets of the municipalities; therefore, most of the municipalities have chosen to introduce the Property Tax on their territory.

The Property Tax is recurrent and, generally, is payable on an annual basis by the persons possessing the property which is subject to the property tax. In contrast, certain taxes provided for by the Third Tax Code apply to the transfer of the title in property. Georgia does not have a separate tax applicable solely to the transfer of the real estate. However, such transfers, depending on the circumstances of the case, may be subject to the Personal Income Tax (for individuals), Corporate Profit Tax (for enterprises) and/or VAT.

The Personal Income Tax applies only to individuals, including sole entrepreneurs. Subject to certain exceptions, the transfer of real estate may trigger an income tax liability for individuals if they realise a capital gain on such a transfer. The capital gain realised on the sale of a residential house or apartment is exempt from personal income tax provided the vendor had owned the property for more than two years. The capital gain realised on the sale of other types of real estate is exempt from personal income tax if following conditions are satisfied:
(a) the seller had owned such real estate for more than two years; and
(b) the seller did not use such real estate for economic activities prior to sale.[30]

Capital gains realised by enterprises on the transfer of immovable property, are included in the gross income of the enterprise and subject to the Corporate Profit Tax (15%).[31] In this respect, it is notable that with effect from 1 January 2017, new regulations for the Corporate Profit Tax have become effective for most enterprises in Georgia. Under these new regulations, the corporate profit tax only applies to Georgian resident taxpayers with respect to their distributed profit (thus, undistributed profits are not subject to the Corporate Profit Tax), non-business expenses and payments, free supplies of goods and/or services, or specified types of expenses in excess of the limits set out in the Third Tax Code. Also, under the regulations for the new Corporate Profit Tax, the capital gains, *per se*, is subject to the Corporate Profit Tax if such gains are realised by a Georgian resident taxpayer who is also subject to the new Corporate Profit Tax regulations. Accordingly, subsequent sales of property by the Georgian enterprises will not result in the double taxation of the gains realised on such sales.
The sale of real estate (other than land) in the course of economic activities by VAT payers in Georgia is subject to VAT. The sale of land is exempt from VAT. However, if

[29] Nadaraia, L., Rogava, Z., Rukhadze, K. Commentary on the Tax Code of Georgia, volume I. Tbilisi: 2012. pp. 43-44.
[30] Art. 82(1)(f), Third Tax Code.
[31] Art. 102(1)(b), Third Tax Code.

certain buildings or constructions are attached to the sold land, then the entire sale is deemed to be the sale of buildings or constructions and therefore subject to VAT (at 18%).

Non-VAT payers do not pay VAT on their sales until they reach the VAT registration threshold. Once the taxpayer reaches the VAT registration threshold, the taxpayer is obliged to declare and pay VAT on all VAT taxable sales in excess of the threshold. Notably, VAT is also payable on the transaction which resulted in the taxpayer exceeding the threshold. The VAT registration threshold is set at a taxable turnover of Georgian Lari ("GEL") 100,000[32] for any uninterrupted consecutive twelve-month period. This is illustrated in Example 24.1 below.

Example 24.1

A sole entrepreneur is registered as a taxpayer (not a VAT payer) on 1 January 2013. Within two months from the commencement of economic activities, the entrepreneur sold VAT taxable goods at an aggregate price of 40,000 GEL. In the third month of operations, this entrepreneur sold office space for 70,000 GEL (without VAT). By this sale of office space, the entrepreneur exceeded the VAT registration threshold. Therefore, the sole entrepreneur is obliged to: (a) register as a VAT payer; (b) pay the VAT on the sale of office space; and (c) pay VAT on all subsequent sales in Georgia, if the sales are not VAT exempt.

A large part of the real estate sales are conducted by individuals who sell their residential houses or apartments for non-entrepreneurial purposes. Given the fact that value of the residential houses, or apartments in the major cities and towns of Georgia often exceeds 100,000 GEL,[33] the sales of residential houses and apartments would make a large number of individuals VAT payers, even though they do not pursue business activities. Registration of such individuals as VAT payers is not desirable for social and economic reasons. To avoid such undesirable results, the Georgian tax system states that the sale of four residential houses or apartments within an uninterrupted 48 months period are not considered as economic activities for tax purposes; therefore, such sales do not trigger VAT-payer registration.[34]

1.3 Structural Components

The Georgian Property Tax applies to real estate (including land) located in Georgia as well as other types of assets. The Property Tax base with respect to the land is substantially different from the tax base with respect to other forms of real estate.

[32] Approximately 37,037 Euro according to official GEL-EURO exchange rate as of 1 March 2017 published by National Bank of Georgia, https://www.nbg.gov.ge/index.php?m=582&lng=eng: Accessed 3 December 2017.
[33] See above note 29.
[34] Art. 1, Decree No 989 of the Minister of Finance about the determination of the types of activities and/or operations and/or aggregation of operations which do not constitute economic activities, 31 December 2010.

Therefore, the Property Tax treatment of lands and other real estate is described separately in the following sections.

The tax period for the Property Tax is a calendar year, for individuals as well as enterprises and non-profit-making organisations. Therefore, taxpayers file Property Tax returns and pay the tax annually.

1.3.1 Property Tax on Real Estate Other Than Land

The treatment of individuals is different from the treatment of enterprises and non-profit-making organisations under the property tax. The most notable differences relate to the objects of the Property Tax and their valuation, the filing of property tax returns, the payment of the tax, as well as exemptions.

A. Taxpayers: Enterprises and Non-Profit-making Organisations

The Third Tax Code provides largely the same Property Tax treatment for enterprises and non-profit-making organisations; however, there are some notable differences too in the tax treatment of enterprises and non-profit-making organisations.

The major difference between the treatment of enterprises and non-profit-making organisations for tax purposes is that an enterprise is created for the pursuit of profits, while an organisation (,,organisation") mainly pursues non-profitable goals.

However, Georgian law permits non-profit-making organisations to carry out ancillary business activities. Thus, non-profit-making organisations engaged in business activities are in most respects treated for tax purposes as enterprises in respect of such activities and / or with respect to their property used for business activities.[35]

B. Taxable Objects (Other Than Land) for Enterprises and Non-Profit-Making Organisations

Georgian resident enterprises and non-profit organisations pay Property Tax in respect of the following items recorded on their balance sheet as a fixed asset or an investment property:

- fixed assets;
- uninstalled equipment;
- construction in progress, as well as
- property leased out.[36]

[35] Art. 30(4), Third Tax Code.
[36] Art. 201(1)(a), Third Tax Code.

For this purposes, the term "assets" has the meaning given to it under the International Financial Reporting Standards. Non-resident enterprises are liable to the Georgian Property Tax on the same kind of assets located in Georgia, including the property transferred to third parties on Georgian soil on the basis of a lease, rent, usufruct or other similar models.[37]

Georgian resident and non-resident enterprises and non-profit organisations are liable to the Property Tax only with respect to the immovable property located on Georgian territory. Notably, entities do not pay Property Tax on the assets which qualify as an inventory, i.e. "*raw material, material, semi-finished product, spare part, packaging, and finished product according to the international accounting standards.*"[38] In practice, this definition of the "inventory" is understood to incorporate the definition of the "inventory" under the International Accounting Standard 2. This Standard defines the inventory as follows: *"Inventories are assets: (a) held for sale in the ordinary course of business; (b) in the process of production for such sale; or (c) in the form of materials or supplies to be consumed in the production process or in the rendering of services.*"[39]

C. Taxpayers: Individuals and Taxable Objects (Other Than Land)

Individuals, notwithstanding their residency status, are liable to the Georgian Property Tax, in respect of the following real estate:
(a) immovable property in their ownership (including, construction in progress, buildings and structures and their parts); and
(b) property leased from non-residents.[40]

Individuals engaged in economic activities are liable for the Property Tax in respect of the fixed assets, uninstalled equipment recorded on their balance sheets as well as any property leased out.[41]

In addition to this, individuals are also liable for the Property Tax in relation to the property (including the real property) they use or possess without any contract, if title over such property is registered in the name of deceased person.[42]

D. Property Tax Rate for Enterprises and Non-Profit-Making Organisations

The annual Property Tax rate applied to real estate (other than land) is a maximum 1 percent of the value of the taxable property.[43] The specific tax rate, within this cap, is established by the municipality in which the real estate is located. For Property Tax

[37] Art. 201(1)(b), Third Tax Code.
[38] Art. 8(28), Third Tax Code.
[39] International Accounting Standard 2, paragraph 2(6), 2014 publication.
[40] Art. 201(1)(c.a)-(c.b), Third Tax Code.
[41] Art. 201(1)(c.c), Third Tax Code.
[42] Art. 201(2), Third Tax Code.
[43] Art. 202(1), Third Tax Code.

purposes, the value of the real estate (other than land) is the average annual net book value which is calculated as an average of the net book value of the property at the beginning and end of the relevant calendar year.[44] Even though not explicitly stated in the Third Tax Code, in Georgian tax practice it is widely understood that the net book value of the taxable real estate (other than land) is determined on the basis of international accounting standards.

Example 24.2 below illustrates the calculation of the average net book value of the taxable property.[45]

Example 24.2

As of 1 January 2014, Company A owns fixed assets with the net balance sheet value of 700,000 GEL. Company A has not acquired or sold any assets during 2014. The depreciation charge accrued on these assets during 2014 is 100,000 GEL. Therefore, the net balance sheet value of the fixed assets of the Company A as of 31 December 2014 is 600,000 GEL.

In these circumstances, the Company's property tax base for 2014 with respect to the fixed assets shall be 650,000 GEL (700,000 + 600,000)/2

If the tax rate introduced by the municipality is 1 %, then Company A's property tax liability with respect to these fixes assets shall be 6,500 GEL.

The average net book value of the real estate (other than land) for property tax purposes is increased:[46]

- three times – if the property is acquired by the enterprise or non-profit-making organisation prior 2000;
- two times – if the property is acquired by the enterprise or non-profit-making organisation between 2000 and 2004;
- one and a half times if the property is acquired by the enterprise or non-profit-making organisation in 2004; and
- three times if the date of acquisition of the property is unknown.

Such an increase is not required in respect of two groups of enterprises.[47] The first group consists of enterprises which account for their immovable property (other than land) on the basis of the revaluation method under the relevant accounting standards and which have their financial statements audited by firms endorsed by the Government of

[44] Art. 202(1), Third Tax Code.
[45] Nadaraia, L., Rogava, Z., Rukhadze, K. Commentary on the Tax Code of Georgia, volume II. Tbilisi: 2012. pp. 271-272.
[46] Art. 202(1), Third Tax Code.
[47] Art. 202(2), Third Tax Code.

Georgia.[48] The Government of Georgia has endorsed such fourteen such entities, mostly Georgian representations of international audit firms.[49] In addition to the international audit firms, the list of auditors endorsed by the Government includes legal persons of the public law National Forensic Bureau.

The second group consists of eleven State-owned enterprises endorsed by the Government of Georgia.[50] All of these enterprises are incorporated either in the form of limited liability companies or joint stock companies and they are owned by the State. These companies are mainly involved in energy and transportation businesses and hold major energy and transportation assets in Georgia. The subject group includes: Engurhesi LLC (one of the biggest hydropower plant owners) and the Georgian Railways LLC (the major railway company of Georgia).

Notably, the Third Tax Code authorises the Revenue Service to assess the Property Tax at the market price of the real estate, instead of the average annual net book value of the property, provided the market price is higher than the latter mentioned price.[51] However, the Revenue Service does not have such a right with respect of the two groups of enterprises to which the appreciation rules do not apply, as described above.

The taxpayer has a right to appeal the market price used by the Revenue Service instead of net book value of the property. However, if the appeal is not successful, then:[52]

- the Revenue Service can additionally assess Property Tax on the difference between the market price and the average net book value of the property; however, in this case tax penalties and fines are not imposed on the taxpayer for underreporting its property tax liability;
- the taxpayer has to pay the additionally assessed tax within 30 days from the day of receipt of the demand for the payment of such additional taxes from the Revenue Service; and
- the taxpayer is obliged to use the same market price, as established by the Revenue Service, for the following three years.

E. Property Tax Rate for Individuals

The Property Tax rate cap for individuals is set out in the Third Tax Code and varies depending on the income received by the family of the individual taxpayer.

[48] Decree No 360 of the Government of Georgia about endorsement of the list of entities auditing financial statements and/or issuing expert or audit reports and the list of state entities, dated 5 September 2012.
[49] e.g., PricewaterhouseCoopers, Deloitte, KPMG, EY, Grant Thornton, PKF and Capto Group (RSM Group).
[50] Decree No. 360 of the Government of Georgia, dated 5 September 2012.
[51] Art. 202(4), Third Tax Code.
[52] Art. 202(4), Third Tax Code.

The Property Tax rate of 0.05 percent to 0.2 percent may apply to the individual if the income of the family of such individuals is less than 100,000 GEL[53] per taxable year. The Property Tax rate of 0.8 percent to 1 percent may apply to the individual if the income of the family of such individual is more than 100,000 GEL per taxable year.[54] The specific tax rate applicable to the individuals is set by the municipality within these ranges.

Notably, unlike enterprises and non-profit-making organisations, the individuals pay Property Tax on the market value of the real estate (other than land) as at the end of the taxable year.

A taxpayer's family is the taxpayer's spouse, under age children, parents permanently living with the taxpayer, children, brother, sister, grandfather, grandmother, grandchildren, who carry out common household chores.[55]

For Property Tax purposes, the family income includes all types of income and gains, including tax exempt income and gains, received by the family members during a calendar year. For persons having 'small business' status, the income for Property Tax purposes is deemed to include only 25 percent of the income subject to the taxation under the small business regime.[56]

For property tax purposes, the following are not included in the family income:[57]

- the value of the property received from the members of the family as a legacy, or as a gift or as a result of divorce;
- income received from the sale of the residential house or apartment owned by the individual for more than two years;
- income received by a refugee or internally displaced person from the initial sale of property granted by the State;
- income received by the individual who has been granted one of the preferential tax statuses ("micro business", or "fixed taxpayer") provided by the Third Tax Code for the small businesses;
- gains received from non-profit organisations established by the State in the course of charitable activities; and
- income received from charitable organisations for the financing of medical treatment or medical services.

For Georgian citizens, who are not Georgian tax residents, only Georgian-sourced income is taken into account for Property Tax purposes.

[53] Approximately 37,037 Euro, according to official GEL-EURO exchange rate as of 1 March 2017 published by National Bank of Georgia, https://www.nbg.gov.ge/index.php?m=582&lng=eng: Accessed 3 December 2017.
[54] Art. 202(5), Third Tax Code.
[55] Art. 8(16), Third Tax Code.
[56] Art. 202(6), Third Tax Code.
[57] Art. 202(7), Third Tax Code.

Individuals, as well as enterprises and non-profit-making organisations, are taxed with the tax rate effective at 31 December of the relevant calendar year.

F. Property Tax on Leased Assets

The leasing of depreciating assets, for tax purposes means a transfer of the property by the lessor into the temporary use of the lessee for certain lease fee, with or without a right of redemption, on the condition that:
(a) the lessee chooses the property to be leased and also the supplier of such property, who is not also the lessor;
(b) the lessor buys or otherwise receives the property to be leased for the purposes of leasing it out; and
(c) the supplier of the leased property knows that the property is designated for leasing.[58]

The transaction qualifies as a "leasing of property" for Georgian Property Tax purposes even if the supplier and the lessor are different persons, if:
(a) the supplier is engaged in leasing or the supplying of property on a regular basis; and
(b) other criteria of the leasing transaction are present.

Furthermore, leasing may also be acknowledged in circumstances whereby the supplier sells the asset and leases it back, if other leasing criteria as set out above are present.

For tax purposes, the transfer of land may not qualify as "leasing" because land is not depreciating asset.

Special Property Tax rules apply to the leased assets. For enterprises and non-profit-making organisation (other than leasing companies), the Property Tax rate cap is 1 percent of the average annual net balance sheet value of the leased property. The average annual net balance sheet value of the property is established with reference to the average value of the property at the beginning and end of the calendar year. For the year in which the property was leased out, the balance sheet value of the leased property is the value of the property in that year and for the subsequent years, the net balance sheet value this property would have had if it had not been leased out.[59]

As noted, a different tax treatment is provided for the property leased out by a leasing company. A company is deemed to be a leasing company if at least 70 percent of its gross income is derived from the leasing of property. For leasing companies, the Property Tax rate cap for the entire lease period is 0.6 percent of the initial balance sheet value of the leased property at the time the first lease is taken out on the property.[60]

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[58] Art. 571, Civil Code of Georgia.
[59] Art. 202(3), Third Tax Code.
[60] Art. 202(3^1), Third Tax Code.

1.3.2 Property Tax on Land

Any person, whether an individual, enterprise or non-profit-making organisation, is liable to the Property Tax, if as of 1 April of any given calendar year it:[61]

- owns a land plot;
- uses or possesses a land plot belonging to the State, Adjara and Abkhazia Autonomous Republics, or to a municipality; or
- uses or possesses a land plot registered on behalf of a deceased person, except in the case when such land plot is used on the basis of rent, usufruct or other similar consideration paid in return for such use.

A. Property Tax and Rate on Land

The Property Tax on land, unlike on other real estate, is assessed on the area of the land plot. The Third Tax Code sets out the base Property Tax rates for the land plots with reference to the surface area of the land. This base rate differs depending on the location and type of the land unit. Each municipality is authorised to set its Property Tax on land in reference to this base Property Tax rate.

For Property Tax purposes, land plots are divided into three major use categories: (a) agricultural lands; (b) non-agricultural lands; and (c) forest lands.

B. Property Tax on Agricultural Lands and Forest Lands

Agricultural land is:

- arable land (e.g., perennial crops, gardens;);
- land for the production of hay (including, natural and cultivated);
- pasture land (including, natural and cultivated); and
- garden lands.

Municipalities determine the specific tax rates applicable to the various categories of lands on their territory, which must not exceed 150 percent of the corresponding base rate set out in the Third Tax Code.

The base tax rates with respect to arable and house garden lands located in major cities and towns of Georgia are set out in the Table 24.1 below.[62]

[61] Art. 203 of the Third Tax Code. See also Nadaraia, L., Rogava, Z., Rukhadze, K. Commentary on the Tax Code of Georgia, volume I. Tbilisi: 2012, 275.
[62] Art. 204(1)(a) of the Third Tax Code.

Table 24.1: Arable and House Garden Lands

Municipality	Base Rate in GEL per ha
Tbilisi (except surrounding villages), Marneuli	100
Bolnisi, Gardabani, following villages surrounding Tbilisi: Tsavkisi, Kodjori, Tabakhmela, Shindisi, Dideba, Kveseti, Samadlo, Kiketi, Nasagurali, Akhaldaba, Didi Lilo, Varketili	95
Rustavi, Batumi, Gagra, Gali, Gudauta, Guliripshi, Ochamchire, Sokhmi, Tkvarcheli	94
Kobuleti, Khelvachauri, Gurjaani, Dedoplistskaro	87
Telavi, Lagodekhi, Sighnaghi	86
Kvareli, Gori, Mtskheta, Axkhemta, Dmanisi, Eredvi, Tighvi, following villages surrounding Tbilisi: Dighomi, Mshralkhevi, Daba Zahesi, Gldani, Didgori, Zurgovana, Telovana, Dzveli Vedzisi, Agaraki, Tkhinvali, territory from village Gldani to Avchala settlement – gardens, gardens adjusent to Mukhiani, Avshiani settlement adjusent to Khevdzmari, Lotkini settlement – perennial crops, settlement adjusent to Resi, Tbilisi Sea settlement	82
Kaspi, Tetritskaro, Samtredia	81
Sagaredjo, Kareli, Khashuri	79
Kurta, Tsalka	77
Abasha, Zugdidi	77
Akhalkalaki, Akhaltsikhe	77
Martvili, Senaki, Khobi, Poti	76
Ninotsminda	76
Akhalgori, Vani, Zestaponi, Lanchkhuti, Ozurgeti	73
Baghdati, Terjola, Khoni, Kutaisi	71
Tsalenjikha, Tskhaltubo, Chkhorotsku	67
Sachkhere, Tsageri, Tskhinvali	65
Ambrolauri, Dusheti, Tianeti, Adgieni, Borjomi	61
Aspindza, Tkibuli, Khulo, Keda	60
Shuakhevi, Kharagauli, Chiatura, Lentekhi, Oni, Chokhatauri, Mestia, Stepantsminda, Java	56

The full list of the base tax rates for hay lands and pastures are set out in Table 24.2 below:[63]

[63] Art. 204(1)(b) of the Third Tax Code.

Table 24.2: Base Tax Rates on Hay Lands and Pastures under the Third Tax Code

Municipality	Base Tax Rate in GEL per hectare[64]	
	Hay Lands	Pasture
Abasha, Akhalkalaki, Gori, Batumi, Bolnisi, Gagra, Gali, Gardabani, Gudauta, Gulrifshi, Gurjaani, Dmanisi, Zugdidi, Tbilisi, Tetri Tskaro, Telavi, Lagodekhi, Lanchkhuti, Marneuli, Mtskheta, Ninotsminda, Ozurgeti, Ochamchire, Rustavi, Samtredia, Senaki, Sighnaghi, Sokhumi, Kutaisi, Kobuleti, Kvareli, Tsalka, Tskhaltubo, Khelvachauri, Khobi, Poti	20	16
Dedoplistskaro	20	7
Adgigeni, Aspindza, Akhalgori,Baghdati, Borjomi, Vani, Zestafoni, Terjola, Tianeti, Kaspi, Martvili, Sagarejo, Sachkhere,Tkibuli, Kareli, Keda, Shuakhevi, Chokhatauri, Chkhorotsku, Tsalenjikha, Kharagauli, Khashuri, Khoni, Khulo, Akhaltsikhe	19	15
Ambrolauri, Dusheti, Lentekhi, Mestia, Oni, Kazbegi, Tsageri, Tskhinvali, Chiatura, Java	16	10
Akhmeta	16	5

The base rates set out in the above Tables apply to forest lands which are used for agricultural purposes.

C. Property Tax on Non-Agricultural lands

The base tax rate for non-agricultural lands is uniform and it amounts to an annual 0.24 GEL[65] per hectare of non-agricultural land. The amount of tax payable on non-agricultural land is equal to the base tax rate multiplied by the territorial coefficient approved by the municipality. The territorial coefficient cannot be more than 150 percent of the base tax rate.[66]

D. Property Tax imposed on users of Natural Resources

The user of natural resources is liable for the payment of Property Tax in respect of the land allocated to such a user under license or otherwise according to the Georgian laws. The Property Tax rate cap on such lands amounts to 3 GEL[67] per hectare of the subject matter land. The local municipalities establish the specific tax rates within this cap.[68]

[64] The GEL-Euro exchange established by National Bank of Georgia as of 1 March 2017 was 2.7016 source: https://www.nbg.gov.ge/index.php?m=582&lng=eng the date of last visit: 3 December 2017.
[65] The GEL-Euro exchange established by National Bank of Georgia as of 1 March 2017 was 2.7016 source: https://www.nbg.gov.ge/index.php?m=582&lng=eng Accessed 3 December 2017.
[66] Art. 204(2)(a)-(b), Third Tax Code.
[67] See note 62 above.
[68] Art. 204(3), Third Tax Code.

E. Exemption from Property Tax

The Third Tax Code provides an extensive list of exemptions from the Property Tax which is set out in Table 24.3 below.[69]

Table 24.3: Abridged List of Real Estate Exempt from Property Tax

1.	Taxable real estate (other than land) of the individual, if the family income of the individual in the year preceding the current taxable year does not exceed 40,000 GEL;
2.	Roads, electricity transmission lines, cable lines of electronic communication networks;
3.	Real property of an organisation, and the property leased to an organisation, except the land and the property used for economic activities;
4.	Property used for conducting oil and gas operations (activities) set out in the Law of Georgian on Oil and Gas Activities;
5.	Part of the State-owned property, which is transferred to the budgetary organisation, except the land used for economic activities;
6.	Lands owned by a non-profit-making organisation working on the preservation of natural or historical monuments, on which the State has conferred the status of historical, cultural or architectural monuments, provided such monuments are not used for economic purposes. The sales of entrance tickets is not deemed to be economic activities for these purposes;
7.	Lands occupied by natural parks, botanical and gardens, cultural and recreational municipal parks, cemeteries, zoological parks or parks, oceanarium, squares, protected territories, open ministerial parks, gardens and forest-gardens. This exemption does not apply to land plots located on such territories and used for economic purposes;
8.	City water reservoirs and their territories; lands used for transportation and sub-land communications not used for agricultural production or economic activities;
9.	The lands occupied by potable water supply facilities, electricity power stations;
10.	Lands used for the oil and gas operations (activities) set out in the Law of Georgia on Oil and Gas, if such land plots are not used for other purposes;
11.	Property located at the territories defined by the Georgian Law on Occupied Territories. Note: such real estate is exempt from Property Taxation until the settlement of the conflict and an improvement of the economic situation;
12.	Land located adjacent to the territories defined by the Georgian Law on Occupied Territories, if such land cannot be used for reason of their proximity to the conflict area, and provided special notice is issued by the municipality in this respect;
13.	Buildings and lands attached to the buildings, if the possessor or owner of such property is not able to enjoy such property for the reason that the property is used as a residence of internally displaced persons and such property is registered, as an object of settlement of the internally displaced persons. Note: this exemption is granted on the condition that Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia confirms that subject property is registered as the settlement place of the internally displaced persons;
14.	Unused State-owned meadows, pastures, stockpiling agricultural lands;
15.	The land plots which are used as the security zones for aerodromes, airports and helicopter landing and take-off sites, air navigation and sub-soil communication, as well as land plots designated for the future development of seaports, if not used for economic activities;

[69] Art. 206(1), Third Tax Code.

16.	Agricultural land plots to be cultivated are exempt for five years from the receipt of such lands by the individuals or juridical persons;
17.	Agricultural lands located on the territories of defunct villages or in settlements where citizens' families settled pursuant to the State policy on settlements. Note: exemption is granted for five years from the date of settlement.
18.	Agricultural lands up to five hectares owned by the individuals as of 1 March 2004;
19.	Land plot owned by an individual having the status of a person permanently living in a high-mountain settlement and located on the territory of the same high mountain settlement;
20.	Land plots designated for the scientific research, study, testing-selection, experiment, or testing of species used for scientific and study purposes and works which are financed from the State budget;
21.	Land plots used for the following non-profit-making organisations financed from the State budget: Boarding houses or shelter houses for persons of 60 or more years old or disabled persons, or residential care or day care facilities for disabled persons or for children lacking care, or public schools for the performance of their functions;
22.	Land plots used for children's residential care facilities, special boarding schools, children's villages and kindergartens which provide children's care and education services free of charge, if such land is not used for economic activities;
23.	Agricultural lands, if half of the crops which should have been harvested from them, were destroyed by natural disaster (storm, hail, draught, flooding, landslide and other) or by other *force majeure* events, which is confirmed by a notice issued by the municipality;
24.	Property in the free industrial zone of Georgia;
25.	Property leased from a Georgian resident;
26.	Assets used for medical activities, except land, which is owned by a medical institution or is leased out to such an establishment;
27.	The land attached to medical establishments, if used for medical activities;
28.	Property connected with the hotel services provided by an entrepreneur within the tourist zones, till 1 January 2016;
29.	The property (except land) owned by the agricultural cooperatives, used in agricultural activities, until 1 January 2017;
30.	Property (including land plots) of public schools if used for higher education purposes and if these schools have the status of a legal person of public law accredited by the Ministry of Education and Science of Georgia;
31.	Land plot which is attached to the residential block and which is in the co-ownership of an individual living in a residential block;
32.	Land plots attached to residential houses or garages located within the self-governing cities and municipalities which are exempt within the limits established by the local municipalities;
33.	Property of the person under bankruptcy proceedings;
34.	The real estate owned by higher education institutions established by the State, if such property was transferred free of charge to such institutions by the State or local government and if the property is used for educational purposes;
35.	The property owned by an enterprise having the status of a high-mountain enterprise and located within the same high-mountain settlement (exemption being applicable for (ten) calendar years from the grant of such status).

The exemption from property tax does not apply to:[70]

[70] Art. 206(2), Third Tax Code.

- the land plot transferred into the usage of another person on the basis of a lease, usufruct, rent or other similar basis; and
- the building or structure transferred into use of another person by an enterprise or non-profit-making organisation on the basis of a lease, usufruct, rent or other similar basis.

1.4 Compliance and Administration

1.4.1 Property Tax Return and Property Tax Payment by Enterprises

Enterprises and non-profit-making organisations are required to file Property Tax returns annually and no later than 1 April of each year.[71] These entities pay Property Tax on land no later than 15 November,[72] and on other real estate (e.g. buildings and structures) no later than 1 April.[73] Notably, the tax return for any given year includes information about (a) the taxable land of that same year; and (b) other taxable property of the previous year.[74]

Entities are obligated to pay Property Tax on land if owned on 1 April of any given year.[75] In addition, any entity having the land as of 1 April of any given year may determine its Property Tax liability on this land in the same year and declare its liability on such land by November of the same year. However, the same is not true with respect to entities' other taxable property.

The Property Tax on real estate (other than land) is assessed (mostly) on the average annual net book value of the property. Specifically, this value is calculated as the average of the net book value of the property at the beginning and at the end of any given year. When the property tax is assessed on the market value of the property (other than land), the taxpayer has to determine such a market value as of 31 December of any given tax period.

The entities pay Property Tax with respect to the property other than land in the following way: each year, an entity pays in advance Property Tax in the amount equal to the previous year's property tax. Once given year is over and the entity calculates the precise amount of the Property Tax for the given year, it credits the advance property tax against actual tax liability. If the actual tax liability is higher than the advance tax payment made, then the entity is obliged to pay the difference no later than 1 April of the year following the year for which the property tax is due. However, if the actual tax liability of a given year is lower than the advance tax payment made, then the excess amount may be credited against other current or future tax liabilities or may be claimed back.

[71] Art. 205(2), Third Tax Code.
[72] Art. 205(7), Third Tax Code.
[73] Art. 205(2), Third Tax Code.
[74] Art. 205(1), Third Tax Code.
[75] Art. 203, Third Tax Code.

Following example (24.3) illustrates mechanism for the payment of the property tax in Georgia.

Example 24.3

Company A's property tax for a year 2011 on the assets (other than land) was 120,000 GEL which was paid on time. Company A had neither excess tax liability nor tax indebtedness in 2011. In this example, Company A is obliged to make an advance property tax payment for 2012 no later than 15 June of 2012 year in the amount of 120,000 GEL.

After the end of year 2012, Company A established that its precise property tax liabilities on the assets (other than land) for 202 constituted 140,000 GEL.

Because the company's actual tax liability for 2012 was 140,000 and it only had paid an advance property tax of 120,000 GEL, the Company A must pay outstanding amount of the property tax of 2012 (which is 20,000 GEL (140.000 - 120,000)) no later than 1 April 2013. At the same time, no later than 15 June, Company A must pay 140,000 GEL as an advance property tax for 2013.

Legal entities are not obliged to make an advance payment of Property Tax in the year of incorporation.[76] However, in the year following incorporation, such entities have to make an advance Property Tax payment in the amount equal to entire amount of the annual Property Tax of the previous year.

If the shareholders of the entity decide to liquidate the company, within 15 days from the date of such a decision, the persons responsible for the management of the liquidation process are obligated to submit the Property Tax return to the Revenue Service.[77] Different rules govern the reporting and fulfillment of Property Tax liabilities in the case of the bankruptcy of the company. Under Georgian law, only the court is authorised to make the decision to declare a Company bankrupt and only if certain conditions are satisfied. Within 15 days of the court's decision coming into force regarding the bankruptcy of a company, the taxpayer must file a Property Tax return for the tax period preceding the opening of the bankruptcy proceedings. The taxpayer is not required to file a Property Tax return for the periods following the opening of the bankruptcy proceedings.[78]

[76] Art. 205(9), Third Tax Code.
[77] Art. 205(10), Third Tax Code.
[78] Art. 205(10[1]), Third Tax Code.

1.4.2 Property Tax Return and Property Tax Payment by Individuals

Individuals file Property Tax returns no later than 1 November of each calendar year.[79] As for entities, an individual's tax return for any given year includes information about:
(a) the taxable land of the same year; and
(b) other taxable property (i.e. taxable property other than land) of the previous year.[80]

The individual pays Property Tax on land and on other real estate included in the tax return no later than 15 November of each year.[81]

If the individual has filed a tax return for a given year, and in the next year it does not have any Property Tax payment obligations, such an individual must notify the Revenue Service about this new state of affairs prior to 1 November of the year in which the individual is not liable to pay the Property Tax.[82] Compliance with this notification rule is very important because, otherwise the Revenue Service will assess the property tax liability based on the tax return submitted to them in the previous year.[83]

Individuals do not need to file a Property Tax return in a given year if the Property Tax return was filed or the Property Tax was assessed by the Revenue Service in the previous year.[84] The individual may rely on this rule only if amount of the Property Tax liability for a given year has not change compared to the preceding year's liability. If such a change occurs, then the individual is obligated to file a Property Tax return.

If the individual fails to file a tax return or the notice stating that there is no Property Tax liability for a given year, the Revenue Service will assess the Property Tax on such an individual based on the data from the previous year.[85]

Notably, the Revenue Service regularly collects data from various administrative bodies, including the Registry of rights over the immovable property, in order to make Property Tax assessments. This information includes data about State-owned property used or possessed by private individuals and entities. Based on the information received from the relevant bodies of Georgia, the Revenue Service can assess the Property Tax on the land plots owned by taxpayer.

1.4.3 Deferral of the Property Tax

Under special circumstances, entities do not have to make an advance Property Tax payment. In particular, if the taxpayer anticipates that the tax liability of a current year

[79] Art. 205(12), Third Tax Code.
[80] Art. 205(12), Third Tax Code.
[81] Art. 205(14), Third Tax Code.
[82] Art. 205(13)(a), Third Tax Code.
[83] Art. 205(13)(b), Third Tax Code.
[84] Art. 205(13)(b), Third Tax Code.
[85] Art. 205(13)(b), Third Tax Code.

will lower by more than 50 percent compared to the previous year's tax liability, then such a taxpayer may notify the Revenue Service of the expected decrease in the Property Tax liability no later than 1 June of the same year and:
(a) pay a reduced amount of the advance property tax; or
(b) not pay the advance property tax at all.[86]

If, at the end of the current year, the expectations of the entity are confirmed, then the company must pay its Property Tax on the assets (other than land) within the deadline set by the Third Tax Code. Example 24.4 below illustrates this rule.

Example 24.4

Company A's property tax for 2011 on its assets (other than land) was 120,000 GEL. In 2012, Company A expects that its property tax for the year 2012 will be no more than 30,000 GEL. Company A notified the Revenue Service of this at the end of May 2012 and did not pay advance property tax in 2012. At the end of the 2012, Company A found out that its property (other than land) tax liability for 2012 amounted to only 50,000 GEL which is 41.67 % of the previous property tax liability.

In this situation, Company A shall pay 50,000 GEL no later than 1 April 2013 as its property tax liability for 2012 and the Company will not be penalized.

However, if the expectations of the decrease of the Property Tax liability do not materialise, then the entity will have to pay Property Tax within the deadline set by the Third Tax Code and a certain amount of interest for each outstanding day the amount of the advance Property Tax remains unpaid, until the date of submission of the relevant property tax declaration.[87]

1.4.4 Summary on Property Tax Compliance

The Table below sets out the key dates with respect to the property tax compliance.

[86] Art. 205(4), Third Tax Code.
[87] Art. 205(5), Third Tax Code.

Table 24.4: Key Dates

Key Dates				
Taxpayer	Tax Return Filing Deadline	Deadline for the Payment of Property Tax on Land	Deadline for the Payment of Property Tax on other Real Estate	Advance Tax Payment and the Deadline for its Payment
Individuals	1 November	15 November	15 November	N/A
Entities	1 April	15 November	1 April	15. June

1.5 Revenue Performance

Table 24.5 below sets out the performance of various taxes, including the Property Tax, in terms of revenue collection.[88]

Table 24.5: Information about Revenues collected in Thousands of GEL

Information about Revenues Collected in Thousands of GEL							
	2008	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**
Total Revenues from Taxes	4,659,898.8	4,328,665.8	4,804,147.2	6,096,467.1	6,636,384.8	6,632,929.0	7,217,105.9
VAT	2,068,988.3	2,051,747.9	2,203,136.0	2,784,346.3	3,040,331.8	2,847,867.5	3,298,518.3
Personal Income Tax	1,296,344.4	1,118,946.1	1,202,069.3	1,551,040.1	1,764,753.5	1,934,342.8	1,938,514.5
Corporate Profit Tax	592,343.9	518,440.4	576,009.9	832,310.2	851,644.0	808,238.1	829,103.4
Excise	518,479.5	443,236.7	560,820.5	615,169.6	659,606.1	722,178.1	810,209.1
Property Tax (including movable and immovable property)	131,861.8	160,383.3	191,728.6	220,390.0	229,970.3	230,927.2	245,877.5

[88] The information was provided by the Revenue Service of Georgia on 25 March 2015.

Import	51,880.9	35,911.4	70,382.9	93,210.8	90,079.0	89,375.3	94,883.2

Table 24.6 below sets out Property Tax paid on different types of taxable objects by different taxpayers.

Table 24.6: Amount of Taxes on Specific Taxable Objects in Thousand GELs

Amount of Taxes on Specific Taxable Objects in Thousand GELs[89]							
	2008	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**
Paid by Individuals on non-agricultural lands	1,672,622.9	1,929,699.3	2,373,612.7	5,857,028.6	4,076,873.8	4,391,594.3	4,360,401.1
Paid by Legal Persons on non-agricultural lands	23,364,709.4	31,750,454.4	35,059,042.2	33,213,435.5	27,864,162.2	37,727,125.9	41,814,538.6
Paid by Georgian Enterprises on Assets other than Land	91,510,587.0	115,095,952.8	135,041,418.5	151,808,138.6	163,197,937.2	148,894,668.0	156,968,631.1
Paid by Non-Georgian Enterprises on Assets other than Land	176,978.4	198,757.5	238,368.3	163,037.0	140,605.1	80,912.7	397,066.2
Paid by Individuals on agricultural lands	4,728,411.7	5,705,572.5	8,351,344.9	16,005,994.6	15,755,408.7	17,605,938.1	16,727,860.6
Paid by Juridical Persons on agricultural lands	1,836,326.2	2,077,535.6	2,271,635.2	3,180,490.4	4,580,963.2	5,072,738.2	5,579,145.8

1.6 Future Developments

[89] Information set out in the above table was provided by the Revenue Service on 25 March 2015.

Setting tax incentives in Georgia are usually considered with the underlying goal of attracting foreign investments to Georgia and fostering domestic investments. Based on publicly available information about tax policy in Georgia, such incentives do not currently relate to the Property Tax; therefore, it is unlikely any major development will take place with respect to the Property Tax in the near future.

2 Evaluation of the Real Estate Markets

Georgia was part of the Soviet Union from 1921 till 1991 as a result of which the State of Georgian inherited a vast amount of the real estate. In the early years of its independence, Georgia acknowledged private ownership rights over the real property which triggered the privatisation process.
The privatisation of the State-owned property was governed by various laws and sub-legislative acts which have been changed many times over the past 24 years. Currently, the privatisation process is governed by more coherent and systematic regulations. However, recent legislative developments, especially with respect to the ownership of the agricultural lands, demonstrate that the process is still ongoing.

3 Privatisation

The privatisation rules differ depending on various factors, especially, the owner of the property and the type of the property. Georgian law recognises the ownership rights of private persons as well as public entities over immovable property.

Public ownership over property may be divided into the following major groups: State, autonomous republics (Adjara and Abkhazia), and municipalities. Notably, important parts of real estate in Georgia are owned by so called legal persons of public law (a special vehicle created under the law by the State for specific purposes set out in legislation). Separate laws and sub-legislative acts govern the privatisation of the property owned by the State of Georgia, the Autonomous Republic of Ajdara, and the municipalities.

The legal person of public law is an entity created on the basis of Law, a Decree of the Government of Georgia, or an administrative act issued by the executive body of Georgia in furtherance of the law. The legal person of public law is separate from the legislative and executive branches of the State and is subject to State control; such an entity independently carries out political, State, social, educational, cultural or other public tasks.

The legal person of public law is e.g. the Revenue Service of Georgia, which is key public body in charge of the collection of taxes in Georgia. Many high schools and universities also are legal persons of public law.

The key legal instrument governing the privatisation of the most of the State-owned real estate is the Law of Georgia on State Property, dated 21 July 2010.

Under the Law on State Property, acceptable forms of privatisation include:

- electronic auction;
- public auction;
- direct sale;
- direct sale based on competitive selection; and
- transfer of title free of charge.

Different modes of privatisation are applicable to different type of State property (e.g. agricultural and non-agricultural lands).

According to the Law on State Property, real estate owned by the State, except for agricultural lands, may be purchased by Georgian or non-Georgian nationals and private legal persons or partnerships with a certain degree of participation of the State or the municipality, non-profit organisations, the national bank of Georgia, and the Georgian orthodox church, based on the decision of the Government.

The Law on State Property sets out the list of real estate, which may not be privatised. This list includes:[90]

- sub-soil;
- continental shelf;
- State forests, except certain types of forests located within the settlements;
- national parks;
- recreational zones as established by the Government of Georgia;
- zones of special construction regulations;
- property which is under the possession of legal persons of public law and which are operated by public schools;
- wharfs of the ports of special importance;
- hydro technical constructions;
- roads, if alternative roads do not exist;
- landing strips used for landing and take-off;
- certain types of agricultural lands; and
- land plots adjacent to the key rivers of Georgia, the precise co-ordinates of which are defined by the Ministry of Economy and Sustainable Development of Georgia.

Notably, under special circumstances and subject to strict procedural requirements (e.g. the adoption of a special order by the Government of Georgia), parts of the above listed property may be privatised.[91]

[90] Art. 4(1), Law on State Property.
[91] Art. 4(2-3), Law on State Property.

3.1 Special Case of Agricultural Lands

Currently, Georgian legal entities and individuals are allowed to possess agricultural lands without any restrictions.[92] For some time the law (on the Ownership of Agricultural Lands) restricted non-Georgian individuals and juridical persons from the possession of the agricultural lands. As of September 2015, this restriction applies only to non-Georgian entities, and non-Georgian individuals are allowed to possess agricultural lands in Georgia. This status quo is a result of recent developments in legislation and constitutional court decisions.

Prior to 2010, the law of Georgia on the Ownership of Agricultural Lands did not restrict non-Georgian individuals and foreign entities from the possession of the agricultural lands. However, in 2010 amendment was introduced which restricted foreign entities and individuals from the possession of agricultural lands. According to the then prevailing law, a foreign individual could gain ownership of agricultural land only by inheritance. Moreover, a foreigner who gained ownership over agricultural land was obliged to sell it to a Georgian citizen, household or a legal person registered in Georgia, within six months of the acquisition of ownership. In 2012, Heike Kronqvist, a citizen of Denmark, appealed this rule in the Constitutional Court of Georgia.[93] In 2012, the Constitutional Court held that the restriction set on non-Georgian individuals' possession of agricultural lands was unconstitutional. This decision made it possible for non-Georgian individuals to acquire title over the agricultural lands in Georgia.

However, on 28 June 2013, the Parliament of Georgia introduced a temporary restriction on the acquisition of agricultural lands by non-Georgian individuals. The restriction was intended to last until 31 December 2014. In June 2013, Mathias Huter, a citizen of Austria, appealed this restriction to the Constitutional Court of Georgia which held that this restriction was unconstitutional.[94] This decision again made it possible for non-Georgian individuals to acquire title over agricultural lands in Georgia.

Note that the restriction on the legal persons incorporated outside of Georgia to possess agricultural land has never been challenged in the Constitutional Court of Georgia. Therefore, this restriction on non-Georgian legal entities remains in force today.

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[92] Art. 4(1), Law on the Ownership of Agricultural Lands.

[93] Citizen of Denmark Heike Kronsqvist vs. Parliament of Georgia, Constitutional Court of Georgia, Decision №3/1/512, dated 26 June 2012, see at: https://matsne.gov.ge/ka/document/view/1690469#: Accessed 9 October 2015.

[94] Citizen of Austria, Mathias Huter vs. Parliament of Georgia, Constitutional Court of Georgia, Decision №3/1/512, dated 26 June 2012, see at: https://matsne.gov.ge/ka/document/view/2383097#: Accessed 9 October 2015.

4 Property data

4.1 Property Data, IT Systems and Databases

The National Agency of Public Registry of the Ministry of Justice of Georgia (the „Agency") serves as a registry of various rights over the real estate in Georgia. In particular, the Agency keeps following registers:[95]

- rights over the immovable property;
- public law limitations (e.g. arrests on property ordered by the court);
- tax mortgages and liens;
- rights over intangible property;
- entrepreneurial and non-entrepreneurial (non-commercial) legal persons.

The Agency records the following rights in the register of rights over the immovable property:[96]
(a) ownership;
(b) right to build;
(c) usufruct;
(d) servitude;
(e) mortgage;
(f) rent;
(g) sub-rent;
(h) lending;
(i) lease;
(j) the rights provided under the public law with respect to the usage and possession; and
(k) the obligations attached to the ownership over the immovable property.

Importantly, any item of real estate in private or public ownership, has its unique cadastral code. The cadastral code is a combination of figures mainly based on the location of the property. In particular, the territory of Georgia is divided into zones, sectors, quarters, and land plots each having their own individual number. The cadastral code of the property is generated with reference to the number of the zone, sector, quarter and the land plot on which the property is located.

In addition to the rights over immovable property, the Agency keeps identification details of the owners of real estate, the real estate's cadastral code, address, surface area etc. Such records are very important as they are used for the identification of the title over the immovable property and the records issued by the Agency are used as a certificate of title.

The Agency records at the register of public law limitations attached to the property, such as arrests, a limitation on right of alienation or a restriction on alienation, and any changes

[95] Art. 4(1), Law on Public Registrar
[96] Art. 11(1), Law on Public Registrar.

in these measures ordered by the court or the administrative body of Georgia with respect to the real estate.

The Agency also records tax mortgages on real estate in the register of the tax mortgages and liens. All the restrictions or encumbrances attached to the immovable property are displayed on the updated title certificate (referenced above).

The Agency keeps registers based on electronic systems. The input of any data with respect to any real estate appears on a special web page of the Agency: www.napr.gov.ge. Everyone who is interested in the current legal status of the particular unit of real estate in Georgia, may log into the web page of the Agency and obtain excerpts from the public registry at no cost. The update of the excerpts, however, may attract minor fees. The excerpt from the public registry is the document which provides the key information about the specific item of the real estate: its precise address, surface area, owner and whether any rights, obligations, restrictions or encumbrances are attached to the real estate.

The Agency's electronic system is very reliable and widely used in Georgia in transactions involving real estate.

The most common way of acquiring ownership over the real estate, in addition to privatisation, is acquisition from private parties. The acquisition is completed on the basis of the contract on the acquisition of title. Under the Civil Code of Georgia, such a contract is valid only if it is in writing and the parties to the contract register the transfer of the title over the real estate at the Agency.

Conclusion

The dissolution of the Soviet Union was a major historical event triggering the formation of Georgia's modern real estate market and its property tax system, as well as a shift to a free market economy in country in the course of which Georgia conducted a process of the privatisation of its real estate. The privatisation of real estate resulted in the creation of large groups of individuals and entities having real estate in private ownership, which currently constitutes the bedrock of the Georgia's real estate market.

Since the 1990s, Georgia has adopted and repealed a multitude of legal acts governing Property Tax and has conducted major reforms of its tax system, including the repeal of dozens of taxes. However, the Property Tax survived all these reforms, and, currently it is one of the six taxes generating income for the Georgian State.

Current Georgian tax policy is aimed at the simplification of the tax system and keeping the tax rates low to raise countries' competitiveness in attracting foreign investments. In order to offer more guarantees to the foreign investors, a Constitutional restriction was set on the increase of tax rates and the introduction of new taxes. In the light of this, it is unlikely that Property Tax rates will increase in Georgia in the foreseeable future. At the

same time, the Government's need for revenues increases from year to year. Therefore, the repeal of the Property Tax on real estate is also unlikely. Hence, one should not expect material changes in the taxation of the real estate in Georgia in the near future.

Unlike the tax laws, the laws governing the ownership over the real estate have undergone major changes in recent years and one could still expect further developments in this area. This is especially true in respect of the ownership of agricultural lands by non-Georgian individuals, non-Georgian legal entities and the Georgian legal entities incorporated by non-Georgian individuals or juridical persons. In recent years, Georgian policy makers have introduced a restriction on the ownership of agricultural lands in Georgia by non-Georgian citizens and legal entities. The Constitutional Court of Georgia, however, has declared restrictions on the ownership of agricultural land by foreign individuals as unconstitutional (restrictions set on foreign legal entities had not been yet challenged and therefore, this restriction remains in place) and thus, such restrictions no longer apply to non-Georgian individuals.

However, in the light of various legislative incentives currently under discussion in Georgia, one could expect further legislation regarding the setting of certain conditions for a non-Georgian's direct or indirect (i.e. through Georgian legal entity) possession of agricultural lands in Georgia.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
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Real Estate Market and Property Tax in the Republic of Armenia

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Abstract The Armenian tax system on real estate emerged in the 1990s, with a tax on land and a tax on buildings, and with "real estate" being defined in 1996 legislation. The tax base remains the "cadastral value", reassessed every three years, but this is seen as a transitional situation. With the on-going development of the real estate market and increases in the volume of transactions for the various property types around the Republic, data are being gathered and analysed to provide statistical evidence which will be necessary for a future ad valorem tax base. In addition, a market value coding system of the types of real estate are being formulated in support on a future ad valorem tax base. The 2018 Tax Code has merged the land and the buildings taxes and provided a simplified tax administration system which is aimed at improving the efficiency of the various tax systems in the country. This includes reducing the frequency of the payment of real estate taxes from bi-annually to annually, as well as requiring local authorities to calculate the taxes payable by both natural and legal persons. However, at this stage, it is only possible to speculate as to the benefits which the new regime will bring. The funding of municipalities through the revised taxes on real estate should provide increased revenue for the provision of increased and improved local services for the population.

Keywords: • Armenia • property tax • immovable property tax • valuation • tax reform

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Introduction

This chapter discusses the real estate tax in the Republic of Armenia[2]. The real estate tax in Armenia is a local tax being an annual levy on taxpayers, and paid to the municipality community budget in respect of the real estate owned by them. The real estate tax does not depend on the outcome of the taxpayers' economic activities.

At this stage, the tax base for real estate taxation is the so-called cadastral value of real estate. This value is not a market value but a figure calculated by the State Committee of Cadastre based on different factors such as the type of construction, the roofing material, the number of floors (levels), the existence of utilities, and the geographical zone. This non-traditional method of defining the tax base is implemented because of the under-developed real estate market and the absence of reliable and properly classified data on real estate transactions.

The system of real estate taxation is not perfect, but recent reforms and additional measures planned for the future are signals that there is a political will to improve the efficiency of the property taxation in Armenia.

One of the most important steps in the transition to a new system of State registration was the cadastral mapping implemented in the Republic and the addition in the period of 1998-2001 of the first State registration of real estate rights of citizens after the Soviet era. This registration of real estate rights and its associated data enabled the collection of relatively complete and reliable qualitative and quantitative data, as well as relative full and reliable data on real estate rights and restrictions.

Later in this chapter, the real estate market value as tax base is considered. In this sense, the cadastral values of buildings and the use of net incomes from land are considered to be “transitional” tax bases.

The focus here is on the current regulation of the property tax, but the chapter also provides an overview of relevant historical development and a discussion on the future challenges in the area of property taxation, and connected issues (development of real property markets, etc.).

1 Tax on Property

1.1 History

From the time of State Empowerment to the Hellenistic Epoch in Armenia, the right of land ownership belonged to the State, although in the period of Hellenism this right was

[2] As there is no existing publication on Armenian real estate tax, this is the first contribution to the topic.

violated and it had only a legal and formal nature. In the era of Hellenism, private and hereditary property rights in the land began to develop. Owners of land plots and real estate were priests and the clergy class. This right was later extended to churches and monasteries, after Christianity was proclaimed the State religion in the late 3rd or early 4th century.

Free members of communities, tenants, semi-subordinated and dependent villagers (who were not considered as slaves) were paying taxes and duties to the royal treasury for the rights to rent and cultivate royal lands.
From the formation of the Armenian state (6th century BC) to the beginning of the Hellenistic era in Armenia, the right of land ownership belonged to the State. In the era of Hellenism, private and hereditary rights in landed property began to develop. Owners of land plots and real estate were temple priests and temple farms (later, these rights passed to churches and monasteries, after Christianity was proclaimed a state religion in Armenia in 301.

All movable assets and building and structures, (but excluding land) were the private and inheritable property of the families in rural communities. The farmers were paying taxes and duties to the State for the land they occupied, using the natural products they cultivated or with money.

In Armenia before the Middle Ages, cities were established and built by the kings and these allowed for the ownership of land by their occupiers, generally farmers. The principles and rules of tax collection were the same there as in the rural areas.

From the middle ages to the beginning of the 20th century, the rules and relationships of real estate management, possession and taxation were largely preserved in Armenia, with the main difference being that, in the absence of the existence of the Kingdom of Armenian, tax has been paid to the states which, at various times, occupied Armenia (i.e. Iran, Byzantium, Arabian Caliphate, the Ottoman Empire, and the Russian Empire).

During the period of the Soviet Union, real estate was not fully included in the market as a commodity for sale in Armenia, because private ownership of land and buildings was not permitted.

Moreover, the concept of ”real estate“ was not defined within Armenian legislation. Land was the exclusive property of the State and, because it was considered as a means of agricultural production, only the right of use was available to citizens. There were no other property rights recognised, nor was there a real estate market from which to derive a market value tax base. In the case of buildings and constructions, these were only the property of citizens' in the case of individual dwelling houses, and a certain amount of ownership of cooperative and collective horticulture communities.

There was no registration system recording the rights of users or owners of land and buildings and only State accounting and inventory works were carried out.

After independence, the process of privatising land, the housing stock and other branches of the economy began in Armenia, and, for the first time in 1996, the concept of "real estate" was defined by law, and this combined the land and property attached to it into a single property unit. The privatisation of real estate property and the rights associated with it created a property market which was formed spontaneously, and gradually property transactions increased in volume.

There has been a need to adjust the property rights for each real estate property unit, to adjust the rights of owners, to achieve the registration of their rights, to provide protection for the registered rights and to ensure the rights of public access to the physical and qualitative data. Under these circumstances, by the decision of the government[3] a State real estate cadastre system was created. Real estate appraisal started with the development of the cadastral land tax, the need for transactional data to provide the property tax bases, and to analyse market prices of real estate transactions to monitor and report on the real estate market activities.

In 1998 - 2001 legislation[4] was introduced to regulate and settle relationships with regard to real estate and to establish the competence of participating in these relationships.

The registration of rights also contributed to the development of the real estate market, as many units of real estate, which had actually been excluded from sales to the public, were brought into ownership by members of the public, and, as a consequence become visible for tax purposes as well.

1.2 Position of property tax

The property tax in Armenia is levied on both immovable real estate (land and buildings), as well as vehicles and other means of transport. This latter aspect of the tax is not discussed further in this Chapter.

1.2.1 Taxpayers

Taxpayers are organisations and individuals which own parcels of real estate. Public administration institutions (e.g. ministries and other organisations funded by the State budget), community managerial institutions (i.e. municipalities) the Central Bank of Armenia, as well as owners of apartment buildings and non-residential premises,

[3] Decision of the Government of RA of 30 June 1997 N 234.
[4] The Civil Code of the Republic of Armenia, the Land Code of the Republic of Armenia, the RA Law on State Registration of Rights to Property, the RA Law on Urban Development, the RA Law on Property Tax and other statutory documents.

necessary for the maintenance of a multi-apartment building (including structures under the building) on the land parcel belonging to those owners under common shared ownership rights cannot be taxpayers. In the case of mult-apartment buildings, it is the owner of each individual apartment who is the taxpayer in respect of the occupied apartment. The land underneath a multi-apartment building is in common shared ownership and thus is not considered to be a taxable item.

Taxpayers have the right to appeal against the tax levied on them.

1.2.2 Tax base

Real estate tax base is the cadastral value of land and buildings assessed as prescribed by the established procedure, with a methodology laid down by the Tax Code. For the lands of agricultural significance, the tax base is the net income, calculated on the basis of the cadastral assessment procedure.

Real estate tax is also paid for State-owned lands provided for permanent use, and it paid by the permanent user.

If the taxable item has more than one taxpayer with the right of common shared ownership, they are each liable separately for their share in tax amount.

1.2.3 Taxable objects

Real estate taxable objects are units of real estate being land plots and / or improvements. Land improvements include underground and surface buildings, or structures built on land, including in particular:

- housing constructions;
- multi-dwelling buildings, containing more than one dwelling, non-residential units and general use areas;
- garages (for vehicular storage);
- buildings for socio-economic activities: including shops, the provision of social services for the population (e.g. gymnasia), as well as the activities of social and economic organizations;
- unfinished or semi-constructed buildings;
- real estate, newly constructed, acquired and / or changed in accordance with Armenian legislation and registered as assessed and in fact assessed by the competent authority responsible for the cadastre of real estate(i.e. the State Cadastral Committee), but which has not yet received State registration of rights to it (i.e. in advance of its purchase). In addition, ownership of the land plot comprising unauthorised buildings and structures, including unauthorised structures adjacent to multi-apartment buildings or buildings.

Later in this Chapter, the real estate market value as a tax base is discussed and, as a result, the cadastral values of buildings and net incomes of land are considered to be "transitional" tax bases.

1.2.4 Tax rates

The real estate tax is levied by the municipalities in the Republic and the real estate tax is calculated in accordance with the annual rates shown in Table 25.1, based on the cadastral value provided by the State Cadastral Committee.

Table 25.1: The real estate tax rates

Real estate considered as agricultural land plot	15 % of estimated net income determined by cadastral assessment
Real estate considered as residential development lands included in administrative boundaries of rural communities	0.6 % of cadastral value
Real estate considered as non-agricultural land. • Land plots for industry (including mines and areas broken down by production), transport, communication, radio broadcasting, television, defence, gas pipelines, as well as water fund lands; • forest fund lands (except those from agricultural land); • Other non-agricultural land.	• Inside the settlements: 1 % of cadastral value; • Outside of settlements: 0.5 % of cadastral value; • 1 % of the average value of the cadastral assessment; • 1 % of the cadastral assessment.
Public and industrial buildings, unfinished semi-constructed buildings: newly constructed, acquired and / or altered real estate	0.3 % of taxable base
Garage	0.2 % of taxable base

Source: The Tax Code of RA, adopted by the National Assembly at October 4, 2016, Number 265-N, article 229.

Table 25.2: Tax rates for residential buildings, multi-apartment buildings, as well as non-residential premises within a multi-apartment building

Taxable base	Tax rate
Up to 3 million drams included *Up to 5337.7 euro included* [5]	0 % of tax base
From 3 million to 10 million drams included *From 5337.7 euro to 17792.3 euro included*	100 drams plus 0.1 % of the tax base exceeding 3 million drams *0.2 euro plus 0,1% of the tax base exceeding 5337.7 euro*
From 10 million to 20 million drams included *From 17792.3 to 35584.7 euro included*	7100 drams plus 0.2 % of the tax base exceeding 10 million drams *12.6 euro plus 0,2% of the tax base exceeding 17792.3 euro*
From 20 million to 30 million drams included *From 35584.7 to 53377.0 euro included*	27100 drams plus 0.4 % of the tax base exceeding 20 million drams *48.2 euro plus 0,4% of the tax base exceeding 35584.7 euro*
From 30 million to 40 million drams included *From 53377.0 to 71169.3 euro included*	67100 drams plus 0.6 % of the tax base exceeding 30 million drams *119.4 euro plus 0,6% of the tax base exceeding 53377.0 euro*
More than 40 million drams *More than 71169.3 euro*	127100 drams plus 1.0 % of the tax base exceeding 40 million drams *226.1 euro plus 1% of the tax base exceeding 71169.3 euro*

Source: State Committee of Cadastre.

1.2.5 Tax exemptions

The following exemptions are made from the payment of real estate tax:

- State reserves, national and forestry parks, botanical gardens, lands of historical-cultural importance, except for the lands granted on a lease and service use;
- Public lands considered as State-owned property in settlements (squares, streets, crossings, roads, parks, gardens, reservoirs, etc.);
- Educational, industrial and experimental lands attached to professional technical colleges and schools;
- Newly-established vineyards and orchards, until the full fertility of the plantations is achieved (within the timeframe defined by the agro technical guidelines for each variety) if their area exceeds 0.1 hectares;

[5] For converting to euro Exchange rate published in official site of Central Bank of Armenia is used as of November 1, 2017. See: www.cba.am.

- Forestry lands, with the exception of the agricultural lands in the territory of that land granted under lease;
- Lands used for the diplomatic and representative purposes of foreign states and international organisations on the principle of reciprocity, authorised by the Foreign Affairs Ministry of the Republic of Armenia;
- Constructions of historical and cultural importance which are considered as State property and defined as taxable objects by the decision of the Government of the Republic of Armenia;
- Lands and structures belonging to the Armenian Apostolic Church (Mother See of Holy Etchmiadzin);
- Linear engineering facilities (e.g. roads, pipelines) in accordance with the legislation of the Republic of Armenia, for which no fee is charged;
- Reservoirs; and
- National Postal Operator etc.

According to the list approved by the Government of the Republic of Armenia, agricultural and forestry scientific organisations, experimental, seed-growing, nursery, pedigree and a variety testing enterprises, stations and bases for scientific research institutions and educational institutions are liable to only 50 % of the real estate tax.

By recommendation of the head of the municipality and in accordance with the procedure set by the municipality itself, the municipality Council may grant privileges (rebates) to certain real estate taxpayers, such as the aged and those suffering financial hardship. The total amount of such a rebate cannot exceed 10 % of the total approved municipality budget revenue from real estate tax for that tax year.

No additional grants are provided to the local authority from the State budget of the Republic of Armenia for the benefits of real estate tax provided by the Municipal Council.

1.3 Administration

The administration of the real estate tax is undertaken entirely by the municipalities (although the calculation of the tax base (the cadastral value) is undertaken centrally). The revenue raised and collected by the municipalities contributes to their budgets and is spend on approved services in their jurisdiction. The obligation to pay the real estate tax arises on the 1st of the month following the State registration of the right of ownership or permanent right to the taxable object.

Documents substantiating the right of ownership or permanent right to the object of taxation (or part of it) are considered as the basis for the imposition of tax liabilities.

Organisations and individuals pay the real estate tax to the municipal budget annually, before 1 December of the tax year.

Based on the information received from the real estate cadastre body, the local government authorities calculate the real estate tax payable from each real estate taxpayer and posts the information on public display at the site of the administrative building and / or place it on their website until 1 November of the current tax year.

The local government authorities may also submit real estate tax payment notices (by post or hand delivery) to real estate taxpayers within the time frame specified.
The failure of the local authority to submit a notification does not relieve the taxpayers from the obligation to fulfil their tax liabilities.

Real estate taxpayers can apply to local government authorities to obtain information on their property tax liability.

Where taxpayers disagree with the calculation of the real estate tax due, they may apply to the relevant local government authorities for the purpose of adjusting the real estate tax calculation. To obtain the necessary information and clarification about cadastral value and other relevant data, they need to apply to State's real estate cadastre body.

1.4 Valuation

The appraisal of the taxable value of real estate (or its revaluation) is undertaken by the Real Estate Cadastre Authorised Body every three years, with the cadastral assessment data as of 1 July of the year in which the revaluation is undertaken. The first full assessment of cadastral values will be carried out in 2019. The estimated (or revalued) cadastral value (or in the case of agricultural land the tax base is the calculated net income) determines the tax base for the three tax years following the valuation (or revaluation) tax year.

The cadastral assessment is carried out according to the methodology defined by law, which takes into account the following characteristics and factors:

- Location and accommodation (geographical zoning);
- Stage;
- Depreciation of the building (which is correlated to its age);
- Apartment height (internal);
- Degree of damage (if any);
- Construction type (e.g. reinforced concrete or wooden);
- Roof material;
- Exterior finishing; and
- Building capacity (for industrial buildings).

1.5 Revenue performance

Table 25.2 provides information about the revenue raised from real estate at both national and municipal levels. In one case Yerevan[6] is separated by its numbers. At the suggestion of the municipality head, the municipality Council may raise real estate rates up to 10 %.

1.6 Tax Code 2018

Since 2014, with the initiative of the Ministry of Finance of the Republic of Armenia's tax reform programme and the United States Agency for International Development (USAID), the work on establishing a single unified tax code in Armenia has been thoroughly investigated as an important stimulus for the further improvement of the business environment of the country and the enhancement of the attractiveness of the national economy to both national and international investors. In 2015, the RA Government approved the package of the Republic's draft laws on the "Republic of Armenia (RA) Tax Code".
As a result, from 1 January 2018, the RA Tax Code will come into force. It will regulate all the tax-related processes in Armenia. As from this date, some of the laws of the Republic will become invalid, and these include the Laws on "Land Tax" and "Property Tax". Thus, the 2018 RA Tax Code has created a Real Estate Tax, replacing the previous Land and Property Taxes.

The RA Tax Code consists of 23 chapters. Thus, Part I of the Code (General Part) includes some provisions on the taxation system, on taxpayers (tax agents) and tax bodies, on tax reporting system and accounting documents. Part II (Special Part) includes provisions on specific types of taxes, including Section 11, Real Estate Tax. The Part III (Tax Administration) contains provisions for taxpayers' registration, taxpayer service, tax control, liability, and enforcement of tax liabilities, appeal of tax agent's actions or inactions.

2 Real Estate Market

2.1 Evolution of Real Estate Market

Following the decision of the Government of the Republic of Armenia[7], a system of real estate monitoring was implemented, on the basis of which the State Cadastral Committee carries out systematic observations, such as the study of the condition, value and qualitative characteristics of the land and buildings which comprise the registered real estate. The purpose of the structured real estate monitoring is:

- To support the development of the real estate market by the introduction and / or the amendment of appropriate government policies;

[6] Yerevan is the capital and largest city in Armenia.
[7] See Decision of the Government of the Republic of Armenia No 465, 22 October 1997

- To ensure the creation of a real estate information bank containing reliable information on the real estate market; and
- To provide objective and analytical information on the status of the real estate market and the pricing situation.

As a result of the systematic monitoring of the real estate market, the Committee responsible for the Cadastre has developed a procedure for the assessment of cadastral values[8] of the lands of the urban and rural settlements, the extent of the assessment (value) zones, coefficients and baseline values, based on the principles of market pricing factors and market value formation principles[9]. The regionalised zones and coefficients for calculating cadastral values of those lands, defined by these decisions, are the basis for the fixing of the sale price of land plots (either directly or through auction), as well as for the establishment of rental levels for land let out on leases. As a result of systematic observations, the descriptions of the boundaries of zones and the coefficients of the cadastral assessment of buildings and structures have been developed and approved by the government. Systematic observations and analysis of the real estate market are carried out periodically, quarterly, bi-annual and annually, the result are published in the press and covered by the mass media. This is done to inform public authorities, real estate market participants (realtors, appraisers) and the public about the nature and development of the real estate market.

The real estate market researches show that since 2000 the following facts have had a significant impact on the volume of private sales:

- the implementation of urban and investment programmes;
- improvements in relevant legislation;
- reduction of terms of the time taken by transactions registration services;
- simplification of registration documents;
- adoption of legislative instruments arising from the RA Land Code;
- legalisation of (otherwise) unauthorised structures, by giving them legitimacy within the urban planning system; and
- the process of licensing of real estate market participants - realtors, real estate appraisers, topographic cartographers, and building designers.

The analysis “Real Estate Market in Armenia for January-September period of 2017”, published by the Committee, shows that the volume of transactions in the RA real estate market for January-September 2017 have increased by 0.8% compared with the same period in 2016. Most of these transactions are alienations (27.8%), primary registration (13.4%) and pledging (13.1%). Most of alienation transactions are transactions for sale (72.7%), fewer are transactions for donation (26.9%) and exchange transactions (0.4%).

[8] This is assessment of cadastral values are used not only for tax purposes, but also for selling State-owned lands, for lease etc.

[9] See decision No 1746-N of the Government of the Republic of Armenia on Dec. 24, 2003 "On procedure for the Cadastral Evaluation of Land Plots in the Republic of Armenia, area (location) zoning coefficients, approving borders".

The majority of transactions for sale has involved apartments in multi-apartment buildings (38.2%)

With regards to price changes for residential accommodation, the situation is that the average market prices in Yerevan on residential buildings and on apartments in multi-apartment buildings for January-September period of 2017 have decreased by 4.4% compared with the same period in 2016. Prices on residential buildings have decreased by 5.3% and prices on apartments by 3.4%. On average residential prices have decreased by 3.4% in the administrative territorial units (marzes), with the greatest decline in prices being observed in Armavir (7%), and the lowest decline (1.6%) in Tavush, but there has been an increase in prices of 0.51% in Syunik.

Regarding the land market, in the January-September period of 2017, there were 11,261 units of alienated lands, of which 56.8% of them were agricultural land. Most of alienation transactions were transactions for sale (79.8%), and fewer were donation transactions (19.5%) and exchange transactions (0.7%). However the volume of transactions for the sale of lands for the January-September period 2017 decreased compared with the same period in 2016 by 8.4%. There was a decline in the volume of transactions of agricultural lands for sale - 11.1%, but, conversely, the volume of transactions for the sale of lands under industrial objects increased (by 26.1%).

The average market prices on agricultural lands and lands for building (homestead lands) for January-September period of 2017 have increased compared with the same period in 2016 by an average of 0.9%. Details show that the prices for agricultural lands have increased by 1.73%, and prices on lands for buildings (homestead lands) have increased by 0.14%. The largest increase in prices has been observed in Shirak (3.6%), and the lowest increase has been observed in Kotayk (0.9%), but there is also an increase of prices in some marzes, with the largest decline in prices being observed in Vayoc Dzor (1.4%)).

The volume of letting transactions for rent for the January-September period of 2017 increased compared with the same period of 2016 by 11%. In addition, the volume of pledging transactions for the same period increased compared with the same period of 2016 by 16.7%, this includes the volume of pledging transactions by mortgage which increased by 54.3%.

2.2 The Number of Properties by Main Use Category

Table 25.3, Table 25.4, Table 25.5, Table 25.6 illustrate the statistics on the main use classes of real estate, real estate transactions, as well as statistical data on real estate prices and their indexes recorded in the market.

Table 25.3: Land Balance of Republic of Armenia, 1,000 ha

	2014	2015
1. Agricultural	**2,049.4**	**2,045.7**
1.1. arable land	447.5	446.7
1.2. perennial plants	33.7	34.4
1.3. hayfield	121.7	121.1
1.4. pastures	1,054.2	1,051.4
1.5. other types of land	392.3	392.2
2. Settlements	**151.8**	**151.8**
3. Land of industrial, mining and other production significance	**36.4**	**36.6**
4. Land relating to the energy sector, transport, communications, municipal infrastructure facilities	**12.6**	**12.6**
5. Special protected territories	**331.7**	**335.4**
5.1. nature protection	313.9	317.5
5.1.1. preserves	34.8	34.8
5.1.2. national parks	279.1	234.6
5.2. resorts	0.2	0.2
5.3. leisure	2.8	2.8
5.4. historical	14.8	14.8
6. Special significance	**31.6**	**31.6**
7. Forestry	**334.3**	**334.2**
8. Water	**25.9**	**25.9**
9. Reserve	**0.6**	**0.6**
Total	**2,974.3**	**2,974.3**

Source: www.armstat.am, Environment and Natural Resources in The Republic of Armenia for 2015 and time series of indexes, 2011-2015, Statistical Handbook, NSS of RA, Yerevan 2016.

Table 25.4: Number of buildings and apartments

	2011	2012	2013	2014	2015	2016
Number of multi-apartment buildings in Armenia	18,876	19,019	18,974	18,964	19,053	19,144
Number of multi-apartment buildings in Yerevan	4,793	4,802	4,808	4,813	4,817	4,865

Number of flats of multi-apartment buildings in Armenia	434,892	436,631	435,427	435,348	434,995	441,591
Number of flats of multi-apartment buildings in Yerevan	228,880	230,138	228,778	227,152	226,429	232,075
Number of residential houses in Armenia	419,129	423,624	426,593	427,959	421,129	393,560
Number of residential houses in Yerevan	54,726	55,626	56,226	56,419	58,304	59,557

Source: http://www.armstat.am/file/article/b_f_2016_1.pdf.

Table 25.5: Number of real estate transactions, 2011 - 2105, units

Region	**City**	**Average market prices per square metre of apartments**				
		2011	**2012**	**2013**	**2014**	**2015**
Yerevan		**257,400 drams**	**257,300 drams**	**271,300 drams**	**286,700 drams**	**286,700 drams**
		458.0 euro	***457.8 euro***	***482.7 euro***	***510.1 euro***	***510.1 euro***
Aragatsotn	Ashtarak	127,900 drams	111,600 drams	114,700 drams	115,800 drams	116,000 drams
		227.6 euro	*198.6 euro*	*204.1 euro*	*206.0 euro*	*206.4 euro*
	Aparan	50,200 drams	49,700 drams	56,200 drams	57,500 drams	57,800 drams
		89.3 euro	*88.4 euro*	*100.0 euro*	*102.3 euro*	*102.8 euro*
	Talin	61,900 drams	61,200 drams	64,000 drams	65,700 drams	66,100 drams
		110.1 euro	*108.9 euro*	*113.9 euro*	*116.9 euro*	*117.6 euro*
Ararat	Artashat	95,700 drams	92,300 drams	94,800 drams	96,350 drams	97,900 drams
		170.3 euro	*164.2 euro*	*168.7 euro*	*171.4 euro*	*174.2 euro*
	Masis	118,800 drams	108,900 drams	114,400 drams	115,400 drams	115,800 drams
		211.4 euro	*193.8 euro*	*203.5 euro*	*205.3 euro*	*206.0 euro*

	Vedi	93,700 drams	97,000 drams	99,400 drams	100,500 drams	101,300 drams
		166.7 euro	*172.6 euro*	*176.9 euro*	*178.8 euro*	*180.2 euro*
	Ararat	80,400 drams	73,200 drams	75,100 drams	75,400 drams	76,500 drams
		143.1 euro	*130.2 euro*	*133.6 euro*	*134.2 euro*	*136.1 euro*
Armavir	Vagharshapat	143,500 drams	151,800 drams	154,000 drams	154,150 drams	154,100 drams
		255.3 euro	*270.1 euro*	*274.0 euro*	*274.3 euro*	*274.2 euro*
	Armavir	119,000 drams	117,600 drams	120,900 drams	121,200 drams	121,200 drams
		211.7 euro	*209.2 euro*	*215.1 euro*	*215.6 euro*	*215.6 euro*
	Metsamor	82,300 drams	86,000 drams	87,300 drams	87,500 drams	87,500 drams
		146.4 euro	*153.0 euro*	*155.3 euro*	*155.7 euro*	*155.7 euro*
Gegharkunik	Sevan	90,900 drams	98,000 drams	99,100 drams	99,200 drams	99,300 drams
		161.7 euro	*174.4 euro*	*176.3 euro*	*176.5 euro*	*176.7 euro*
	Gavar	51,500 drams	53,600 drams	59,200 drams	59,800 drams	60,100 drams
		91.6 euro	*95.4 euro*	*105.3 euro*	*106.4 euro*	*106.9 euro*
	Martuni	92,000 drams	105,200 drams	107,600 drams	107,700 drams	107,700 drams
		163.7 euro	*187.2 euro*	*191.5 euro*	*191.6 euro*	*191.6 euro*
	Vardenis	34,100 drams	36,100 drams	44,000 drams	44,800 drams	44,900 drams
		60.7 euro	*64.2 euro*	*78.3 euro*	*79.7 euro*	*79.9 euro*
	Chambarak	23,200 drams	22,600 drams	27,800 drams	28,700 drams	28,700 drams
		41.3 euro	*40.2 euro*	*49.5 euro*	*51.1 euro*	*51.1 euro*
Lori	Vanadzor	88,800 drams	85,800 drams	88,200 drams	88,400 drams	88,500 drams
		158.0 euro	*152.7 euro*	*156.9 euro*	*157.3 euro*	*157.5 euro*
	Stepanavan	69,200 drams	74,300 drams	74,500 drams	74,500 drams	74,600 drams
		123.1 euro	*132.2 euro*	*132.6 euro*	*132.6 euro*	*132.7 euro*
	Spitak	91,400 drams	99,900 drams	99,800 drams	99,800 drams	99,800 drams
		162.6 euro	*177.8 euro*	*177.6 euro*	*177.6 euro*	*177.6 euro*

	Alaverdi	37,100 drams	51,100 drams	54,900 drams	55,000 drams	55,300 drams
		66.0 euro	*90.9 euro*	*97.7 euro*	*97.9 euro*	*98.4 euro*
	Tashir	43,500 drams	42,500 drams	46,500 drams	47,300 drams	47,300 drams
		77.4 euro	*75.6 euro*	*82.7 euro*	*84.2 euro*	*84.2 euro*
	Tumanyan	11,500 drams	11,100 drams	11,000 drams	11,000 drams	11,000 drams
		20.5 euro	*19.8 euro*	*19.6 euro*	*19.6 euro*	*19.6 euro*
	Shamlukh	7,700 drams	8,000 drams	8,000 drams	8,000 drams	8,000 drams
		13.7 euro	*14.2 euro*	*14.2 euro*	*14.2 euro*	*14.2 euro*
	Akhtala	19,300 drams	19,600 drams	20,000 drams	20,200 drams	20,400 drams
		34.3 euro	*34.9 euro*	*35.6 euro*	*35.9 euro*	*36.3 euro*
Kotayk	Abovyan	141,900 drams	151,800 drams	154,600 drams	155,100 drams	155,100 drams
		252.5 euro	*270.1 euro*	*275.1 euro*	*276.0 euro*	*276.0 euro*
	Nor,Hachn	125,700 drams	128,200 drams	128,500 drams	128,600 drams	128,550 drams
		223.7 euro	*228.1 euro*	*228.6 euro*	*228.8 euro*	*228.7 euro*
	Byureghavan	105,300 drams	107,000 drams	108,000 drams	108,150 drams	108,200 drams
		187.4 euro	*190.4 euro*	*192.2 euro*	*192.4 euro*	*192.5 euro*
	Yeghvard	108,600 drams	108,700 drams	109,300 drams	109,400 drams	109,400 drams
		193.2 euro	*193.4 euro*	*194.5 euro*	*194.6 euro*	*194.6 euro*
	Hrazdan	60,000 drams	59,300 drams	63,600 drams	63,800 drams	63,800 drams
		106.8 euro	*105.5 euro*	*113.2 euro*	*113.5 euro*	*113.5 euro*
	Tsaghkadzor	197,900 drams	293,300 drams	292,500 drams	292,500 drams	292,400 drams
		352.1 euro	*521.8 euro*	*520.4 euro*	*520.4 euro*	*520.2 euro*
	Charencavan	75,400 drams	83,500 drams	85,300 drams	85,500 drams	85,500 drams
		134.2 euro	*148.6 euro*	*151.8 euro*	*152.1 euro*	*152.1 euro*
Shirak	Gyumri	107,000 drams	107,200 drams	109,300 drams	109,300 drams	109,200 drams
		190.4 euro	*190.7 euro*	*194.5 euro*	*194.5 euro*	*194.3 euro*

	Artenik	63,900 drams	64,300 drams	66,400 drams	66,700 drams	66,800 drams
		113.7 euro	*114.4 euro*	*118.1 euro*	*118.7 euro*	*118.9 euro*
	Maralik	34,200 drams	36,700 drams	40,300 drams	40,700 drams	40,800 drams
		60.8 euro	*65.3 euro*	*71.7 euro*	*72.4 euro*	*72.6 euro*
Syunik	Goris	126,700 drams	115,300 drams	120,600 drams	122,200 drams	123,000 drams
		225.4 euro	*205.1 euro*	*214.6 euro*	*217.4 euro*	*218.8 euro*
	Kapan	99,700 drams	89,400 drams	91,800 drams	92,700 drams	94,000 drams
		177.4 euro	*159.1 euro*	*163.3 euro*	*164.9 euro*	*167.2 euro*
	Sisian	86,700 drams	82,100 drams	90,700 drams	91,200 drams	91,900 drams
		154.3 euro	*146.1 euro*	*161.4 euro*	*162.3 euro*	*163.5 euro*
	Meghri	68,800 drams	69,100 drams	79,500 drams	80,900 drams	82,000 drams
		122.4 euro	*122.9 euro*	*141.4 euro*	*143.9 euro*	*145.9 euro*
	Agarak	40,000 drams	41,900 drams	46,000 drams	46,900 drams	47,300 drams
		71.2 euro	*74.5 euro*	*81.8 euro*	*83.4 euro*	*84.2 euro*
	Kajaran	70,300 drams	95,700 drams	94,500 drams	94,700 drams	94,600 drams
		125.1 euro	*170.3 euro*	*168.1 euro*	*168.5 euro*	*168.3 euro*
	Dastakert	8,000 drams	8,000 drams	8,000 drams	8,000 drams	8,000 drams
		14.2 euro	*14.2 euro*	*14.2 euro*	*14.2 euro*	*14.2 euro*
Vayoc Dzor	Vayk	78,600 drams	85,400 drams	94,400 drams	95,000 drams	95,000 drams
		139.8 euro	*151.9 euro*	*168.0 euro*	*169.0 euro*	*169.0 euro*
	Yeghegnadzor	111,300 drams	118,300 drams	123,100 drams	125,400 drams	125,600 drams
		198.0 euro	*210.5 euro*	*219.0 euro*	*223.1 euro*	*223.5 euro*
	Jermuk	116,900 drams	101,000 drams	111,800 drams	112,800 drams	112,900 drams
		208.0 euro	*179.7 euro*	*198.9 euro*	*200.7 euro*	*200.9 euro*
Tavush	Dilijan	103,800 drams	103,500 drams	112,200 drams	113,300 drams	114,300 drams

		184.7 euro	*184.2 euro*	*199.6 euro*	*201.6 euro*	*203.4 euro*
	Ijevan	125,000 drams	113,100 drams	117,900 drams	118,300 drams	118,400 drams
		222.4 euro	*201.2 euro*	*209.8 euro*	*210.5 euro*	*210.7 euro*
	Berd	48,700 drams	51,500 drams	59,600 drams	60,200 drams	60,250 drams
		86.6 euro	*91.6 euro*	*106.0 euro*	*107.1 euro*	*107.2 euro*
	Noyemberyan	39,600 drams	42,100 drams	48,800 drams	49,900 drams	50,000 drams
		70.5 euro	*74.9 euro*	*86.8 euro*	*88.8 euro*	*89.0 euro*
	Ayrum	27,800 drams	25,200 drams	31,100 drams	31,850 drams	31,850 drams
		49.5 euro	*44.8 euro*	*55.3 euro*	*56.7 euro*	*56.7 euro*

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Table 25.6: Prices Indices

	Average indices to previous year of realized prices of multi-apartment residential buildings in a square metre building		Average indices to previous year of realized prices per square metre of individual residential houses (including a plot)	
Year	Yerevan	RA marzes	Yerevan	RA marzes
2003	149.8	109.2	144.8	108.5
2004	132.3	114.3	129.3	109.9
2005	124.5	130.1	123.1	125.9
2006	129.0	143.4	124.8	138.5
2007	130.7	143.9	130.1	147.3
2008	115.2	131.6	118.3	133.3
2009	75.5	87.5	79.6	89.9
2010	102.5	103.0	97.6	102.8

	Average indices to previous year of realized prices of multi-apartment residential buildings in a square metre building		Average indices to previous year of realized prices per square metre of individual residential houses (including a plot)	
2011	94.5	100.3	95.8	99.5
2012	100.0	103.5	100.4	100.7
2013	105.4	104.3	103.9	103.3
2014	100.8	100.7	100.3	100.2
2015	100.2	100.2	100.0	100.0
2016	100.3	100.3	100.0	100.2
2017	97.3	97.0	98.4	98.3

Source: http://www.cadastre.am,
www.armstat.am, Housing Resources and Public Utility of the Republic of Armenia,2003- 2015 (in Armenian), Statistical Handbook, NSS of RA, Yerevan 2004-2016.

Conclusion

The Armenian tax system on real estate emerged in the 1990s, with a tax on land and a tax on buildings, and with "real estate" being defined in 1996 legislation. The tax base remains the "cadastral value", reassessed every three years, but this is seen as a transitional situation. With the on-going development of the real estate market and increases in the volume of transactions for the various property types around the Republic, data are being gathered and analysed to provide statistical evidence which will be necessary for a future *ad valorem* tax base. In addition, a market value coding system of the types of real estate are being formulated in support on a future *ad valorem* tax base.

The 2018 Tax Code has merged the land and the buildings taxes and provided a simplified tax administration system which is aimed at improving the efficiency of the various tax systems in the country. This includes reducing the frequency of the payment of real estate taxes from bi-annually to annually, as well as requiring local authorities to calculate the taxes payable by both natural and legal persons. [10] However, at this stage, it is only possible to speculate as to the benefits which the new regime will bring.

The funding of municipalities through the revised taxes on real estate should provide increased revenue for the provision of increased and improved local services for the population.

As Armenia seeks to develop its attraction as an investment destination, it is important that the results of the improved taxation system and growing real estate markets are translated into wider economic benefits.

[10] Until the end of 2017, legal entities calculated their own tax liability.

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Real Property Taxes and Property Markets in Azerbaijan

SABUHI YUSIFOV & CAVID SULEYMANLI

Abstract The concept of real estate ownership in Azerbaijan includes the right to possession, the right to use/benefit from rights in land, and the right to dispose of the land (transfer of ownership or other rights over land to third parties). It should be noted that the right of ownership of land is a privilege accorded by the Azerbaijan Republic, to municipalities and Azerbaijani individuals and legal entities. Real estate in Azerbaijani legislation is described as "immovable property". Pursuant to the Law on the State Register of Immovable Property (the State Registration Law), the creation of rights in property (ownership and other rights), transfers and the termination of rights are subject to State registration within the Register of Immovable Property. Resident legal entities, as well as non-resident legal entities carrying out business activities through their permanent establishment in the Republic of Azerbaijan, are subject to the property tax. The annual property tax is calculated and paid by such legal entities at the rate of 1 percent of the average annual net book value of fixed assets (excluding assets used for transport). Physical persons and legal entities pay a Land Tax and a Property Tax for land in their ownership or use, situated within the territory of the Republic of Azerbaijan. Physical persons and legal entities are required to register their ownership rights by obtaining relevant registration certificates within one month of acquisition of such rights.

Keywords: • Azerbaijan • property tax • immovable property tax • valuation • tax reform

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Introduction

As an emerging economy, Azerbaijan has followed a successful path towards building a strong economy and integration into an international economic system. Numerous improvements in regulatory efficiency have led to an openness to global trade and investment, which in turn has accelerated Azerbaijan's transition to a more market-based economic system. Huge revenue from the oil industry paved the way for diversifying the economy and improving the non-oil sector. The introduction of the newly developed retail schemes to the market and further expansion of international brands into the Azerbaijani market have also accelerated economic growth. The period after 2005 also witnessed the evolution and rapid growth of a property market. An increased activity and an upward movement in prices in almost all sectors characterize the real estate market of Azerbaijan.

The concept of real estate ownership in Azerbaijan includes the right to possession, the right to use/benefit from rights in land, and the right to dispose of the land (transfer of ownership or other rights over land to third parties). It should be noted that the right of ownership of land is a privilege accorded by the Azerbaijan Republic, to municipalities and Azerbaijani individuals and legal entities.

Real estate in Azerbaijani legislation is described as "immovable property". Pursuant to the Law on the State Register of Immovable Property (the State Registration Law), the creation of rights in property (ownership and other rights), transfers and the termination of rights are subject to State registration within the Register of Immovable Property.

Resident legal entities, as well as non-resident legal entities carrying out business activities through their permanent establishment in the Republic of Azerbaijan, are subject to the property tax. The annual property tax is calculated and paid by such legal entities at the rate of 1 percent of the average annual net book value of fixed assets (excluding assets used for transport). Physical persons and legal entities pay a Land Tax and a Property Tax for land in their ownership or use, situated within the territory of the Republic of Azerbaijan. Physical persons and legal entities are required to register their ownership rights by obtaining relevant registration certificates within one month of acquisition of such rights.

Privatization of real estate ownership has led the development of a thriving property market in all real estate sectors.

1 Property tax

1.1 History

The tax system of the Azerbaijan Republic was developed at the end of 1991 and the beginning of 1992, after Azerbaijan gained independence. This process was divided into three stages.

The first stage, covering 1991-1992, saw the introduction of laws on the taxes levied on mainly revenues and expenses. In December 1991, the laws on „Value Added Tax" and "Excise", „The Taxes from different kinds of incomes and benefits of juridical persons" and „Income tax of natural persons" were passed. From the middle of 1992, the independent tax service of the Republic was created.

The second stage, from 1993 to 1996 saw the adoption of many new tax types according to the demands of the free market economy. So, the "land tax" of February 1993, the "property tax" and "mine tax" of 1995, and "the taxes of the State road fund" in December 1996 were introduced, and instructions, regulations on the application of tax laws were implemented.

The third stage, from the end of 1996 and until 2000, included the improvement in the laws that were passed at the previous stages to reflect the relevant changes in society and the economy. In addition, some amendments and changes were made when the president of the Republic signed a decree on the "elimination of false bureaucratic obstacles in the development of the ownership and the improvement of State control system" that directly concerned the taxing authorities. As a result of this stage, the introduction of the "Tax Code" is recognized as taking effect in June of 2000.[1]

The State tax service of the Azerbaijan Republic is a centralized system consisting of the Ministry of Taxes and territorial tax bodies that are directly subject to the Ministry. The structure of the Ministry of Taxes includes the local tax offices and departments, such as the Ministry of Taxes of autonomous region of Nakhchivan AR, the Education Centre of the Ministry of Taxes, the Department on "large" tax payers[2] and the institutions with special tax regimes[3], the Department of the primary investigation of tax offenses, the Baku City Chief Tax Department, Regional Tax Department, and the tax departments in towns and regions throughout the Republic.

The Ministry of Taxes is considered to be the State governing body and is subject to the President of the Government of the Azerbaijan Republic. The formation of the tax service as a centralized system enables the implementation of a common tax policy in all the regions of the Republic. The Ministry of Taxes implements a system that was formed on the subordination principle of lower bodies to higher bodies. The Ministry and all the subordinated tax bodies are juridical persons, and each of them has independent expense

[1] Hikmat Aliyev, Distributive Impact of Social Security and Tax Systems on Income Distribution: Case of Azerbaijan, Charles University in Prague Faculty of Social Sciences International Economic and Political Studies, 2013, p.20 https://is.cuni.cz/webapps/zzp/download/120126174.
[2] In terms of value of assets, or tax paid, or monopolistic/dominant market position.
[3] Enterprises with special tax regime involve taxpayers, operating under the agreements or laws on production sharing, approved by the legislation, main export pipelines and other such agreements and laws, including the law of oil and gas, oil and gas activities for export and special economic zones, which are governed by special rules for the calculation and payment of taxes in a period in taxation and tax control, as well as diplomatic and similar representations of foreign countries on the territory of the Republic of Azerbaijan, consular and other official representations.

budgets, current accounts at a bank, treasury accounts to the body of notification, their own seal in which the Azerbaijan Republic's coat of arms is described, relevant stamps and seals, and a register of individual Identification Numbers for the tax payers.

The Ministry of Taxes is headed by the minister who is personally liable for the responsibilities and duties of all the tax authorities, and is appointed to this position by the President of the Azerbaijan Republic. State tax service authorities operate on the vertical subordination principle, which accelerates the exchange of information and allows for the distribution of executive instructional materials among the tax authorities.

1.2 Taxable persons

Taxable persons comprise the following:

- Resident companies, including companies benefiting from foreign investment that are treated as residents under Azerbaijani law; international organisations engaged in economic activities; and other enterprises;
- Branches and affiliated companies of such taxpayers;
- Agencies and representative offices of foreign legal entities located in Azerbaijan; and
- Non-resident companies performing activities through a Permanent Establishment (PE) in the territory of Azerbaijan.

Enterprises can combine their assets and cooperate as joint owners. Joint owners are liable to pay tax according to their interest in the property concerned.

1.3 Tax base

The property tax base varies according to the residency status of the taxpayer. Resident companies are subject to property tax on their tangible assets as recorded on their balance sheet. Non-resident companies carrying out a business activity through a PE in Azerbaijan are only subject to property tax on their tangible assets connected with the PE.

The following assets are exempt:

- Facilities used for the purposes of the environmental protection, fire protection, and civil defence.;
- Pipelines, railways and motorways, communication and power lines, and water treatment works and irrigation facilities;
- Automobile transport which is also liable to the road tax;
- Facilities of companies involved in education, health, culture, and sports that are used only for the purposes of such activities.[4]

[4] Worldwide Tax Summaries, http://taxsummaries.pwc.com/ID/Azerbaijan-Corporate-Other-taxes#.

1.4 Tax Rates

Rates of the property and land taxes for private physical persons have been drastically reduced in Azerbaijan by the removal of the requirement that the tax value should based on the construction cost of the property, previously fixed at 0.1% of construction costs. The amendments came into effect on 1 January 2015. Now tax is calculated based on the property area in terms of square metres and its location. Different calculations will be set for housing and vacant land plots. Thus, the property tax is collected from property with surface areas exceeding 30 m^2, and with a decreasing regional factor applied. Thus, in Baku the tax rate will apply at 0.4 AZN[5] for every 1 m^2, in excess of set minimum (30 m^2). In Ganja, Sumgait and at Absheron, the rate will be 0.3 for 1 m^2 AZN, and 0.2 in other cities and regional centers. For villages and regional settlements outside large centers of population the rate will be 0.1 AZN per 1 m^2 above the 30m^2 limit. A special provision has been made for Baku: the authorized body can introduce an additional factor from 0.7 up to 1.5. In other words, the actual tax rate may vary from 0.28 AZN up to 0.6 AZN for each additional 1 m^2 above the 30m^2 limit. With effect from 1 January 2015, the tax on apartments is collected by local governmental agencies (municipalities). With regard to the taxation of landed property (such as dacha land plots, gardens, lands intended for industrial, construction, transport and other purposes). Here the rate is applied to units of 100 m^2 and varied not only depending on the regions but also on whether its area is below or exceeding 10,000 m^2 (1 hectare) in size. For private lands (dachas, gardens) in Baku, the tax rate is 0.6 AZN for every 100 m^2 of landed plots with an area less than 1 hectare, and 1.2 AZN for landed plots with area exceeding 1 hectare. In Ganja, Sumgait and Absheron, the rate is 0.5 AZN and 1 AZN per 100 m^2. In other cities and regional centres it is 0.3 AZN and 0.6 AZN. For villages and regional settlements outside large population centers the rate is 0.1 AZN and 0.2 AZN per 100 m^2. For commercial lands (industrial, construction, transport and other lands) the tax rate in Baku is 10 AZN for every 100 m^2 of land plots with an area of less than 1 hectare, and 20 AZN for land plots with area exceeding 1 hectare. In Ganja, Sumgait and at Absheron the rate is AZN 8 and 16 AZN per 100 m^2 respectively; and in other cities and regional centers -4 AZN and 8 AZN. For villages and regional settlements outside large population centers the rate is between 2 AZN and 4 AZN per 100 m^2. In practice this means that the land tax rates in Baku, for example, will be reduced 100-fold and even 1,000-fold for private land plots.[6]

1.5 Procedure for Tax Calculation and Payment

Property tax is calculated based on the average annual residual value of the enterprise's property. If the property of the enterprise is insured[7] at more than the residual value, property tax is calculated in accordance with the market value.

[5] €2 = 1 AZN (Azerbaijani manat).
[6] Reform of property and land taxes for individuals in Azerbaijan approved, http://abc.az/eng/news_12_08_2014_83033.html.
[7] Building insurance is optional in Azerbaijan.

Where the taxable value of the insured property is calculated based on its market value, the rule that the property tax is calculated on its average annual residual value of the property is not applied.

The tax period for the property tax of the enterprise is a calendar year. Property taxpayers pay 20 percent of the previous year's tax no later than the 15th day of the second month of each quarter.

Newly acquired or established legal entities which are the property of tax payers must carry out current tax payments at the amount of the 20 percent of the annual property tax to be calculated on that property not later than the 15th day of the second month of each quarter following the quarter of property acquisition.

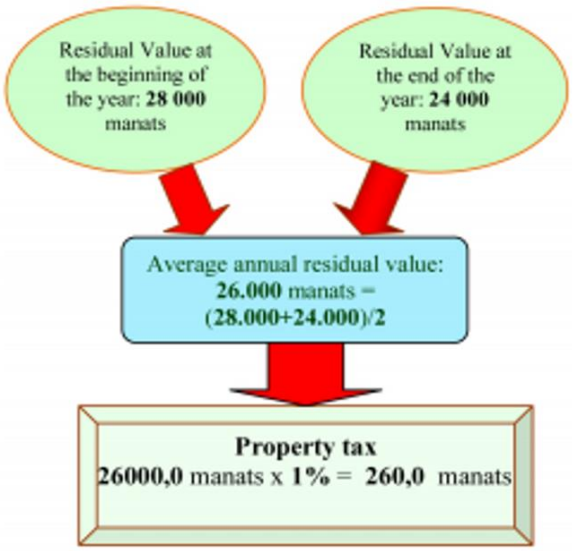
Current tax payments of the property tax are the amounts of tax paid by the taxpayer within the tax year. The amount of tax to be paid to the State budget for any given accounting period is determined by taking into account previously paid payments. If tax payments are not paid in time, interest is imposed for each day of delay. Current outstanding payments of the property tax are calculated at the end of the reporting year and if the outstanding tax is more than the tax calculated in the tax report, the amount owing and interest demanded should be reduced.

An enterprise submits the annual tax return for property tax to the tax authority not later than 31 March of the year following its accounting year. Taxes calculated on property tax returns are paid before the submission deadline for such returns. The amount of tax calculated is a deduction from income for the purposes of corporate profit tax.

The property tax on enterprises is paid directly into the State budget. Below is an example of calculation of the property tax levied on an enterprise:[8]

[8] Ministry of Taxes of the Republic of Azerbaijan, Property Tax, Baku, 2015 http://vn.taxes.gov.az/info/verginovleri/eng/emlak.pdf.

Figure 26.1: Sample calculation of Property tax[9]



1.6 Transfer taxes

No specific transfer taxes are levied upon the transfer of immovable property. However, certain notary fees and other sale duties applicable to transfer of property may apply.

1.7 Taxpayers

The following, except cases specified in by Law, are taxpayers:

- enterprises, companies and organizations (including insurance companies, banks and credit organizations), enterprises with foreign investments that are regarded as legal entities in accordance with the legislation of the Azerbaijan Republic, international companies and organizations carrying out economic (business) activity;
- affiliated companies and other branches of said taxpayers having independent balance sheets and accounts;
- bureaus, agencies and other representations of foreign legal entities (enterprises, companies, banks and other economic and financial organizations), located within the territory of the Azerbaijan Republic;
- citizens of the Azerbaijan Republic, foreign citizens and Stateless individuals possessing certain property objects on the territory of the Azerbaijan Republic subject to taxation according to the present Law.

[9] Worldwide Tax Summaries, http://taxsummaries.pwc.com/ID/Azerbaijan-Corporate-Other-taxes#.

1.8 Objects of taxation

For enterprises, the buildings recorded on their balance are objects of taxation. For a physical person's buildings as well as water and air transport vehicles (vessels, launches, motor yachts and boats, helicopters and aeroplanes) are objects of taxation.

1.9 Tax rates

1. Enterprises pay tax at a rate of 0.5 percent of value of the property being the object of taxation.
2. Physical persons pay property tax on buildings at a rate of 0.1 percent of their estimated value, (and on transport vehicles in percents of minimum wages against each horse power unit of the engine (0.7375 kWt)) at the rates shown below in Table 26.2 below.

Table 26.1: Tax Rates for Vehicles

Object of taxation, for each horse power unit (0,7375 kWt)	**Annual tax rate, in percent of minimum wages**
Helicopters, aeroplanes, vessels	5
Launches and motor yacht	3
Motor boats	1.5

1.10 Exemptions and Reliefs from taxation

1. The following are exempted from payment of the property tax:
   - budgetary companies and organisations[10], State and major local administration bodies, such as the National Bank of the Azerbaijan Republic and its branches, and lawyers' association;
   - enterprises producing and storing agricultural goods, fish farms (if their profits result from the aforementioned activity and constitute not less than 75 percent of the total profits from the sale of products);
   - specialised orthopaedic enterprises;
   - educational enterprises and institutions, sport organisations, cultural institutions;
   - religious and national cultural societies, centres, unions and organisations;
   - voluntary organisations for disabled persons and also other enterprises, companies and organisations wherein the number of disabled employees is at least 70 percent of the total number of employees;

[10] Being those funded by the State.

- construction companies involved in construction of houses (dwellings) and country houses;
- political parties, trade unions and public companies (except property used for business and commercial purposes);
- scientific research institutes, enterprises and organizations, scientific centres;
- legal entities established with the participation of foreign investments (concerning property contributed to the partnership fund by the foreign partner).

2. The following are exempted from the payment of tax on buildings except in cases where the buildings are leased to another and also used for business or commercial activity:
   - disabled persons (invalids) being participants of the Great Patriotic War of 1941-1945, National Heroes of Azerbaijan, pensioners, families that lost both adult providers and large families that have lost one adult provider;
   - parents and spouses and children who are unable to work of those individuals who died as a result of military action beginning on 20 January, 1990; military personnel who died as a result of wounds when protecting territorial integrity of the Azerbaijan Republic, or when carrying out other obligations of military services, or as a result of disease contracted in connection with service at the frontier. Spouses (wives only) of such persons are granted exemptions only if they have not married again;
   - military men required for mobilization (emergency service) and members of their families during the period of any emergency service;
   - persons that, in accordance with the Law of the Azerbaijan Republic ,,About the status and social protection of persons who participated in the liquidation of the Chernobyl catastrophe and were injured"
   - exemption is granted for five years to physical persons being forced migrants who obtained refugee status in accordance with established legislation;
   - people working in the sphere of culture and arts, and masters of handicraft using special dedicated premises (including apartments), houses-museums, art workshops, studio and also persons who provide museums, galleries, libraries and other cultural objects in their own living premises, for the period such objects are displayed.

3. Cost (market value) of the property of the enterprise is estimated and the taxable value of the object of taxation is decreased by the (estimated) cost of:
   - for objects involving communal living and either wholly or partially within social-cultural sphere,;
   - objects used exclusively in the interests of environmental protection, fire protection or civil defence;
   - property used for the production and storage of agricultural products, fish farms;
   - utility (supply of potable water) pipelines, railroads and highways (roads), communicational lines and electric power lines, irrigation systems;
   - inspection equipment and complexes of State Centre of the Azerbaijan Republic on product standards and metrology;

- means of transport otherwise liable to taxation according to the Law of the Azerbaijan Republic «About State Road Fund», means of satellite communication;
- lands.

4. For newly constructed buildings (or new means of transport), tax liability is not withdrawn until the end of the year during which the building etc. was commissioned (or in the case of means of transport, registered).

5. Local (district and city) State executive bodies have the right to exempt, wholly or partially, families who suffer financial hardship from tax payment.

6. Changes to the objects of taxation and tax rates concerning the property tax for individual categories of taxpayers may result from decisions of the Supreme Council of the Azerbaijan Republic and the Supreme Mejlis of the Nakhichevan Autonomous Republic.

1.11 Procedure for estimating the taxable value of and the payment of tax on the property of enterprises

- For taxation purposes, the average annual cost (market value) of the property of enterprises is established. The procedure for the estimation of average annual costs of the property of enterprises is established by the Cabinet of Ministers of the Azerbaijan Republic;
- Tax on property is calculated and paid from the beginning of the taxable year, quarterly, and at the end of the year;
- The amount of tax due reflects the financial results of the enterprise' activity. The tax on quarterly and annual estimates is paid within ten days from the date specified for the presentation of respective accounting reports.

1.12 Procedure for estimating the taxable value and the payment of tax on the property of physical persons

The tax on buildings is estimated every year (as at 1 May) by taxation authorities located in the same district. To this end, local agencies inform tax inspection bodies every year about the estimate cost of buildings (estimated as at 1 January). Not later than 1 August of every year, taxation agencies send tax bills to taxpayers. The total tax due is paid in two equal amounts, no later than 15 September and 15 November each year. Where the building is held by joint owners, the tax on buildings being joint property, the owners pays tax in proportion to their share in the cost (value) of the joint property.

Whenever a taxable building (or means of transport) passes from one owner to another, the former owner pays the tax for a period from the 1 January of current year until the beginning of month wherein the proprietary right passed to another, and new owner pays tax from that month onwards. On the demolition of the building (or the destruction of the

means of transport) liability to pay tax ends with effect from the month wherein said demolition (or destruction) took place.

Whenever an owner receives tax privileges, the amount of tax due is recalculated from the month wherein such privileges took effect.

Taxpayers who did not receive notification of their tax relief in due time pay tax for no more than two previous years. Inaccurately estimated tax is recalculated for not more than two previous years.[11]

2 Land tax

The land tax is levied on Azerbaijan's land resources that are in the possession of or used by individuals or companies. The land tax is imposed on the owners and users of land in an amount (defined under the Tax Code) dependent on the location, quality, and area of the land plot. The tax is payable by both resident and non-resident individuals, as well as by resident and non-resident enterprises.

2.1 Land tax rates

The rate of land tax for agricultural land is 0.06 AZN per unit. The units are determined by the relevant authority on the basis of the purpose, geographical location, and the quality of agricultural land in the administrative regions.

The rate of land tax for industrial, construction, transport, telecommunications, trade and housing servicing, and other dedicated land uses varies from 0.1 AZN to 10 AZN per 100 m^2, depending on the city or region.

[11] Law of the Azerbaijan Republic About Tax on Property, Baku, 24 March 1995, No 992. http://www.azerb.com/az-law-tax-property.html?i=1.

Table 26.2: Land tax rates

Settlements	Lands of industry, construction, transport, communication, commercial and trade services and other lands of special designation (in mantas)	
	Up to 10,000 m^2	**For the area of more than 10,000 m^2**
Baku	10	20
Ganja, Sumgait cities and Absheron district	8	16
Other towns (with the exception of regional subordination), regional centres	4	8
In towns, districts and villages of regional subordinations (with exception of districts and villages of Baku and Sumgait cities and Absheron district)	2	4

Table 26.3: Land tax rates

Settlements	Settlements of courtyards lands and land in garden plots of citizen (in AZM)	
	Up to 10,000 m^2	**more than 10,000 m^2**
Baku	0.6	1.2
Ganja, Sumgait cities and Absheron district	0.5	1
Other towns (with exception of regional subordination), regional centers	0.3	0.6
In towns, districts and villages of regional subordinations (with exception of districts and villages of Baku and Sumgait cities and Absheron district)	0.1	0.2

Table 26.4: Property tax rates

Settlement	Residential and non-residential areas owned by a physical person (AZN/m2)
Baku (0.7-1.5)	0.4
Ganja, Sumgait cities and Absheron district	0.3
Other towns (with exception of regional center subordination), regional centers	0.2
In towns, districts and villages of regional subordinations (with exception of districts and villages of Baku and Sumgait cities and Absheron district)	0.1

2.2 Taxable base

Land plots that are in ownership or use are subject to the land tax. Exemptions apply to various types of land owned or used for public purposes by the State or other public authorities. The government has the right to grant further tax exemptions and reliefs.

2.3 Assessment and procedure of payment

Companies must compute the exact amount of their land tax liability each year on the basis of documents evidencing their title of ownership, possession, and use. The computation must be submitted to the tax authorities by 15 May of each year, and the tax must be paid by 15 August and 15 November in equal amounts.

2.4 Administration

Companies are required to report the average annual value of their taxable property and pay the property tax on a quarterly basis, subject to any necessary recalculations at the end of the year. Tax payments are due within 15 days of the beginning of the second month of each quarter. The payment should be a minimum of 20 per cent of the previous year property tax amount.

The tax on vehicles (water and air means of transport) is estimated as at1 January each year by the tax offices based on data provided by the organizations responsible for the registration of means of transport. The tax is levied on the person named in the registration document.

When an asset changes ownership during the tax year, the tax liability becomes that of the new owner.

3 Property Restitution

More than 525,000 ethnic Azeri internally displaced persons (IDPs) forced to flee their homes and lands during the 1992-1994 conflict over Nagorno-Karabakh, remain expatriate within the Republic. They, and a further 200,000 ethnic Azeris who fled Armenia and who have been offered naturalization within Azerbaijan, still have unresolved housing and property restitution claims.[12]

The Republic of Azerbaijan has implemented the Law ,,On the Social Protection of Internally Displaced Persons and Individuals related to them" of 21 May 1999[13] Such persons comprise ,,Persons displaced from the places of their permanent residence in the territory of the Republic of Azerbaijan to other places within ... the country as a result of foreign military aggression, occupation of certain territories or continuous gunfire, [and] shall be considered as internally displaced persons subject to the provisions of this Law."

The relevant executive authority including local executive authorities, are required to deal with the housing of such people. Residential, administrative and auxiliary buildings may be used for their accommodation. Where there is no possibility to house them or where the density of population in a specific settlement does not allow for such a possibility, such individuals are to be settled in camps specially set up for them.

Internally displaced persons may settle on their own temporarily, only if the rights and lawful interests of other persons are not infringed. Otherwise, the relevant executive authority must ensure the re-settlement their resettlement to other accommodation.

Following a decision of the European Court of Human Rights[14], the government introduced the ,,Regulations on the Settlement of Internally Displaced Persons in Residential, Administrative and Other Buildings Fit for Residence,"[15]

In order to prevent their eviction from dwellings in which they settled during 1992-1994, the legal force of the tenancy authorisations issued by the relevant authorities to individual citizens in respect of those dwellings can be suspended.

,,Regulations on Re-settlement of Internally Displaced Persons to Other Accommodation," adopted by the Cabinet of Ministers Order No. 200, dated 24 December 1999[16]

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[12] Scott Leckie, Forced Migration Review, http://www.fmreview.org/peopletrafficking/leckie.html.
[13] The European Court of Human Rights, Case of Gulmammadova,http://hudoc.echr.coe.int/eng#{"itemid":["001-98395"]}.
[14] European Court of Human Rights, Case of Mirzayev, http://hudoc.echr.coe.int/eng#{"itemid":["001-95999"]}.
[15] Adopted by the Cabinet of Ministers Order No. 200, dated 24 December 1999.
[16] Adopted by the Cabinet of Ministers Order No. 200, dated 24 December 1999.

Also following a decision of the European Court of Human Rights[17][18], the country introduced the Regulations on the Resettlement of Internally Displaced Persons to other Accommodation. As a result of this, if the temporary settling of internally displaced persons violates the housing rights of other individuals, the IDPs must be provided with other suitable accommodation.

There is, as yet, no clear document establishing what rights to restitution and compensation the internally displaced population might have in the event of their return or permanent integration/resettlement within the country. This means that there is no clear understand of how their present actions will affect their future rights. It is therefore a matter of urgency that a full explanation of the principles of restitution and compensation be agreed (in consultation with representatives of the wider internally displaced population), codified and published as soon as possible. The Ministry of Foreign Affairs of Azerbaijan has informed Amnesty International that an Action Plan on the 'Great Repatriation', defined as 'a programme of the return of displaced persons to their [former] permanent [residence]', is currently in the process of preparation. A 'Law on Restitution' will be included within this programme. In developing standards appropriate to this Action Plan, consideration should be given to the so-called "Pinheiro principles" adopted by the UN Human Rights Council. These principles are based on existing international human rights law and standards, as well as lessons learned from other post-conflict situations. However, instruments governing the processes of restitution and compensation must include provisions for those who opt for integration or resettlement in a location other than that of their pre-war homes.

4 Privatization

The privatization process in Azerbaijan occurred in two stages. The first stage, from 1995 to 1998, ended up being extended, however, until the adoption of the Second Privatization Program in 2000. This first wave of privatization allowed for the privatization of four types of State-owned property:

- privatization of small enterprises;
- privatization of medium- and large-scale enterprises;
- privatization of banks (later excluded from the program); and
- the sale of shares in specialized investment funds (this last method did not develop into an effective privatization tool).

All privatized medium- and large-scale enterprises (except those already existing as joint stock companies) were to be restructured into joint stock companies, the shares of which were to be distributed through discount sales to employees of the privatized enterprises, voucher auctions, investment tenders, or cash auctions.

[17] The European Court of Human Rights, Case of Akimova, http://echr.ketse.com/doc/19853.03-en-20060112/view/.

The denationalization of small enterprises was carried out within the First Stage of the Privatization Programme (1995-1998). Thirty-nine thousand enterprises, as well as 1.3 million hectares of land, were sold and distributed to private persons and legal entities, and more than 1,550 medium and large enterprises were transformed into joint-stock companies. A few large enterprises were also sold to investors (both foreign and national) as part of the Programme. They include, inter alia, a brewery, cement and steel plants transferred to foreign investors. In general, the amount of revenues from privatization in 1998-2011 was 560 million AZN (more than 700 million USD). More than 500,000 jobs were created as a result of privatization.

Because the first privatization program did not fully achieve its objectives, new legislation was created -- the Privatization Law, which came into effect on 11 August, 2000, and the Second Privatization Programme, one day later on 12 August 2000. Together, these allowed for the privatization of the remaining large-scale enterprises and "strategic units" in the telecommunications, chemical and petrochemical, and metallurgy sectors.

While the new programme introduced new methods of privatization (such as the "special project" privatization designed to attract strategic investors), it retained the principal methods provided for under the first programme. Under the general principles of the Privatization Laws, all State-owned property (except certain categories prohibited by law) may be privatized. Property types that may not be privatized include subsoil reserves (e.g. of gas, petroleum), military facilities, certain entities and organizations funded by the State budget, other property units of State importance. Railways, radio and TV stations, and irrigation systems are also excluded from the privatization.

The main authority responsible for implementing the Second Privatization Programme and for coordinating the activities of other authorities regarding privatization is the State Committee on Property Issues. According to the Second Privatization Programme, the most significant State assets are privatized by a decision of the President, who also approves foreign investors' participation in such privatizations. Other properties which qualify for privatization are privatized by a decision of the State Committee on Property Issues. Specific conditions may apply to the participation of foreign investors in privatization tenders. If foreign investors participate in privatization by reinvesting funds earned in Azerbaijan, prior to participating in auctions and investment tenders, they must submit a Statement regarding such funds which is approved by the tax authorities to the State Committee on Property Issues.[19]

The Second Stage of the Privatization Programme, adopted in 2000, is still underway and covers more strategic and broader sectors of the economy such as transport, communications, construction, the chemical and heavy engineering industries, and metallurgy. It deals with the privatization of mainly medium and large enterprises.

[19] Baker & McKenzie - CIS, Limited, Doing Business in Azerbaijan 2016, Baku, 2016, pp.13-14.

Enterprises are declared "available for privatization" by special Decrees signed by the President. The list of enterprises currently open for privatization is available to the public.

Recently, based on the relevant decrees and orders of the President of the Republic of Azerbaijan, essential innovations have been initiated for the acceleration of State property privatization and increasing the efficiency of the process. Thus, according to the decision of the State Committee on Property Issues (SCPI), numerous State enterprises and objects have been declared available for privatization. The main goals of privatization are to increase economic activity in the country, the creation of new workplaces, and the extension of the small- and medium-sized entrepreneur classes, as well as to extend the involvement of more foreign and domestic investors in this process.

Since the beginning of privatization, about 47,000 small State enterprises and establishments, non-residential areas, unfinished buildings and vehicles associated with industry, trade, transport, communication and other sectors have been privatized, and nearly 1,600 medium and large enterprises has been turned into joint-stock companies (JSC) and their shares have sold in promissory bond and cash auctions.

As a result of the privatization process, more than 1,250 individuals own shares and an association of share owners have been formed comprising more than 520,000 individuals. In total, more than 1.2 million people have benefited from the privatization process in one way or another.

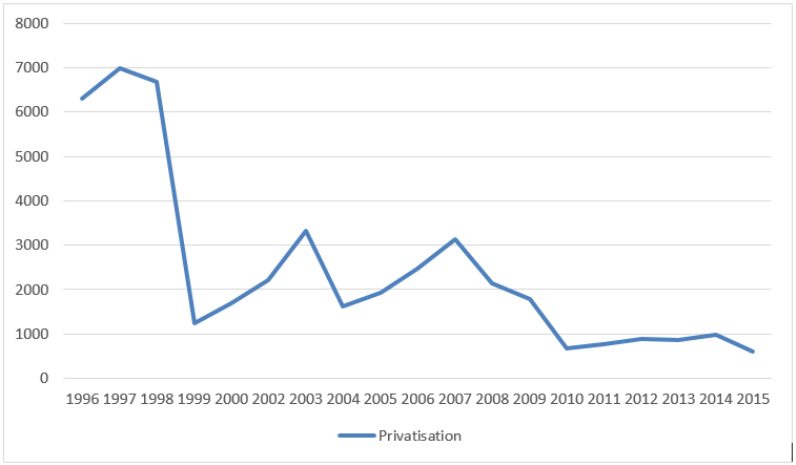
Privatization through investment tenders, which also involved local and foreign investors, has resulted in about 1.1 billion AZM investments entering into country's economy, and the volume of production has been increased to 1.5 billion AZM[20]. Privatization has also played a significant role in ensuring increased employment for the population. According to reports, more than 300 thousand of workplaces have been established in privatized enterprises. All of the above has led to an increase in the economic potential of the Republic of Azerbaijan, the formation of a competitive environment, the restructuring of many of the State-owned enterprises using new equipment and technologies, as well as the introduction of modern management practices in the enterprises.

Because of the implementation process of large-scale privatization measures, members of labour collectives within enterprises and other citizens have become property owners and shareholders. Currently, hundreds of thousands of shareholders possess shares of different open joint stock companies. They participate in the process of corporate management and make profits depending on results of the open joint stock companies activities. Market relations have development because of privatization of State enterprises, particularly in relation to the light and food-processing industries, trade, service, construction and consumer goods. Meeting local demands by producers has necessitated modern technologies, equipment and management experience. As a result,

[20] €1 = 2 AZM.

the State no longer has economic concerns and in some cases, problem areas recognized only a few years ago, have been transferred into more prompt and efficient owner structures than the State.

Figure 26.2: Privatization of Small Scale State-Owned Enterprises Between 1996-2015



Source: Statistics of State Committee on Property Issues of the Republic of Azerbaijan http://www.stateproperty.gov.az/index.php/az/ictimai-m-lumat/f%C9%99aliyy%C9%99t-hesabatlar%C4%B1-4/f%C9%99aliyy%C9%99t-hesabatlar%C4%B1-5.

Figure 26.3: Privatization of Construction Companies between 1996-2015

Source: Statistics of State Committee on Property Issues of the Republic of Azerbaijan http://www.stateproperty.gov.az/index.php/az/ictimai-m-lumat/f%C9%99aliyy%C9%99t-hesabatlar%C4%B1-4/f%C9%99aliyy%C9%99t-hesabatlar%C4%B1-5.

The chart shows that a total of 603 construction companies have been privatized. The peak level of privatization in the construction sector was in 1998 when 238 construction companies were privatized. Following 1998, there was an increase in the number of new properties by the recently private construction sector.

From Figure 26.4 below, in 2007, the State created 20 construction companies which are involved in the construction, not only real estate, but also the roads, pipelines, railways etc.

Figure 26.4: Construction Companies Established by the State between 2004-2015

Previously, people with enough money could build a house. However, certain restrictions were introduced in 2008, and those who do not have the technical base, experience and financial capacity are prohibited from entering the construction sector. This sector is already licensed and therefore ad hoc entrepreneurs and construction companies have been removed. Only professional companies that meet the required standards are now working in the construction industry.

Since 2012, electronic services have been applied in State property privatization by the extensive use of government online portals. Eight out of 31 electronic services relate to the participation in online auctions. These services include the sale of shares of joint-stock companies, small- and medium-sized enterprises, vehicles shown on the State balance sheet, the sale of confiscated properties, the acceptance of appeals to participate in auctions involving the preferential sale to labour collectives. Such services are

presented to citizens and other users within the e-services portal of the Committee or "e-government" portal. Prior to 2012, privatization had been implemented in accordance with Stages I and II of the State Programmes of Privatization and the law had been adjusted accordingly. The main goal was the transformation of State property to private property and this has largely been achieved with more than 80 percent (in terms of GDP) of the share of private sector as evidence of the fact.[21]

5 Land/Property Ownership and Title Registration

The registration of property is implemented by State Service for the Registration of Real Estate which is a part of The State Committee on Property Issues. Before applying for the registration of property, an applicant needs initial documents regarding the property and land, specifically, the 'permission to build the property' and the 'project of the building'. These two documents are provided by the Executive Authority of the city and the Department of Architecture of the city. Also necessary is the 'scheme of land' which an applicant can acquire from the State Service for the Registration of Real Estate during the course of the application process.

Incoming requests are registered in the journal of applications. Notification of receipt of the application is given to the applicant, which includes the registration number of the application, registration details and deadlines.

If the appeal is in electronic form, the application form is printed and the same procedures are implemented. Then, the corresponding confirmation is sent electronically to the applicant.

Registered documents are submitted for written executive instruction and the documents sent to the regional offices of the relevant departments for implementation.

The applicant gets two documents about the property. One shows the legal framework i.e. rights, responsibilities and obligations of the property. The other shows the technical framework i.e. built surface area, methods of construction, the property's links to public services (Technical Passport) which the engineers of the State Service measure for the Registration of Real Estate.

6 Land Tenure

According to the 1991 Law No. 256-XII on Property, real estate maybe classified as State, collective or private property. Under the 1996 Law on Land Reform, three forms of land ownership were specified: State, municipal and private. During the land reform process, the land of inhabited localities, pastures near villages, land allocated for potential development within the inhabited localities and land of little or no agricultural value were

[21] Privatization Portal, Privatization Experience, http://www.privatization.az/index.php/en/homeeng/azerbaijan/privatization-experience.

transferred to municipal ownership. Land used by the State − namely land under State institutions, pipelines, railways and main roads, water and forest resources and summer and winter pastures − remain under State ownership.

According to the same law, which distributed all the land traditionally held by large collectives between rural households, land was transferred into private title at no cost. As a result, more than 3.5 million people became owners of land. A title holder could freely sell, exchange, will, let or mortgage the land.

Private ownership includes parcels legally used by citizens – such as land under residential houses – other household parcels, individual, collective and cooperative gardens, land under the management of State-owned "dachas" and privatized land formerly belonging to the State and collective farms. IDPs and refugees did not receive land nor other agricultural assets in the farm privatization process. Although about 57 percent of all IDPs and refugee households in rural areas have access to some land, the average landholding per IDP household member is 0.09 hectares per capita, which is considerably lower than the rural average of 0.3 hectares for other citizens. After the adoption of a governmental decree in 2000, about 20,000 IDPs temporarily settled in rural areas and rented about 60,000 hectares of land for temporary use from the municipalities.

The 1998 Law on the Lease of Land No.587-IG establishes that State, municipal and private land can be leased by citizens, legal entities and foreigners. Leases can be for short-term or long-term use and lease fees may be paid in cash or in kind.[22]

7 Real Estate Market

7.1 Purchase and sale of Real Estate in Azerbaijan

Foreigners and citizens are able to exercise the same rights to buy and sell real estate according to the legislation of Azerbaijan. A foreign citizen can buy any property, except land plots. According to Azerbaijani legislation[23], only the citizens of Azerbaijan have the rights to purchase land plots.

If a foreigner is married to a citizen of Azerbaijan and the family buys land, the registration must be in the name of the Azerbaijani citizen. However, according to the Family Code of Azerbaijan Republic, all the property acquired during a marriage is common property, that is, which ever spouse is the foreigner will be entitled to half of the land. Disposal by a foreigner means that the individual's share of the land will be returned to the Republic of Azerbaijan. In addition, alienation of land is possible only with the

[22] Food and Agriculture Organization of the United Nations, Gender and Land Rights Database. Prevailing systems of land tenure of Azerbaijan, http://www.fao.org/gender-landrights-database/country-profiles/countries-list/land-tenure-and-related-institutions/en/?country_iso3=AZE.
[23] Ministry of Ecology and Natural Resources of Azerbaijan Republic, http://eco.gov.az/en/435-azerbaycan-respublikasinin-torpaq-mecellesi,clause 48/3.

written consent of the citizen spouse, except with a written testament by the foreigner spouse. In accordance with Art. 49 of the Land Code, the right of private property, transferred to foreign legal entities and individuals because of transfers by inheritance, gift and mortgage of land is alienated within one year. In case of the alienation of the right of private ownership of land plots by the foreign legal entities and individuals, the relevant executive authority or municipality can compulsorily purchase the land plot in the manner provided by the Land Code.[24]

7.2 A brief overview of the real estate market

Following the construction boom from 2003 to 2006, residential development has consistently led the real estate market. The country recorded increases in prices between 2007 and 2008, but in 2009 prices started to fall, and in 2015 real estate prices fell by 22.91 percent. The greatest decline for the year occurred in the commercial property market, where prices fell by almost 34 percent, and likewise the rental market fell 20.16percent over 2015. The exception is the land market, where prices rose by 1.58 percent between October and November 2015. Low liquidity played a major role, as the flow of capital to the real estate market dropped along with oil prices. Market activity improved in early 2016, with February recording an increase in almost all segments of the real estate market. Some commentators claimed that growth can continue if credit institutions increase their activity in the market, but generally real estate has shown a decline in property prices from the summer of 2016, with further decreases until late 2016 .Real estate for a range of prices is available in the country. However, real estate prices in the capital city are more expensive because of the location, condition, etc. Unfortunately, there are no official statistics freely and publically available on real estate prices, based on the location of the real estate. However, the changes in prices for residential premises as a percentage of sale prices are available on the official website of the State Statistics Committee of Azerbaijan[25]. Thus, based on data from independent organizations it is clear that the residential buildings in the Sabail district to the south of Baku city are more expensive compared to Nizami and Surakhani districts to the east of Baku city.

This trend continued into 2017 and since early 2017, prices in the market have fallen by 3.28 percent. Though the decline in prices has slightly slowed since the beginning of 2017, with the growth of 0.21 in the rental market, other market segments showed a decrease. Prices in the primary and secondary housing market fell by 17.4 percent and 6.29 percent, respectively. Since the beginning of 2017, prices in the land market have fallen by 4.2 percent, in the market of commercial facilities by 14.83 percent and prices in the rental market have decreased by 14.45 percent. However, this has provided opportunities for the secondary housing market, which increased its activity by 53 percent in February 2016, compared to the previous month, and in February 2016, the price per

[24] Expert SM International Law and Consulting Company, Purchase and sale of Real Estate in Azerbaijan, http://www.expertsm.com/en/useful-information/purchase-and-sale-of-real-eState-in-azerbaijan.
[25] http://www.stat.gov.az.

square metre of secondary housing in the capital, Baku amounted to 1,019USD[26]. However prices for primary and secondary housing in Baku have decreased in 2017 due to the structural changes. Prices in the housing market of the capital in October compared to September increased by 0.46% and fell by 9.16% compared to the same term in 2016. In the secondary market, housing prices fell by 0.75% in October and by 10.46% compared to October 2016, while in the primary market the prices dropped by 0.41% in October and by 4.31% compared to the same time in 2016.

7.3 The buying process - the role of an estate agent

There are plenty of realtors in each district of Baku offering a range of real estate agent services, and many properties for sale are marketed through internet sites, where property owners place advertisements individually. Real estate agent's commission is typically 2-4 percent of the property sale price.

7.4 Purchase and Sale Agreement

The contract for the purchase and sale of real estate should be notarize in order to minimize fraud because selling real estate using a notarized contract of sale will demonstrate that the owner has a document confirming rights of ownership of the property (the bill of sale). This is particularly important at the moment because there are many new buildings, but many owners of such properties still do not have a document confirming their ownership of the property.

The form of a purchase and sale agreement offered in a notary's office generally does not contain the terms and conditions governing the rights and obligations of the real estate agent. Contracts may be drawn up in two languages: English and Azerbaijani, but because the contract is notarized; it must be translated into Azerbaijani. The main terms of the contract of sale includes the price paid for the property, and the rights and responsibilities of both parties. The seller's obligations include the obligation to vacant the property by a given date. The obligation to pay the State duty is imposed on one of the parties by mutual consent, but usually this responsibility rests with the buyer.

7.5 Necessary documents and the State Fee

When making a purchase and sale by a notary, the parties should have documents to prove their identity (passport, identity card or evidence of temporary registration), and a document confirming the ownership of the property being sold selling, i.e., the bill of sale. Also required is a statement from all persons living in the property, providing written notarized consent to sell (i.e., registered members of the family). In concluding a deal of purchase and sale by a notary, a foreigner must of necessity have temporary registration in the territory of Azerbaijan, i.e. be located in the territory of Azerbaijan on legal

[26] 1 USD = €0.92.

grounds. The State duty for registration of the contract of purchase and sale of real estate by a notary in the city of Baku is AZN 200 (about €100, and in regions of the country is AZN 80 (about €40). It is also necessary to take out compulsory State insurance (cost AZN 50 – about €25 per year), and many notaries' offices also include insurance agencies. The payment of the State duty and the purchase price of the real estate should be made by bank transfer. Payment in cash is not permitted.

Depending on the area of the apartment, the fee should be paid for a technical certificate and a bill of sale, the minimum is AZN 80 (about €40). Dates for the issue of documents (between 10 and 20 days), certifying ownership will depend on the owner who submitted the documents. To obtain documents in a short period of time, it is necessary to pay extra.

7.6 Mortgage loans allocation conditions

The Azerbaijan Mortgage Fund (AMF) under the National Bank of Republic of Azerbaijan was established to improve the living condition of the population, to develop efficient housing finance mechanisms, adapting the supply of funds with genuine demand and to attract local and foreign investors into mortgage lending. Mortgage lending activities cover whole territory of Azerbaijan.

There are standard conditions which apply to mortgage loans, covering the maximum amount of the loan, rates of interest, duration etc.

Allocation of mortgage loans through the Fund should meet the following requirements:

- the loan should be paid out in Azerbaijan AZM;
- the loan should be given to Azerbaijan Republic citizens, not to foreigner applicants;
- the object of the mortgage must be residential accommodation in a block of either a flats or private apartments;
- the loan amount should not be more than 80 percent of the market price of real estate burdened with the mortgage at the date of the loan is made;
- monthly repayments should not exceed 70 percent of borrower's (borrowers') total monthly income;
- regular repayments regarding life style and the activity of the borrower (or joint borrowers) and their family, and expenses for keeping each family member, cannot be taken to be less than that indicated in the minimum standard of living determined by the government;
- the borrower's age on the last loan repayment date should not exceed the limit of the retirement age defined in legislation;
- the loan should be provided by the real estate mortgage provider;
- the real estate burdened with a mortgage should be valued by an independent evaluator listed in agent lists of the AMF;
- the rights of the mortgage holder should be registered according to the applicable laws;

- the principal amount and interest payments on the loan should be paid equally (as annuity payments) each month;
- the real estate burdened with the mortgage should be insured based on its market price and at a value not exceeding the amount provided by mortgage loan;
- the life insurance for the borrower or joint borrowers should be calculated in proportion to the individual's personal income and total amount of the joint borrowers' life insurance cannot be less than the full mortgage loan;
- Other requirements as defined by AMF.

8 Property Data

The total area of housing made available in Azerbaijan in the first half of 2014 amounted to 824,600 m^2, which is 10.2 percent less than in the same period in the previous year, according to the State Statistical Committee[27]. The total area of housing brought to the market in Azerbaijan in 2013 amounted to 2,139 million m^2. Currently, the country's total housing stock is about166.4 million square meters and the space per capita is more than 18 m^2. More than 90 percent of this figure comprises private housing.

Increasing revenues allow Azerbaijanis to upgrade their living styles, to move from old houses to new, and larger ones. Yearly increases in the birth rate and the increase in the number of marriages (and therefore household units) also increases demand for dwellings. The number of immigrants arriving in the capital from the regions as well as from other countries is also increasing, which in turn leads to pressure on supply which contributes to the growth of prices. An increase in supply in the real estate market of Azerbaijan in 2008-2010 caused a reduction in housing prices. However, the declining pace of construction since 2008 has led to the shortage of apartments in the primary housing market. This deficit is particularly noticeable in lower value housing, ultimately, reducing the supply leads to a rise in the price. [28]

Rising prices in the housing market began from the 4th quarter of 2010, amounting to about 3 percent in Baku, in 2011 – 6percent, in 2012 – 9.8percent; and the rise in the secondary market was 20 percent 2012 and in the primary market, 28 percent in 2013.

According to the central bank, real estate turnover in the first five months of 2015 dropped by 29.4 percent. In annual terms, the real estate market fell to 1,513,022 million AZN (€749,702,401) in 1 June 2015 from its peak at 2,144,146 AZM in 1 June 2014. Similarly, the secondary housing market decreased by 33.4 percent or 1,326,727 million AZM.[29]

[27] www.stateproperty.gov.az.
[28] http://cesd.az/new/?p=8792.
[29] Gulgiz Dadashova, Investing in Real Estate Abroad and at Home, https://www.azernews.az/analysis/73815.htm.

9 Decentralisation Effects

The decentralization process in Azerbaijan began in 1999 with the first elections to the municipalities. There is a one-tier municipal system in Azerbaijan, which means that there is no hierarchy among municipalities irrespective of the status of the administrative-territorial units, their fiscal capacity and the number of people living in their territory.

The Law on Municipal Finance identifies the following sources of income for local authorities:

- land tax from natural persons;
- property tax from natural persons;
- tax on the use of natural resources used in construction; and the
- municipal enterprise profit tax.

Municipal property consists of assets created from local taxes and payments; municipal non-budget funds; municipal buildings as well as municipal land; municipal enterprises and organizations; the stock of municipal apartment blocks and buildings other than dwellings; roads that do not belong to the State and that are personal property; buildings providing municipal education, health, culture and those used by sport organizations; as well as other movable and fixed property.

Municipalities have the right to assign municipal property to physical and legal entities for permanent or temporary use, lease them, privatize municipal property in accordance with the rules defined by the law, grant leases relating to municipal property, and define terms of usage of the privatized and utilized property in agreements and contracts. Municipalities may define, for the benefit of the local population, terms of use of land, which is within their borders, in accordance with the law. Municipalities may also create legal persons for economic and other activities not prohibited by the law, and may resolve the issues related to their re-organization or termination. Municipalities may define the aims, terms and rules of activity of such municipal enterprises; regulate prices and tariffs of goods (and services); approve their charters; appoint and release their managers; and review reports on their activity.

In practice, the majority of municipalities have not been able to obtain property and ownership rights over properties assigned to them, and the provision of municipalities with necessary properties is a precondition for their effective operation. Article 4 of the law of the Azerbaijan republic on „Relinquishing properties to Municipal Ownership" enacted in December 1999 stipulates that State properties or other facilities, which are necessary for the implementation of municipal responsibilities, are to be handed over to municipalities. Within three years of the enactment of that law (8 July 2002) the Cabinet of Ministers made the decision under which 92 properties in the form of buildings and constructions were officially passed to 62 municipalities, out of a total of 2,800 municipalities located throughout the country. The remaining municipalities still have not been able to obtain confirmation certificates of their rights to the assigned properties or

the properties they use, (including their administrative buildings) from the authorities concerned. For instance, no municipalities in Baku have been granted a confirmatory certificate of ownership of either buildings or lands to date.[30]

10 Role of government institutions

10.1 The State Committee on Property Issues (SCPI) of the Republic of Azerbaijan

The State Committee on Property Issues of the Republic of Azerbaijan is the central executive body implementing State policy and regulation on real estate management and its privatisation, involving investments and conducting State registration and managing the cadastre of real estate in the Republic of Azerbaijan.

The Central Office of the Committee, the State Service for Registration of Real Estate, Auctions Centre for Organisation of Auctions and regional divisions are included within the structure of the SCPI. The Real Estate Cadastre and Technical Inventory Centre, Information Technology and Information Management Centre, regional offices of the State Service for Registration of Real Estate, Production and Management Centre of Service Enterprises also operate under the SCPI. The Central Office of SCPI operates with 15 structural divisions.

The responsibility of the Committee consist of the management of State property, its privatisation, management of investments and participating in the formulation of public policy on State registration of property rights for real estate, and ensuring the implementation of this policy. In addition, the SCPI has a duty to manage State property located in the territory of the Republic of Azerbaijan and in foreign countries and to issue orders on such property, taking necessary measures aimed at increasing efficiency in the management of State property, and implementing the privatisation of State property, including the management of the State apartment fund and lands.

In addition, the committee conducts the registration of State property and implements relevant acts, organises the inventory of State property, ensures investment in State enterprises declared available for privatisation, and as well as taking measures to prepare State enterprises for privatized and their rehabilitation.

The State Committee on Property Issues compiles and conducts the registration of real estate, and other rights on real estate, ensures the maintenance of the unique cadastre of real estate and issues regarding to real estate objects, conducting necessary inventory measures for the registration of property and other rights on real estate. It also compiles relative technical documents, drawing up plan and measure of land lots, as well as

[30] https://rm.coe.int/1680719568, Strengthening Municipalities in Azerbaijan: Concept Paper, Economic Research Centre, Baku.

organises the evaluation of real estate, including constructed facilities, buildings, installations, dwelling and non-dwelling areas, individual dwelling houses and cottages, enterprises as considered by law.[31]

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[31] State Committee on Property Issues of Azerbaijan Republic, http://www.Stateproperty.gov.az/index.php/en/2014-01-18-10-59-25/2014-05-08-05-48-06.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
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Property Taxes Reforms in Kazakhstan

TOMAS BALCO, MERUYERT ASSILOVA & XENIYA YEROSHENKO

Abstract While Kazakhstan appears to be one of the most progressive countries in the Central Asian and Commonwealth of Independent States (CIS) region in terms of property taxation and its evolution and reform, there still remain areas, where the country can further improve its legislation and tax administration. The revenue potential of the property tax does not seem to be fully utilised and, despite the improvements made in the recent years, the current property tax to GDP ratio is still only half of the average property tax to GDP ratio of OECD countries. In needs however to be acknowledged that despite the significantly lower property to GDP ratio compared to the OECD average, Kazakhstan still surpasses several OECD countries in the ability to raise revenues from its property tax. In addition, the importance of the property tax in the local authority budget is clearly significant (up to 17% of the total revenues and transfers), but the relatively low property tax to GDP ratio indicates the potential of the property tax of becoming an even more significant source of local authority funding.

Keywords: • Kazakhstan • property tax • immovable property tax • valuation • tax reform

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Introduction

The chapter provides an overview of property taxes in Kazakhstan. Property taxation is not a new concept for Kazakhstan: it was already known in the territory of today's Kazakhstan in the 17th Century. During the period from 1920 to 1991 when Kazakhstan was part of the Soviet Union, however, the concept of property taxation, as well as other types of taxes, became less important as revenue-raising instruments.

During the period of independence, beginning from 1991, the concept of a property tax has re-emerged and gradually grown in importance as an instrument for revenue collection. Currently, Kazakhstan operates three types of property taxes: a tax on immovable property, a transportation tax and a land tax. Each of these types of taxes are considered as local taxes and are important sources of revenue for local authorities. However, the local tax authorities have only limited power over the design and levy of these taxes since there is no fiscal decentralisation in Kazakhstan. Kazakhstan has recently undertaken a reform of its property taxation regime, and this paper investigates the 'state of the art' in relation to these reforms.

The first part of the chapter provides the historical development of property taxes in Kazakhstan and their position in the tax system of Kazakhstan. The next section describes the current property taxes, both from a substantive as well as a procedural perspective and also touches upon the country's property tax policy. Finally, the last part is a description of the property market of Kazakhstan together with some relevant conclusions. The purpose of the paper is to acquaint the reader with property taxation in Kazakhstan, to explain specific and recent developments and also to reveal those areas in relation to property taxes that still need attention and further development.

This paper is one of the first academic and scientific pieces of literature on property tax in Kazakhstan. Except for the expert reports of selected international organisations,[1] there has been little written on this subject.

1 Property Tax

1.1 History

Property taxes in Kazakhstan date back to the 17th century, and to the existence of obligatory payments („*zakyat*") to the Khans of Kazakhs. Such payments took the form of cattle (for cattle – producing areas) and crops (for crop-producing areas), and which therefore fall under the category of land tax. The same form of in-kind land tax, along

[1] See, for example, United Nations Human Settlements Programme. Property tax regimes in Europe. 2013. https://unhabitat.org/books/property-tax-regimes-in-EURpe. 8. 4. 2017; The Food and Agriculture Organization of the UN and World Bank. Property valuation and taxation for fiscal sustainability and improved local governance in the Europe and Central Asian Region. February 2016. Land Tenure Journal. https://fao.org . 8. 4. 2017.

with additional obligatory monetary contributions from each property, was in place after Kazakhstan joined Tsarist Russia.[2] After the 1917 revolution, taxes in the Union of Soviet Socialist Republics (USSR) (and as a result in Kazakhstan) were still paid in-kind because of the poor economic situation in the country, and were primarily taxes on agriculture.[3] The situation changed in 1924, when the country moved from taxation in the form of in-kind contributions to taxation in the form of monetary contributions with the introduction of uniform agricultural tax.[4] Real estate taxes in the USSR were in place from 1 July 1981,[5] while the transportation tax was introduced years later, in 21 March 1988.[6]

When Kazakhstan became an independent country in 1991, property taxes were incorporated into tax legislation of the Republic of Kazakhstan. The Law of Kazakhstan „On the tax system in the Republic of Kazakhstan"[7] dated 25 December 1991 provided for a three-fold tax system whereby taxes were divided into national level taxes, obligatory local taxes and fees, and also other local taxes and fees.[8] The main difference between the obligatory local taxes and fees and the other local taxes and fees lay in the fact that, while the former were established by the legal acts of the Republic of Kazakhstan, so that only the tax rates were determined at the local level, other local taxes and fees were imposed directly by the local bodies.[9] At that time, property taxes in Kazakhstan included the transportation tax, the land tax and the tax on immovable property, all of which are currently present in the country. The transportation tax as well as the tax on the immovable property of legal entities fell within the scope of national taxes and their revenue funds the central budget[10], whereas the land tax and the tax on immovable property of individuals fell within the scope of the obligatory local taxes and fees.[11]

In 1995, Kazakhstan introduced new legislation „On taxes and other obligatory contributions to the budget".[12] This new law provided for a two-fold tax system, which consisted of national taxes and local taxes and fees.[13] The concept of local taxes and fees has retained the features of the obligatory local taxes and fees, whereby local authorities

[2] Reforms of 1867-1868 years. http://tarikh.kz/kazahstan-v-sostave-rossii/reformy-1867-1868-godov/, 30. 3. 2015.
[3] History of taxes and taxation in Russia. http://www.history-of-taxes.narod.ru/5.html, 9. 3. 2015.
[4] *Ibid.*
[5] Soviet Finance Encyclopedia. http://finance_loan.academic.ru/1071/%D0%9D%D0%90%D0%9B%D0%9E%D0%93_%D0%A1_%D0%92%D0%9B%D0%90%D0%94%D0%95%D0%9B%D0%AC%D0%A6%D0%95%D0%92_%D0%A1%D0%A2%D0%A0%D0%9E%D0%95%D0%9D%D0%98%D0%99, 30. 3. 2015.
[6] History of Taxes and Taxation in Russia. http://www.history-of-taxes.narod.ru/5.html, 9. 3. 2015.
[7] №1072 –XII.
[8] The Law of Kazakhstan „On the tax system in the Republic of Kazakhstan" №1072 –XII. 25. 12. 1991. Art. 15.
[9] *Ibid.*
[10] the Ministry of finance was responsible for collection, art.10, Law on Budget 1991, http://online.zakon.kz/m/document/?doc_id=1046773.
[11] *Ibid*, Art. 16-18.
[12] The Law of the Republic of Kazakhstan „On taxes and other obligatory contributions" №2235. 24. 4. 1995.
[13] *Ibid*.

have the right to set property tax rates within specified limits. In accordance with the 1995 Law, property taxes, (namely the tax on the immovable property of legal entities and individuals, the land tax and the transportation tax), fall within the category of obligatory local taxes, so that local authorities (*Maslikhats*) became responsible for their local budgets and respective spending.[14] Thus, the transportation tax has shifted from being a State to a local tax.

While there have been subsequent changes to the tax legislation, the 1995 structure of the tax legislation serves as the foundation for the current Tax Code of Kazakhstan,[15] which includes the following property taxes: the land tax, transportation tax and the tax on immovable property. Currently, the property taxes comprise one of the main categories of taxes in Kazakhstan.

While property taxes continue to be local taxes (both in the senses that the municipalities administer and taxes and in the fact that their revenue is paid into local budgets), the Laws of Kazakhstan „On Republican budget"[16] provide for various transfers of funds to the Republican budget from local budgets as well as from Republican budget to local budgets. The transfers are linked to the fact that while each of the local authorities is responsible for its own budget, the level of local revenue and expenditures varies depending on various factors, such as the number of population and the number of taxable objects. To illustrate this, the revenue/expenditure plan of the Almaty region in 2013 amounted to some 250 bln KZT[17] (approximately 1.25 bln EUR), while the revenue/expenditure plan of the Akmola region for the same year amounted to 125 bln KZT (approximately 0.62 bln EUR).[18] Accordingly, in order to provide a degree of equalisation of funds to all the regions in Kazakhstan in order to guarantee the provision of government services, the legislation of Kazakhstan provides for various transfers from and to local budgets.[19] The former happens whenever the predicted level of local revenue exceeds the predicted level[20] of local expenditures, while the latter happens whenever the predicted level of expenditure exceeds the predicted level of local revenue.[21] This is because there is no full fiscal decentralisation of the regions in Kazakhstan, so that only specific functions are divided between central and local authorities.[22]

[14] The Law of the Republic of Kazakhstan „On budgeting system" №357-1. 1. 4. 1999. Art.10-12.
[15] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget № 99-IV. 10. 12. 2008.
[16] For example the Law of the Kazakhstan „On Republic budget for 2015-2017" № 259-V. 28. 11. 2014.
[17] KZT is Kazakhstani Tenge.
[18] National budget network of Kazakhstan. http://budget.kz/mestnyy-byudzhet/, 30. 3. 2015.
[19] *Ibid.*
[20] being the level predicted by the local authorities , section IV, Law on Budget 1991, http://online.zakon.kz/m/document/?doc_id=1046773 .
[21] *Ibid.*
[22] Halikova, B. S. Decentralization as a factor for the effectiveness of public administration in Kazakhstan. 2013. http://Art.kz.com/Art./8034, 30. 3. 2015.

It is important to note the historical evolution of the property tax on legal entities, which, in 1995 was levied on the residual balance sheet value [23] of the amortised/depreciated assets of a legal entity at the rate of 1 %,[24]. Later, in 2001, the tax was levied on the residual balance sheet value of the fixed assets and intangible assets of a legal entity at the rate of 1 %[25]. It was only with the introduction of the Tax Code in December 2008, when the scope of the property tax on legal entities was reduced, that it was (and is) levied only on the residual balance sheet value of real estate property, being the buildings and structures, but at the higher rate of 1.5 %.[26]

There have also been reforms in recent years, which have increased the property tax burden on taxpayers in Kazakhstan. One such reform was introduced in December 2013, whereby the tax base of the immovable property of individuals (buildings and dacha structures[27]), (which is part of the equation for the calculation of the tax base in cities in Kazakhstan) has doubled.[28] By way of illustration, before the reform the tax base value of buildings and dacha structures in Almaty city was 30,000 KZT (approximately 149 EUR): while after the reform, the tax base value for such real estate in Almaty city increased to 60,000 KZT (approximately 298 EUR). This reform affected only property situated in the cities of Kazakhstan, and the tax base value of property situated in the regions and villages did not change.

Along with reforms in relation to the tax on immovable property, in 2013 Kazakhstan also increased the transportation tax on cars produced or imported into Kazakhstan after 31 December 2013, the engine size (volume) of which exceeds 3,000 cm^3.[29]

Finally, the most significant recent tax reform was made in December 2014 and has significantly increased the land tax rates, with effect from January 2015.[30] To illustrate this, before the 2014 reform, the base tax rate for agricultural lands of the steppe and dry steppe zones with a quality point[31] of 100 was 193 KZT (approximately 0.96 EUR) per hectare; whereas from January 2015, the base tax rate for the same category of land is

[23] The law uses the term "residual value", and in this context it is the residual balance sheet value, after the depreciation/amortization is charged on the accounting value of the property (where applicable).
[24] The Law of Kazakhstan „On taxes and other obligatory contributions to the budget" № 2235. 24. 4.1995. Art. 132-133.
[25] The Code of Kazakhstan "On taxes and other obligatory contributions to the budget" № 209. 12. 6. 2001. Art. 353 and 355.
[26] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget № 99-IV. 10. 12. 2008. Arts. 396 and 398.
[27] The term "dacha" is used usually in Kazakhstan to refer to the country homes, used as a holiday or second home.
[28] The Law of Kazakhstan „On introduction of amendments and additions to the legal acts concerning taxes" №152-V. 5. 12. 2013. Art. 1, paragraph 1(98).
[29] *Ibid*, paragraph 1(94). For details of the tax rates, please see section on transportation tax below.
[30] The Law of Kazakhstan "On introduction of amendments and additions to the legal acts concerning taxes" № 257-V. 28. 11. 2014. Art. 3, paragraph 106.
[31] The quality point of land refers to the quality and suitability of land for agricultural purposes. The higher the quality point, the more suitable is the land for agricultural purposes. Art.378, paragraph 1.

965 KZT (approximately 4.79 EUR) per hectare, being a five-fold increase.[32] The reform of the land tax rate affected only agricultural land, with an aim of promoting its efficient use.

In addition to the increase in tax rates for agricultural land, these amendments also allow local authorities to increase tax rates for unused agricultural land ten-fold.[33] Local authorities of some regions have already used this provision and increased tax rate for unused agricultural land by a factor of ten.[34] Because of the dissatisfaction of and pressure from land-owners, this ten-fold increase in tax rates was, however, only possible for 2015, and this provision was abolished effective as of January 2016.

With effect from 1 January 2018 there is a New Tax Code in place in Kazakhstan.[35] However, it introduced only minor changes to the previous property tax system of Kazakhstan.

1.2 Position of the property tax

Currently, the tax law in Kazakhstan is codified into one piece of legislation, the Tax Code of Kazakhstan, which governs both the substantive and administrative aspects of all taxes imposed in Kazakhstan, including property taxes.[36] Property and taxes are also mentioned in the Constitution of Kazakhstan, whereby individuals have a right to own a property and also have an obligation to pay legally established taxes.[37] Property taxes in Kazakhstan constitute one of the main local taxes. Their contribution to the national budget however is a minor one and, for some years, it has been rather stable (around 4-5% of national budget) as the statistical data for the years 2010 - 2016 shown in Table 27.1 reveals.

[32] For some categories of land, the increase was in excess of this five -fold ratio. Version of law until amendment https://online.zakon.kz/document/?doc_id=31636763#pos=11313;-99 Law on amendments, Art.4, para.106. https://online.zakon.kz/document/?doc_id=31635480#pos=949;-92.
[33] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget № 99-IV. 10. 12. 2008. Art. 381, paragraph 1-1.
[34] Announcement of the Akimat (local authority) of Akkol region on ten times increase of tax rates for unused agricultural lands. http://akmol.kz/news/read/12359/index.html, 12. 3. 2015.
[35] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017.
[36] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017.
[37] The Constitution of Kazakhstan. 30. 8. 1995. Arts. 26 and 35.

Table 27.1: Property tax contribution

Year	Percentage of Property taxes in the national budget	Percentage of Property taxes in relation to GDP[38]
2010	5.00 %	0.68 %
2011	4.04 %	0.58 %
2012	4.20 %	0.56 %
2013	4.04 %	0.54 %
2014	4.44 %	0.59 %
2015	5.15 %	0.65 %
2016	4.50 %	0.87 %

Source: Prepared by authors on the basis of information provided by the Ministry of Finance of the Republic of Kazakhstan, available at: http://kgd.gov.kz/ru/section/statistika and information provided by the Committee on Statistics of the Ministry of National Economy, available at: http://stat.gov.kz/.

Among the three types of property taxes, local authorities in Kazakhstan have a right to decrease or increase the land tax rates, but by no more than 50% based on the land zoning scheme.[39] Land zoning is the process of establishing the designated use and a regime for controlling the use of the land.[40] The land zoning scheme is developed by the local authorities and is used as a modifying factor in the application of the land taxes and relevant fees.[41] The change in the rate of the land tax, however, cannot be granted on an individual basis[42]. This ensures equity within the principles of taxation.

In relation to all types of property taxes, Kazakhstan operates certain tax incentives, which provide for tax exemptions or reduced rates of tax for certain categories of taxpayers, as stipulated in the Tax Code. The tax incentives, in majority of cases, apply to State-owned institutions, non-for-profit organisations and also to special activities or areas that Kazakhstan is aiming to develop by means of special tax incentives, such as special economic zones. Regarding the transportation vehicle tax, the Tax Code exempts vehicles owned by State-owned institutions, participants in the Second World War, the disabled, Heroes of the Soviet Union and other persons holding some type of Order or Title.[43]

In relation to the land tax, incentives are provided both by means of tax exemptions and a reduction of tax rates. Tax exemption applies to State-owned institutions, honoured persons, pensioners and religious associations.[44] Reduced tax rates apply to non-for-profit

[38] Not official statistics – recalculated by the authors.
[39] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017. Art. 510(1).
[40] The Land Code of Kazakhstan №442-II. 20. 6. 2003. Art. 8, para. 1.
[41] *Ibid*, paragraphs 2 and 5.
42 The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017. Art. 510.
[43] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017. Art. 490, para. 3.
[44] *Ibid*, Art. 498, paragraph 3.

organisations operating in the social sphere, technological parks and also to entities organising and holding specialist international conferences in Kazakhstan. (This last exemption was added recently to cover Expo-2017, which will be held in Astana in 2017).

Similar tax incentives exist in respect of the tax on immovable property, imposed both on individuals and legal entities. The tax on the immovable property of legal entities is not levied on State-owned institutions nor on religious associations. Reduced rates are applied to non-for-profit organisations, management companies of special economic zones and technological parks, and to entities organising and holding specialised international conferences in Kazakhstan. Meanwhile, the tax on the immovable property of individuals is not levied on heroes holding a special order or title, and orphans under the age of 18.[45] These tax incentives are established by legislation, so that it is not local authorities who enjoy discretion in their application.[46]

1.3 Structural components

There are three types of property taxes in Kazakhstan: the transportation vehicle tax, the land tax and the tax on immovable property. Each of these property taxes is paid by both individuals and legal entities.

A Transportation tax

Kazakhstan imposes a transportation vehicle tax (налог на транспортные средства) on vehicles owned by individuals as well as legal entities. Exemptions apply with respect to certain taxpayers.[47]

The transportation vehicle tax is thus a tax on property in the form of vehicles, which includes all types of transport vehicles, whether ground, water or air transport vehicles.

Taxable items under the transportation vehicle tax are all transport vehicles, with exception of trailers, mining trucks with a load capacity exceeding 40 tons, specialised medical transport vehicles, sea tonnages registered in the international shipping registry of Kazakhstan, and special transport vehicles[48] which are subject to the tax on property,[49]

[45] Until recently, the exemption also applied also to service persons - members of the armed forces.
[46] The State does not refund local authorities for revenue lost specifically as a result of these provisions.
[47] For an overview of exemptions see position of property tax section above.
[48] The Tax Code does not say specificallly what types of vehicles are subject to property tax, but as as a taxable object for property tax purposes it mentions: " инвестиций в недвижимость в соответствии с международными стандартами финансовой отчетности и требованиями законодательства Республики Казахстан о бухгалтерском учете и финансовой отчетности". The civil code also defines „immovable property" as „2. К недвижимым вещам приравниваются также подлежащие государственной регистрации воздушные и морские суда, суда внутреннего водного плавания, суда плавания «река-море», космические объекты, линейная часть магистральных трубопроводов. Законодательными актами к недвижимым вещам может быть отнесено и иное имущество." Art.117 para.2
[49] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017. Art. 491.

such as air and sea vessels, inland waterway vessels, river-sea navigation vessels, space objects, and the linear parts of main pipelines.[50]

The tax base for the vehicle transportation tax depends on the type of vehicle, as follows:

- for cars the tax base is the cubic capacity of the engine;
- for trucks it is the load capacity;
- for buses, the number of passenger seats;
- for motorbikes and motor boats – engine (horse) power;
- for cutters, yachts, aircrafts, railroad wagons – engine (horse) power;
- for tractors and non-road vehicles – per vehicle unit;
- for aircrafts – kw capacity; and
- for railway traction rolling stock and motor car rolling stock it is the kw total capacity.

The tax rate is set in the form of a monthly tax assessment index (MAI).[51] Table (27.2) with the overview of transportation tax rates depending on the type of vehicle is provided below.

Table 27.2: Transportation tax rate overview

No.	Taxable item	Tax rate (monthly assessment index)
1.	Passenger cars with the engine capacity (cm^3):	
	up to and including 1,100 inclusive	1
	over 1,100 to 1,500 inclusive	2
	over 1,500 to 2,000 inclusive	3
	over 2,000 to 2,500 inclusive	6
	over 2,500 to 3,000 inclusive	9
	over 3,000 to 3,200 inclusive	35
	over 3,200 to 3,500 inclusive	46
	over 3,500 to 4,000 inclusive	66
	over 4,000 to 5,000 inclusive	130
	over 5,000	200
2	Lorries, specialised cars with the loading capacity (ignoring trailers):	
	up to 1 ton* inclusive	3
	over 1 ton to 1.5 tons inclusive	5
	over 1.5 to 5 tons inclusive	7
	over 5 tons	9

[50] The Civil Code of Kazakhstan, General Part. 27. 12. 1994. Art. 117, paragraph 2.
[51] *Ibid*, Art. 367. MAI is determined annually by the Law on the Republican Budget. In 2018, the MAI equals to KZT 2,405, which is approximately EUR 6. As of 26 April 2018, the foreign exchange rate was 1 EUR to 399.31 KZT.

No.	Taxable item	Tax rate (monthly assessment index)
3	Tractors, self-propelled agricultural, reclamation and road building machinery and mechanisms, specialised machinery with high flotation ability and other motor transport vehicles that are not designated for use on public roads	3
4.	Buses:	
	up to 12 seats inclusive	9
	over 12 to 25 seats inclusive	14
	over 25 seats	20
5.	Motorcycles, scooters, motorsledges, small-size ships whose engine capacity:	
	up to 55 kWt inclusive	1
	over 55 kWt	10
6.	Boats, ships, towboats, barges, yachts (engine capacity in horsepower):	
	up to 160 inclusive	6
	over 160 to 500 inclusive	18
	over 500 to 1,000 inclusive	32
	over 1,000	55
7.	Aircraft	4 % of monthly assessment index per each kilowatt of the capacity
8.	Railway traction rolling stock used: for handling trains of any category on main lines; for performance of manoeuver operations on main, station and approach ways with narrow and (or) wide gauges; on industrial railway transport networks and without movement on main lines and at stations	1 %of the monthly assessment index per each kilowatt of the total capacity of the transport vehicle
	Motor car rolling stock used for the organisation of passenger carriages on main lines and at stations with narrow and wide gauges, as well as transport vehicles for urban rail transport.	1 %of the monthly assessment index per each kilowatt of the total capacity of the transport vehicle

* 1 ton being 1,000 kg.
Source: Art.492, The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017.

To illustrate the calculation of the transportation tax, consider the case of a car with an engine capacity of 1700 cm^3. Based on the Table and the applicable rate, the tax liability is 3 MAI (being 3*2,405 = 7,215 KZT, approximately 18 EUR). There are also surcharges, which apply to cars with an engine capacity exceeding each threshold above 1500 cc (in the amount of 7 KZT (approximately 0.02 EUR) per exceeding cubic centimeters), to aircraft in use after 1 April 1999 (increasing the coefficient based on age), and also for aircrafts used before 1 April 1999 (decreasing the coefficient based on age).

As of January 2014, Kazakhstan increased the tax rates for passenger cars produced in or imported into Kazakhstan after 31 December 2013, in which engine volume exceeds 3,000 cm^3.[52]

The surcharge of 7 KZT (approximately 0.017 EUR)[53] also applies to each cubic centimeters exceeding each of the given thresholds.

B Land tax

Taxpayers of the land tax in Kazakhstan are both individuals and legal entities. Exemptions apply to certain taxpayers.[54]

Taxable items for the purpose of land taxation are land plots, with certain exemptions involving qualifying categories of land.[55] These exemptions include the lands of specially protected natural territories (e.g. natural parks, nature reserves), lands of forestry resources, lands of water resources and reserved lands.[56] Furthermore, the following are not considered to be taxable items:[57]

- land plots for common use in populated areas;
- land plots occupied with the network of State-owned public roads;
- land plots occupied with items that are under a temporary closure order following a decision of the Government;
- land plots purchased to maintain rented buildings; and
- land plots occupied by buildings, or structures acquired by the State-owned Islamic special financial company under contracts made in accordance with conditions for the issuance of state Islamic securities.

The tax base of the land tax in Kazakhstan is the area of the taxable land plots,[58] either in hectares or square metres, depending on the category of the land in question (i.e. hectares for agricultural land, and square metres for land within populated areas). Importantly, the

[52] *Ibid*, Art. 492.
[53] As of 26 April 2018, the foreign exchange rate was 1 EUR to 399.31 KZT.
[54] For an overview of exemptions, see the section on the property tax above.
[55] For taxation purposes, land in Kazakhstan is divided into the following categories: (1) agricultural land; (2) lands in populated areas, which are subdivided into: lands in populated areas, (except for land occupied with housing accommodation, in particular buildings and structures attached to and for use in association with them); and lands occupied with housing accommodation, in particular buildings and structures attached to them; (3) lands used for industry, transport, communication, defence and other non-agricultural purposes (being industrial land); (4) lands within specially protected natural territories, lands used for health-improvement, recreation and historic or cultural purposes (including lands of specially protected natural areas); (5) forestry and woodlands; (6) lands used for water resources; and (7) reserved lands.
[56] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017. Art. 497, paragraph 3. The reserve lands include all lands, which are not allocated for private or agricultural use, but which are available for this purpose and are at the disposal of regional State authorities.
[57] *Ibid*, Art. 500, paragraph 2.
[58] *Ibid*, Art. 502.

land tax rate also depends on the quality points attached to the land plot, which are determined by the Agency of Land Management of Kazakhstan.

By way of illustration, Table 27.3 below provides the tax rates for agricultural lands (per hectare) as applied to lands of the steppe and dry steppe zones according to their quality points[59].

Table 27.3: Land Tax Rate Overview

№	Quality points	Base tax rate in KZT	№	Quality points	Base tax rate in KZT
1.	1	2.4	51.	51	217.1
2.	2	3.35	52.	52	222.45
3.	3	4.35	53.	53	227.75
4.	4	5.3	54.	54	233.25
5.	5	6.25	55.	55	238.55
6.	6	7.25	56.	56	243.85
7.	7	8.4	57.	57	249.15
8.	8	9.65	58.	58	254.75
9.	9	10.8	59.	59	260.05
10.	10	12.05	60.	60	265.35
11.	11	14.45	61.	61	289.5
12.	12	15.45	62.	62	303.15
13.	13	16.4	63.	63	316.3
14.	14	17.35	64.	64	329.75
15.	15	18.35	65.	65	343.05
16.	16	19.3	66.	66	356.55
17.	17	20.45	67.	67	369.8
18.	18	21.7	68.	68	383.3
19.	19	22.85	69.	69	396.6
20.	20	24.1	70.	70	410.1
21.	21	26.55	71.	71	434.25
22.	22	28.95	72.	72	447.75
23.	23	31.35	73.	73	460.95
24.	24	33.75	74.	74	474.45
25.	25	36.2	75.	75	487.8
26.	26	38.6	76.	76	501.3
27.	27	41	77.	77	514.55
28.	28	43.4	78.	78	528.05
29.	29	45.85	79.	79	541.35
30.	30	48.25	80.	80	554.85

[59] Which reflect the soil quality and the climatic conditions.

№	Quality points	Base tax rate in KZT	№	Quality points	Base tax rate in KZT
31.	31	72.35	81.	81	579
32.	32	77.7	82.	82	595.1
33.	33	82.95	83.	83	611.05
34.	34	90.4	84.	84	627.25
35.	35	93.8	85.	85	643.35
36.	36	99.1	86.	86	659.3
37.	37	104.4	87.	87	675.5
38.	38	110	88.	88	691.6
39.	39	115.3	89.	89	707.55
40.	40	120.6	90.	90	723.75
41.	41	144.75	91.	91	747.85
42.	42	150.05	92.	92	772
43.	43	155.35	93.	93	796.1
44.	44	160.85	94.	94	820.25
45.	45	166.15	95.	95	844.35
46.	46	171.45	96.	96	868.5
47.	47	176.8	97.	97	892.6
48.	48	182.4	98.	98	916.75
49.	49	187.7	99.	99	940.85
50.	50	193	100.	100	965
			101.	over 100	1,013.3

Source: Art. 503, The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017.

C Tax on immovable property

The tax on immovable property in Kazakhstan is paid by both individuals and legal entities (as well as individual entrepreneurs) and is represented by the tax on both commercial and residential buildings.

1. Tax on immovable property: legal entities and individual entrepreneurs

Legal entities and individual entrepreneurs pay tax on immovable property with respect to buildings and structures recognised as fixed assets or investments in accordance with the international accounting standards (IAS/IFRS) and the requirements of the Kazakhstan legislation on accounting and financial reporting.[60] Exemptions apply to certain taxpayers.[61] It is currently therefore a tax only on immovable property, although

[60] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017. Art. 519, paragraph 1, subparagraph 1.
[61] For an overview of exemptions see position of property tax section above.

until 2009, this tax also applied to other types of property owned by the legal entity (see 1.1 History section above).

The Tax code of Kazakhstan also provides for the exemption of certain items, including land (which is subject to the separate land tax - see above), buildings and structures under temporary closure, State-owned public roads, buildings/ structures under construction, buildings and structures constituting an integral part of the transport system (including the maintenance of the subway system), buildings and structures acquired by the State-owned Islamic special financial company under contracts made in accordance with the conditions for the issuance of State Islamic securities, and buildings and structures that are the objects of a concession contract under certain circumstances.[62]

The tax base on immovable property for legal entities and individual entrepreneurs in Kazakhstan is an average annual balance-sheet value of taxable items[63] which is determined according to accounting data and represents one thirteenth of the amount obtained in summing up the book value of the taxable items as at the first day of each month of the current tax period and the first day of the month of the period following the reporting one.[64]

The standard rate of tax on immovable property for legal entities is 1.5 %, while individual entrepreneurs and legal entities using the simplified declaration regime[65] pay tax on immovable property at the rate of 0.5 %.

2. Tax on immovable property: individuals

Individuals are required to pay tax on immovable property in respect of dwellings, buildings, dacha structures, garages and other associated buildings, structures, offices held in accordance with ownership rights as well as such buildings under construction .[66] Exemptions apply to certain taxpayers.[67]

The tax base of the tax on immovable property for individuals is an approximate value of the taxable item (determined annually by the authorised State body using a formula),

[62] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017. Art. 519, para. 2.
[63] Average value during the year, implying the sum of monthly value at the first day of each month.
[64] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017. Art. 520, para. 2.
[65] This is a specific simplified tax regime for small and medium-sized enterprise (SME) companies, which pay income tax based on their turnover rather than profit. The income tax rate is 3 % for qualifying individual entrepreneurs and qualifying legal entities.
[66] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017. Art. 528.
[67] For an overview of exemptions, see the position of property tax section, above.

which in turn depends on the type of property, its base price and the year of construction.[68] The formula is, as follows:

$C=Cb \times S \times K_{phys} \times K_{fun} \times K_{zon} \times K_{mes.\ mai}$.

For the purposes of the formula:

C – value of property for taxation purposes,
Cb – basic price of one square metre of dwelling, dacha structures,
S – useful area of dwelling, dacha structures in square metres,
K_{phys} *– coefficient of physical depreciation,*
K_{fun} *– coefficient of functional depreciation*
K_{zon} *– zoning coefficient,*
$K_{mes.\ mai}$ *– coefficient of change of the monthly assessment index."*

Such formulae are provided separately for each type of taxable construction and building together with the relevant zoning coefficients.[69] When the taxpayer has more than one such taxable item, the tax is assessed for each item separately.[70] As mentioned above, the 2013 tax reform in relation to the tax on immovable property increased the base value for property in cities and thus the property tax base for individual taxpayers.

The tax rates applied to immovable property for individuals vary depending on the value of the property in question.[71] Table 27.4 below contains the overview of relevant tax rates.

Table 27.4: Immovable property tax rate overview[72]

	Value of a taxable item	Tax rate
1.	Up to 2,000,000 KZT inclusive	0.05 %of the value of taxable item
2.	Over 2,000,000 KZT to 4,000,000 KZT inclusive	1,000 KZT + 0.08 %% of the amount exceeding 2,000,000 KZT
3.	Over 4,000,000 KZT to 6,000, 000 KZT inclusive	2,600 KZT + 0.1 %of the amount exceeding 4 000,000 KZT
4.	Over 6,000,000 KZT to 8,000, 000 KZT inclusive	4,600 KZT + 0.15 %of the amount exceeding 6, 000,000 KZT
5.	Over 8,000,000 KZT to 10,000,000 KZT inclusive	7,600 KZT + 0.2 %of the amount exceeding 8, 000,000 KZT

[68] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017. Art. 529.
[69] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017. Art. 529.
[70] *Ibid*, Art. 529, para. 9.
[71] *Ibid*, Art. 531.
[72] As of 26 April 2018, the foreign exchange rate was 1 EUR to 399.31 KZT.

	Value of a taxable item	Tax rate
6.	Over 10,000,000 KZT to 12,000,000 KZT inclusive	11,600 KZT + 0.25 %of the amount exceeding 10,000,000 KZT
7.	Over 12,000,000 KZT to 14, 000,000 KZT inclusive	16,600 KZT + 0.3% of the amount exceeding 12,000,000 KZT
8.	Over 14,000,000 KZT to 16,000,000 KZT inclusive	22,600 KZT + 0.35% of the amount exceeding 14, 000,000 KZT
9.	Over 16,000,000 KZT to 18,000,000 KZT inclusive	29,600 KZT + 0.4% of the amount exceeding 16,000,000 KZT
10.	Over 18,000,000 KZT to 20,000,000 KZT inclusive	37,600 KZT + 0.45% of the amount exceeding 18,000,000 KZT
11.	Over 20,000,000 KZT to 75,000,000 KZT inclusive	46 600 KZT + 0.5% of the amount exceeding 20 000,000 KZT
12.	Over 75,000,000 KZT to 100,000,000 KZT inclusive	321,600 KZT + 0.6% of the amount exceeding 75,000,000 KZT
13.	Over 100,000,000 KZT to 150 ,000,000 KZT inclusive	471,600 KZT + 0.65% of the amount exceeding 100, 000,000 KZT
14.	Over 150,000,000 KZT to 350, 000,000 KZT inclusive	796,600 KZT + 0.7% of the amount exceeding 150,000,000 KZT
15.	Over 350,000,000 KZT to 450, 000,000 KZT inclusive	2,196,600 KZT + 0.75% of the amount exceeding 350,000, 000 KZT
16.	Over 450,000, 000 KZT	2, 946,600 KZT + 2% of the amount exceeding 450,000, 000 KZT

Source: Art. 531, The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017.

1.4 Tax Administration

A Transportation tax

The transportation tax in Kazakhstan is self-assessed by both individuals and legal entities. The tax period of the transportation tax is a calendar year (from the 1 January to the 31 December).[73]

Legal entities are required to submit their tax assessments to tax authorities at the place of registration of the taxable object not later than the 5 July of the tax period, and also declarations not later than the 31 March of the year following the reporting period.[74] Payment is due not later than the 5 July (for transport vehicles acquired before 1 July) and not later than 10 days after the submission of declaration (for transport vehicles acquired on or after 1 July).[75]

[73] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017. Art. 495.
[74] *Ibid*, Art. 496.
[75] *Ibid*, Art. 494.

Individuals are required to pay transportation tax no later than the 31 December of the tax period at the place of registration of taxable items.[76]

B Land tax

The tax period for the land tax is a calendar year (from the 1 January to the 31 December).[77] The tax is assessed separately for each land plot[78] and is paid in the place of location of land plots (city, district in the city, village etc.).[79]

Legal entities and individual entrepreneurs are required to self-assess their land tax liability and submit their assessments not later than the 15 February of the current period.[80] Payment of the land tax is made in four equal installments and not later than the 25 February, 25 May, 25 August, 25 November of the current year.[81] Declarations are submitted by them not later than the 31 March of the year following the reporting period.[82]

As for individuals, their land tax liability is assessed by the tax authorities not later than 1 July of the year following the tax period, and they are required to make subsequent payment of the tax not later than 1 October of the year following the tax period.[83]

C Tax on immovable property

Legal entities and individual entrepreneurs are required to self-assess their immovable property tax and submit their assessments not later than the 15 February of the reporting tax period for the taxable objects available at the beginning of the tax period.[84] Tax is paid into the budget of the authority where taxable items are located[85] in four equal installments not later than on the 25 February, 25 May, 25 August and 25 November of the tax period.[86] Declarations are submitted by the 31 March of the year following the reporting one.[87]

The tax liability of individuals on immovable property in Kazakhstan is assessed by the tax authorities not later than 1st July of the year following the tax period.[88] Payment of the tax is made to the budget of the authority responsible for the location of property, and

[76] *Ibid*, Art. 494, paras. 1 and 3 accordingly.
[77] *Ibid*, Art. 515.
[78] *Ibid*, Art. 511, para. 1.
[79] *Ibid*, Art. 511, para. 4.
[80] *Ibid*, Art. 516, para. 2.
[81] *Ibid*, Art. 512, para. 1 and 3.
[82] *Ibid*, Art. 516, para. 1.
[83] *Ibid*, Art. 514, para. 1 and 3.
[84] *Ibid*, Art. 525, paragraph 2.
[85] *Ibid*, Art. 522, paragraph 4.
[86] *Ibid*, Art. 522, paragraph 5.
[87] *Ibid*, Art. 525, paragraph 4.
[88] *Ibid*, Art. 532, paragraph 1.

not later than 1 October of the year following the tax period.[89] The tax period for the tax on immovable property for individuals is also one calendar year (from the 1 January to 31 December).[90]

In cases where taxpayers fail to self-assess and/or pay their respective tax liabilities, the assessment of tax liability is made by the tax authorities based on the data held by the appropriate authorised bodies (for example, in the case of the transportation tax, the agency responsible for the accounting and registration of transport vehicles), and the relevant notice of taxes due is sent to the taxpayer within 10 days.[91] In such cases, taxpayers are liable for the amount of unpaid taxes, interest on unpaid taxes as well as for administrative penalties.

The interest on unpaid taxes is calculated based on the following formula: (amount of unpaid tax*refinancing rate of central bank/100*repetition factor[92]*number of days of delay/365).[93] As regards the administrative penalties, individuals, small businesses and non-for-profit organisations are required to pay 15 MAI;[94] medium-sized businesses, 30 MAI; while large businesses are required to pay a penalty of 50% of the amount of the unpaid taxes.[95] These administrative penalties apply as regards the non-payment of any kind of taxes, not just property taxes.

If taxpayers do not agree with the assessment of their taxes, they have a right to appeal to the higher level of tax authorities or to the courts of Kazakhstan. In the latter case, such an appeal should be made within three months after the date of the determined assessment.[96] If, however, the taxpayer appeals the results of the tax audit in particular, and such an appeal is directed to the higher level of tax authorities, then the appeal against the resulting tax liability should be made within thirty days after receipt of relevant notice from tax authorities.[97]

1.5 Valuation

In accordance with the Law of Kazakhstan „On valuation activities"[98] there are two types of valuation: obligatory and initiative. Obligatory valuation includes the valuation of

[89] *Ibid*, Art. 532, paragraph 7.
[90] *Ibid*, Art. 533.
[91] *Ibid*, Art. 114, paragraph 2.
[92] Set in the tax code, currently as 1.25. For the years 2013-2017 was 2.5.
[93] Online government services and information.
http://online.zakonhttp://egov.kz/wps/portal/Content?contentPath=/egovcontent/tax_finance/taxation/Art./1october-nalogi&lang=ru, 30. 3. 2015.
[94] MAI is determined annually by the Law on the Republican Budget. In 2018, the MAI equals to KZT 2,405, which is approximately EUR 6. As of 26 April 2018, the FX rate was 1 EUR to 399.31 KZT.
[95] The Code of Kazakhstan „On administrative violations" №235-V. 5. 7. 2014. Art. 277.
[96] The Civil Procedural Code of Kazakhstan № 411-I. 13. 7. 1999. Art. 280.
[97] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017. Art. 667.
[98] The Law of the Republic of Kazakhstan „On valuation activities" № 109-II. 30. 11. 2000. Art. 6.

items of immovable property belonging to individuals for tax purposes. It does not however, provide for the obligatory valuation of property owned by legal entities. In this respect, it is important to indicate that the obligatory valuation for tax purposes is undertaken under a State monopoly, so that it is authorised State bodies that determine the value of a property of individuals for tax purposes.[99]

With regard to legal entities, the Civil Code of Kazakhstan[100] provides for an obligatory valuation in cases where the ownership of immovable property is transferred into the capital of a company, and only if the value of such property exceeds 20,000 MAI.[101] Furthermore, the property of legal entities is subject to such a valuation whenever there is no documentary evidence confirming the acquisition costs of property.[102] Otherwise, the property tax for legal entities and individual entrepreneurs is determined based on the average balance sheet value, and if individual entrepreneurs do not keep accounting records and do not prepare financial statements, then the taxable value is equal to the total historical expenditure connected with a property.[103]

The property valuation process in Kazakhstan is governed by a Valuation Standard „On the valuation of the cost of immovable property".[104] The Valuation Standard applies to the valuation of the following types of immovable property: land (including agricultural land), all buildings and installations, buildings under construction, transfer devices and perennial plantations.[105] The Valuation Standard provides for three approaches to property valuation that are used for different situations, namely the income approach, the cost approach and the comparative approach.[106] The income approach is generally used for property that is capable of generating income, whereas the cost approach is generally used for property that is not commonly on the market (i.e. unique types of property, such as historic buildings). Finally, the comparative method is used when there are sales transactions in the market of comparable immovable property and the relevant data is available.[107] [108]

1.6 Revenue Performance

The revenue raised from the taxes discussed in this chapter are shown in Table 27.5.

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[99] *Ibid*, Art. 6-1.
[100] The Civil Code of Kazakhstan, General Part. 27. 12. 1994. Art. 59, para. 1.
[101] MAI is determined annually by the Law on the Republican Budget. In 2018, the MAI equals to KZT 2,405, which is approximately EUR 6. As of 26 April 2018, the foreign exchange rate was 1 EUR to 399.31 KZT.
[102] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017. Art. 520, para. 6.
[103] *Ibid*, Art. 520, para. 1 and 6.
[104] The Valuation Standard „On the valuation of the cost of immovable property" Attachment 3 to the Order Ministry of Justice of the RK No.115 dated 25.02.2015. "
[105] *Ibid*, Art. 2.
[106] *Ibid*, Art. 2.
[107] *Ibid.*
[108] For the method descriptions as provided by the law, see also: http://kazprice.com/standart-otsenki-otsenka-stoimosti-nedvizhimogo-imushchestva.

Table 27.5: Revenue Performance

Year	2010	2011	2012	2013	2014	2015	2016
GDP (million KZT)	21,815,517	27,571,889	30,346,958,2	35,275,153.3	38,033,064.4	40,877,969.2	31,355,100
Tax revenue on national level (million KZT)	2,934,080,7	3,982,337.9	4,095,366.3	4,779,004.3	5,115,743.4	5,178,643.6	6,023,262.7
Tax revenue on local level (million KZT)	850,526	981,125.6	1,119,761.2	1,268,419.2	1,449,650.7	1,550,987.7	1,747,3760
Property tax revenue (million KZT)	148,407.8	161,169.4	172,304.6	193,453.4	227,174.7	267,029.9	273,694.5
% of property tax in GDP	0.68 %	0.58 %	0.56 %	0.54 %	0.59 %	0.65 %	0.87 %
% of property tax on national level	5.05 %	4.04 %	4.2 %	4.04 %	4.44 %	5.15 %	4.54 %
% of property tax on local level	17.44 %	16.42 %	15.38 %	15.25 %	15.67 %	17.21 %	15.6 %

Source: Prepared by authors on the basis of information provided by the Ministry of Finance of the RK, available at: http://kgd.gov.kz/ru/section/statistika and information provided by the Committee on Statistics of the Ministry of National Economy, available at: http://stat.gov.kz/.

1.7 Property tax policy

While Kazakhstan does not have a separate document covering the tax policy of the country in a holistic manner, tax policy issues are commonly covered in addressees by the President of the country as well as in programme documents of the Government of Kazakhstan. One such document is "Strategy Kazakhstan – 2050", which sets out a direction for the country to move forward.[109] In accordance with this document, property tax reform is likely to reflect the following priorities:

- review of existing tax incentives to maximize their efficiency;
- introduction of higher rates for unused lands to stimulate appropriate use;
- the simplification and minimisation of tax reporting; and
- the migration to electronic tax reporting for taxpayers.

[109] Address by the President of Kazakhstan „On strategy Kazakhstan -2050: new political course of the established state". 14. 12. 2012. http://www.akorda.kz/ru/addresses/addresses_of_president/poslanie-prezidenta-respubliki-kazahstan-nnazarbaeva-narodu-kazahstana-14-dekabrya-2012-g, 27.04.2017.

There is also another important development that is currently being made in Kazakhstan that will affect the administration of property taxation, namely the switch to universal income and property declarations, whereby all individuals will be required to report their income, expenses and also assets, which include property, in one declaration.[110] The universal income and property declaration in Kazakhstan was initially planned to be introduced within the tax system from 2017. However, the introduction was subsequently postponed until 2020.[111]

2 Evaluation of Real Estate markets

2.1 Privatisation

Privatisation in Kazakhstan started immediately after the country became independent in 1991 and went through a three-stage process.[112] Stage I (1991-1992) of the privatisation process was aimed at establishing the ownership of all State property, identifying the agent of the owner, and an setting up and administrative framework for the delegation of ownership rights. In addition, it was to facilitate the privatisation of 50 % of the small- and medium-size industrial and agricultural enterprises, small shops, and trade and service establishments.[113]

Stage II (1993-1995) focused on the privatisation of medium-sized and large enterprises.[114] This stage also included the privatisation of small scale enterprises (with a focus on privatization of the remaining small businesses), mass privatisation (with a focus on privatization of the remaining medium-sized businesses), the case-by-case privatisation (with a focus on large businesses) and also the privatisation of agricultural property (with a focus on State-owned farms).[115]

Finally, stage III (1996-1998) completed the privatization process,[116] resulting in all main and essential economic and social enterprises being privatised.[117]

The privatisation of apartments began within Stage I of the privatisation process and quickly led to the establishment of a housing market in Kazakhstan.[118] Every person in Kazakhstan was given privatisation coupons free-of-charge which could be used to

[110] Decree of the Government of Kazakhstan №975. 23. 9. 2010. www.online.zakon.kz, 30. 3. 2015.
[111] The Code of the Republic of Kazakhstan concerning taxes and other obligatory payments to the budget No.120-VI. 25.12.2017, Section 71.
[112] Jermakowicz, W., Kozarzewski, P., Pankov, J. Privatization in the Republic of Kazakhstan. 1996. p.5. http://www.case-research.eu/sites/default/files/publications/4886193_085e_0.pdf, 30. 3. 2015.
[113] *Ibid.*
[114] *Ibid.*
[115] *Ibid.*
[116] *Ibid.*
[117] Dosmagambetov, E.C. Development of private market in Central region of Kazakhstan and its initial results. 2006. http://www.Art.kz.com/Art./6042, 30. 3. 2015.
[118] Burminsky, D. Historical stages of privatization in Kazakhstan. 2014. http://socdeistvie.info/analitic/185-istoricheskie-etapy-privatizacii-v-kazahstane.html, 30. 3. 2015.

acquire an apartment from the government.[119] The number of coupons depended on the length of the individual's work experience (e.g. 400 coupons were given for 1 year of work experience),[120] while financially-dependent persons were given two thousand coupons.[121] Each coupon was equivalent to 1 RUB (RUB[122] was used until the new national currency was introduced).[123] Later, apartment coupons were also used to acquire rights in the privatisation of small scale units in the agricultural industry.[124]

The legal framework of the privatisation process was facilitated by the State's enactments for the functioning of the private economy, which included:

- new property legislation (1991);
- corporate law (1995);
- civil and contract codes (1994);
- bankruptcy laws (1992);
- anti-trust laws (1994);
- securities law (1994);
- labour law (1991); and
- investment law (1993).[125]

Currently Kazakhstan is experiencing another massive privatisation process. In 2014 Kazakhstan auctioned 267 of its State-owned enterprises[126]; while in 2015, 172 State-owned enterprises were auctioned.[127] Later in 2015, the government approved a new privatisation plan for 2016-2020,[128] in accordance with which it is proposed to reduce State ownership of semi-public sector entities by 15% by 2021. Additionally, it is planned to transfer 5% of communal property into a for-profit status.

2.2 Limitation on land/property ownership

The right to property ownership is protected by the Constitution of Kazakhstan.[129] The term "property" includes objects, money (including foreign currency), financial instruments, the outcomes of works and services, intellectual property, trademarks,

[119] *Ibid.*
[120] https://tengrinews.kz/zakon/pravitelstvo_respubliki_kazahstan_premer_ministr_rk/jilischno_kommunalnoe_hozyaystvo/id-R920003910_/.
[121] *Ibid.*
[122] RUB is the Russian Ruble.
[123] *Ibid.*
[124] *Ibid.*
[125] Jermakowicz, W., Kozarzewski, P., Pankov, J. Privatization in the Republic of Kazakhstan. 1996. p.5. http://www.case-research.eu/sites/default/files/publications/4886193_085e_0.pdf, 30. 3. 2015.
[126] The fact that some companies were auctioned does not mean they were indeed sold. Some were removed from the auction process, some were liquidated, reorganized, etc.
[127] Association of taxpayers of Kazakhstan. http://www.ank.kz/news/actual/57079/?print=Y, 30. 3. 2015; Center of business information Capital. Retrieved from https://kapital.kz/economic/45328/v-ramkah-privatizacii-v-rk-prodano-217-obektov.html, 1. 6. 2016.
[128] See Resolution of the Government of the RK No. 1141 dated 30 December 2015.
[129] The Constitution of Kazakhstan. 30. 8. 1995. Art. 26.

copyrights, property rights and other property.[130] The Constitution provides that all land and underground resources, waters, flora and fauna and other natural resources belong to the State, and that rights over land may be privately "owned" on terms, conditions and within the limits provided by the legislation.[131]

The ownership of land is governed by the Land Code of Kazakhstan.[132] In accordance with the Land Code and also in line with the Constitution, while in principle the land in Kazakhstan belongs to the country, land plots can be owned by individuals and legal entities (including non-residents).[133] Citizens of Kazakhstan are allowed to privately own land for the purpose of agricultural production, private subsidiary farming, forestry, gardening, private housing and dacha construction, as well as land intended for the construction of (or already constructed) industrial and residential buildings and their complexes, including land used for buildings services.[134]

Legal entities of Kazakhstan are allowed to own land plots for commercial agricultural production, forestry, as well as for the construction of (or already constructed) industrial and residential buildings and their complexes, including land used for buildings services.[135]

Meanwhile non-resident individuals and legal entities and also stateless persons can privately own land plots intended for the construction of (or already constructed) industrial and residential buildings and their complexes, including land used for buildings services.[136] There is an explicit restriction on the private ownership of land for non-resident individuals and legal entities as well as for stateless person, which prevents their ownership of land for the purpose of commercial agricultural production and forestry.[137]

As a general exception, lands within specially protected zones, such as national parks and reservations, cannot be privately owned.[138]

There is a limitation on the right of non-resident individuals to own real property. As provided by the Law of Kazakhstan “On legal status of foreigners”, foreigners permanently resident in Kazakhstan have the same rights and obligations as citizens of Kazakhstan in respect of housing matters.[139] This means that Kazakhstani authorities do not allow foreigners to own residential property in Kazakhstan unless they have residence permits. Kazakhstani legal entities with foreign capital, however, are allowed to own

[130] The Civil Code of Kazakhstan, General Part. 27. 12. 1994. Art. 115.
[131] The Constitution of Kazakhstan. 30. 8. 1995. Art. 6.
[132] The Land Code of Kazakhstan №442. 20. 6. 2003.
[133] *Ibid*, Art.Art. 3 and 20.
[134] *Ibid*, Art. 23, paragraph 2.
[135] *Ibid*, paragraph 3.
[136] *Ibid*, paragraph 4.
[137] *Ibid*, Art. 122, paragraph 2.
[138] *Ibid*.
[139] The Law of Kazakhstan „On legal status of foreigners” №2337. 19. 6. 1995. Art. 9.

residential property without any restrictions. Non-residential property in Kazakhstan can be owned by non-resident individuals and legal entities without any restrictions, since the legislation does not provide for any restrictions.

2.3 Nature of the property market

The development of the property market in Kazakhstan can be divided into three stages.[140] The first stage (at beginning of the 1990s - 2000) was characterised by high demand and a low supply of property throughout the country.[141] The second stage (2000 - 2004)[142] was characterised by increases in the purchase price of property, the emergence of new forms of sales and new opportunities for buyers, such as hire-purchase sales from government[143] and mortgage loans.[144] The third stage (2005 onwards) is characterised by further increases in the demand side, the enactment of stricter legislation by the Parliament of Kazakhstan and also by strong competition in the property market.[145]

The stabilisation of the property market in Kazakhstan began in 2001 thanks to positive macroeconomic indicators, low inflation rates and the gradual and limited devaluation of the local currency (*tenge* - KZT) in relation to the US dollar.[146] Accordingly, it seems that the property market has gone though the stage of decline and is currently enjoying a period of stability.

However, in February 2014 property market prices rose significantly (by about 18 %) because of the overnight devaluation of the local currency and it took some time before it again started to stabilise because of the discounts that the market started to offer.[147] The devaluation of the local currency affected the number of sale and purchase transactions, which decreased by 14.7 % within the last 10 months of 2014, as compared to the same periods in 2013.[148]

Despite a decrease in the demand for property in 2014, prices for property in Kazakhstan continue to rise. The price of new accommodation in 2014 rose by 20 % compared to

[140] Pak, A.C. Dinasylova C.A. Characteristics and perspectives of property market in Kazakhstan. 2014. http://Art.kz.com/Art./9191, 30. 3. 2015.
[141] *Ibid.*
[142] Abdimominova, A.S., Berikbolova, U.D. Formation and development of real estate market in Kazakhstan. n.d. http://www.rusnauka.com/2_KAND_2009/Economics/39647.doc.htm, 30. 3. 2015.
[143] Hire-purchase arrangements permit the person to initially rent the place from the government upon making an initial lump sum payment of certain percentage. That person then makes regular rental payments for certain number of years until the price of the property is fully paid. Compared to the usual mortgage, the individual does not need to obtain loan.
[144] Pak, A.C. Dinasylova C.A. Characteristics and perspectives of property market in Kazakhstan. 2014. http://Art.kz.com/Art./9191, 30. 3. 2015.
[145] *Ibid.*
[146] *Ibid.*
[147] Pribylovsky, P.Real estate: Kazakhstan's growing sector. n.d. http://www.edgekz.com/real-estate-kazakhstans-growing-sector/, 30. 3. 2015.
[148] Mazhbiyeva, A. What will happen with prices on property in 2015 in Kazakhstan. 2014. http://forbes.kz/process/property/chto_budet_s_tsenami_na_nedvijimost_v_kazahstane_v_2015, 30. 3. 2015.

2013 prices, while the price of secondary accommodation rose by 17 %.[149] It is worth mentioning that the Government of Kazakhstan is continuously supporting the property market by allocating funds for the construction of "affordable" property under its "housing programmes".[150] Buyers in Kazakhstan tend to purchase completed property as opposed to those under construction because of the experience of fraud perpetrated by construction companies and the misappropriation of buyers' funds in previous years.[151]

3 Property Data

3.1 Title registration

Title registration within the legal cadastre is obligatory in Kazakhstan and is governed by the Law of Kazakhstan "On state registration of immovable property rights".[152] In accordance with this Law the following property rights are subject to registration:[153]

- Ownership rights;
- Rights of economic management;
- Rights of operation management;
- Land use rights for a period exceeding one year; and
- Servitude for a period exceeding one year.

Other rights of a right holder can also be registered in the legal cadastre if the right holder so wishes.

The right to property arises on the day the right is registered in the legal cadastre.[154] Therefore, cadastre registration is of major importance for the legality of rights that fall within the scope of the Law. Furthermore, in cases where several rights to property conflict, rights registered in the cadastre (where such registration is required under the Law) have priority over the unregistered rights.[155] Individuals and legal entities are required to submit their application for registration of property rights within six month after the judicial event that gives rise to the property right.[156]

The legal cadastre of immovable property in Kazakhstan includes all the information about the existing and former rights over immovable property as well as other objects of registration, the identifiable characteristics of each property, the holders of the property

[149] *Ibid.*
[150] See Government Decree №821. 21. 6. 2012 (expired in 2014), and Government Decree №728. 28. 6. 2014 (effective as of 1 January 2015).
[151] Pribylovsky, P. Real estate: Kazakhstan's growing sector. n.d. http://www.edgekz.com/real-estate-kazakhstans-growing-sector/, 30. 3. 2015.
[152] The Law of Kazakhstan „On state registration of immovable property rights" №310-III. 26. 7. 2007.
[153] *Ibid*, Art. 4.
[154] *Ibid*, Art. 7, paragraph 1.
[155] *Ibid*, Art. 7 paragraph 6.
[156] *Ibid*, Art. 9.

rights, and also information about inquiries regarding the provision of data from the cadastre.[157]

Registration in the cadastre is made within three days after the submission of an application package to the authorised bodies.[158] With effect from 2015, the Government has also introduced electronic registration of rights to property, which is made through notaries (via a unified notary information system) and registration is made within one day after electronic application is submitted.[159]

Conclusion

As discussed above, both the private ownership of property as well as its taxation in Kazakhstan has been undergoing dramatic developments in the last 25 years.

Taking the overall situation in the Central Asian region and in the post-Soviet area, one can observe that Kazakhstan is continuously striving to get things "right" in the area of private ownership of property and also the taxation thereof.

Notable also are the efforts of Kazakhstan in its use of the methods of modern property and tax administration, which are represented by increasing use of e-government and the opportunities for owners to register their property ownership electronically, to file tax returns and pay their taxes electronically. The notification about the successful submission of a tax return is delivered directly to the taxpayers' electronic mailing addresses, with the proper indication of the date of such submission, date of processing, the amount of the assessed tax, the classification code and the respective taxpayer account.[160] The payment of taxes can be made both via taxpayer's personal cabinet (portal)[161] and electronic government website.[162] Taxes are transferred to the State Treasury within 24 hours following payment.[163] Additionally, individuals are able to pay their property taxes by means of automated teller machines (ATMs), home-banking services and the web kiosks of the banks.[164]

Furthermore, what is also notable are the efforts of Kazakhstan to carry out continuous reforms of its property taxation, which are directed at aligning the tax bases with market values. This is being reflected in the ongoing efforts of the authorities, demonstrated by the adjustment of the tax rates as well as the calculation formulas and indexes, which still

[157] *Ibid*, Art. 11.
[158] *Ibid*, Art. 23.
[159] Official website of the Prime Minister of Kazakhstan. http://www.primeminister.kz/news/show/27/v-rk-vnedrena-elektronnaja-registratsija-prav-na-nedvizhimoe-imuschestvo-ao-%C2%ABnit%C2%BB/27-02-2015, 30. 3. 2015.
[160] *Ibid.*
[161] The name of the tool through which the taxes could be paid online – "e-office of the taxpayer".
[162] *Ibid.*
[163] *Ibid.*
[164] *Ibid.*

only approximate the real market values. These efforts have clearly reversed the downward trend in the ratio of property tax to GDP, despite the country's growing GDP. The tax to GDP % declined in 2010-2013,[165] but this decline was reversed in recent years (2014-2016) as a result of the reforms taken.[166] There is however still a difference between the real market value and the tax bases determined in accordance with the tax law.

In the case of land, the trend is still towards area-based taxation, where the tax rates vary depending on the type and location of land, and the efforts of the government to incentivize the optimal and active use of land are visible. The tax base is however not determined with reference to market value, but the tax rates seek to approximate the tax burden to the likely market value of land. There is a lack of economic analyses of the efficiency of this approach to evaluate its effectiveness. This could be an area for potential further critical research to analyse the remaining revenue potential in the area of land tax.

In the case of immovable property, the situation is different depending on whether the taxpayer is a legal entity (or individual entrepreneurs) or an individual (non-entrepreneurs).

In the case of legal entities and individual entrepreneurs, the tax base is the balance sheet value, which in many cases reflects the historical acquisition value/cost. This could also be close to the market value of the property, assuming the property was acquired or constructed recently or was revalued to reflect its market value. Taxpayers may however be motivated to alter the valuations downwards or not to value the land in their accounting records upwards in order to avoid a higher tax burden. Until now, no evidence has been observed that the tax authorities challenge the valuations of property for property tax purposed, which is a consequence of the fact that currently the tax law merely mirrors the accounting value, rather than establishes the market value as the tax base. Independent auditors would also be unlikely to qualify the audit reports, where the real estate property is undervalued, because this does not risk the overstatement of fixed assets, which they would otherwise likely address in their conclusions.

In the case of private individuals, the valuation takes place on the basis of a complex formula, which is supposed to simulate and approximate the property market value. The most recent reform came into effect in 2014 which has lead to an adjustment of the base prices of immovable property in the cities, and which has led to further approximation of the property values to their market value. The complex formula may not fully reflect the market value of the real estate property, especially in cases of significant year-by-year appreciation of the property, where the formula indexes would have to be regularly updated and also further refined to reflect the differences between different municipal districts. One could, on the other hand, argue that this formula is relatively easily administered by the local authorities, provides for objectivity and does not lead to

[165] The decline was from 0.68 % tax to GDP in 2010, down to 0.54 % tax to GDP in 2013.
[166] The increase was from 0.54 % tax to GDP in 2013, up to 0.87 % in 2016.

disputes. It also avoids the significant investment in qualified human resources needed for the qualified valuation processes, which could be also prone to subjectivity, corruption and disputes. Further analytical research could be carried out into the pros and cons of the formula-based property tax base determination in developing countries and Kazakhstan could be a good example for such analyses.

In the case of the taxation of property comprising transportation vehicles, the tax base also does not fully correspond to the market value, but rather reflects the size of the engine. However, even here, significant changes came into effect in 2014, which imposed a dramatic increase in the tax burden on new large-volume vehicles, which may go some way to reflect the value of the vehicle.

While Kazakhstan appears to be one of the most progressive countries in the Central Asian and Commonwealth of Independent States (CIS) region in terms of property taxation and its evolution and reform, there still remain areas, where the country can further improve its legislation and tax administration. The revenue potential of the property tax does not seem to be fully utilised and, despite the improvements made in the recent years, the current property tax to GDP ratio is still only half of the average property tax to GDP ratio of OECD countries.[167] In needs however to be acknowledged that despite the significantly lower property to GDP ratio compared to the OECD average, Kazakhstan still surpasses several OECD countries in the ability to raise revenues from its property tax.[168] In addition, the importance of the property tax in the local authority budget is clearly significant (up to 17% of the total revenues and transfers), but the relatively low property tax to GDP ratio indicates the potential of the property tax of becoming an even more significant source of local authority funding.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
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Development of Property Taxation in Turkmenistan

LEONID KHVAN, MARINA GOLEVA & MAHRI MUSAYEVA

Abstract The system of property taxation established by the Tax Code of Turkmenistan looks quite simple at first sight. On the one hand, the main tax legislation is modern and meets the needs of the State and society. Tax rates are low, not only in comparison with other CIS countries, but also with other countries in the world. However, this fact reflects the poor development of the real estate market, including the market for land plots. At the same time, land plots in Turkmenistan cannot be objects of private ownership: the granting of rights to land plots is limited to private plot activities, household plots and private housing construction purposes, and the scope of use is limited by the framework of inheritance. In spite of its low tax rate (1 %), the property tax has a fiscal nature without any additional functions. As far as land charges are concerned, it is important to include them in the scope of taxes of the Tax Code of Turkmenistan. Currently, land charges are levied on the basis of Government Decrees. This fact conflicts with the modern trend towards the supremacy of State law in taxation. Turkmenistan respects the principle of transparency with regard to the publication of laws and regulations in the area of budgetary legislation, as well as information concerning the fiscal policy of the State. Nevertheless, in practice researchers face a lack of transparency from the financial and tax bodies. Indirectly, this is a negative in the working of the tax system of the country.

Keywords: • Turkmenistan • property tax • immovable property tax • valuation • tax reform

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Introduction

Turkmenistan is one of the few countries in Central Asia, which show a rather impressive GDP growth rate. However, over the last six years, the reduced prices for natural gas (the main export of the country) have led to a significant reduction in the growth rate. Indeed, the Turkmenistan growth rate fell from 14.7 % in 2011 to 6.2 % in 2016, and the estimate for 2017 is 5.3 %. Certainly, the reliable evaluation of the country's economy and its institutional capacities is only possible in the context of many other factors, including socio-political and legal influences.

Unfortunately, a range of variables used for such type of researches, such as statistical information from the State authorities, national institutions and enterprises, the results of scientific researches, administrative practice and case law in Turkmenistan, are, for the most part, not available.

The lack of transparency in the activities of the State authorities does not allow significant conclusions to be drawn with regard to the role and trends of taxation within the economic development of the country.

Nevertheless, an in-depth analysis of the available electronic materials and legislation does permit a general overview on the development of the property taxation in Turkmenistan.

Some specific legislative solutions in Turkmenistan, draft laws potentially amending existing administrative procedures and the registration of rights to and transactions in real estate[1] lead to the conclusion that the State authorities are seeking to make significant progress by improving the business climate and the legal environment affecting the privatisation of the State-owned property.

Although the chapters and articles of the Tax Code of Turkmenistan and the legislation on the charges on land-utilisation are not highly developed with regard to the property tax, research contributes to an understanding of how the character of the statutory regulations influence the development of the private sector in Turkmenistan and the attraction of foreign investments.

The introduction of the legislation on the ownership of land and other immovable items, identifies the legal gaps as well as the potential for the enhancement of the capabilities of individuals and foreign legal entities with regard to privatisation within the industry-specific scope and from an advantageous legal environment perspective.

[1] „On administrative procedures", and to amend the Law of Turkmenistan „On State registration of rights on real estate and transactions involving real estate".

1 Tax Legislation of Turkmenistan. General overview

The tax legislation of Turkmenistan is based on the provisions of the Constitution of Turkmenistan,[2] the Tax Code of Turkmenistan[3] and other legislative instruments.[4] The Tax Code consists of two parts: the first (General) part regulates general taxation issues, and the second (Special) part contains a detailed description of the taxes and fees levied in the Republic.

Thus, the Tax Code establishes the system of taxes collected by and allocated to the State budget of Turkmenistan; the general principles of taxation; the grounds for the imposition and fundamentals (adjustment, termination) of tax liabilities and the regime of the performance of tax liabilities; the rights and duties of taxpayers and tax authorities; the forms and methods of tax control; the penalty for the violation of tax legislation; and the right of appeal against decisions of tax authorities and the actions of their officials.

Taxes collected by the State budget of Turkmenistan are distributed between the central budget and local budgets. For instance, in 2017[5], the standards of contributions were applicable to the following national taxes: VAT, tax for use of mineral resources, corporate income tax. In 2017[6], the State budget of Turkmenistan was 103,571.6 million TMTs[7]. TMTs, and expenses represent 104,871.6 million TMTs.[8] However, there is no information available with regard to the structure of the income distributions or the income raised from each tax.

The tax system of Turkmenistan includes taxes (which are a compulsory individual non-refundable payment, determined and levied by the State from individuals and legal entities for the purposes of financial support for the activity of the State and collected for the State budget of Turkmenistan), duties and charges (special types of taxes). The following taxes are levied in the Republic and fund the State budget:

- value-added tax, payable at 15%;

[2] Constitution of Turkmenistan (new version). Adopted by the law of Turkmenistan from 18. 5. 1992 г. №691-XII. Art. 42 of Constitution establishes that „every person has an obligation to pay state taxes and other payments in the regime and in the amount determined by the law". Source: http://minjust.gov.tm/ru/mmerkezi/doc_view.php?doc_id=8124 (1. 5. 2017).
[3] The Tax Code of Turkmenistan from 25. 10. 2004. // *Vedomosti* of the *Majlis* of Turkmenistan. 2005. №3-4. p.37.
[4] Note, Art.7 Law of Turkmenistan „On legal acts (new version)" from 07.12.2005, states that: "solely law regulate a budget-finance system, price formation, taxation" // *Vedomosti* of the *Majlis* of Turkmenistan. 2005. №3-4. p.30.
[5] Under the Law of Turkmenistan „On State budget of Turkmenistan for 2013". Source: http://www.turkmenistan.gov.tm/?id=2563 (09.05.2015).
[6] 17th session of the fifth convocation *Majlis* of Turkmenistan, the Law „On State budget of Turkmenistan for 2017.
[7] TMT is the abbreviation for local currency – Turkmen *manat*.
[8] Source: http://minfin.gov.tm/ru/node/94 (1. 4. 2017).

- excise tax, payable by manufacturers, distributors of excisable products (including alcohol, tobacco, fuel and transport), with rates of tax varied according to the product;
- tax for the use of mineral resources, payable by those engaged in mineral extraction, as well as the use of land and underground water sources for commercial purposes, with the rates of tax varying according to the type of resource and the level of profitability of production;
- property tax, payable on fixed and current assets used in production processes, at a rate of 1% of the book value;
- corporate income tax, payable on the basis of gross profit less statutory deductions, at 8% for resident corporates and 20% for other legal entities;
- individual income tax, payable at 10%; and
- a fix patent charge (fix amount of income tax) and additional patent charge (tax from the gross proceeds from income generating activity).[9]

The income of the local budgets is generated from tax revenues and other revenues defined by the legislation of Turkmenistan.[10] The revenues of the State budget of Turkmenistan are distributed between the centralised budget and the budgets of the provinces and the (capital) city of Ashgabat.[11]

Local taxes in Turkmenistan are classified as:

- advertisement charges, paid by distributors of commercial advertising (except contractors[12]) with the rate of tax varying from 3 - 5% depending on the location of distribution;
- a target fee for the development of the infrastructure of the territories of the cities, towns, and villages. For individuals, the tax payable is 2 Turkmen *manats* (approx. 0.7 EUR) per month; for entrepreneurs it is 0.3% of gross income, but not less than 2 Turkmen *manats* per month; for agricultural entreprises it is one half a percent of profits; and for other legal entities, it is 1% of profit (This fee is discussed further below);[13]
- a charge paid by the owners of car parking areas, at a rate per square metre of land, depending on its location;
- a charge levied on the disposal of a motor vehicle (cars, trucks and buses), with the taxpayers being persons involved in the sale of motor vehicles, the rate of tax being based on a multiple of the minimum wage and the type of vehicle;[14] and

[9] These apply within the framework of the simplified tax system applicable to the income of entrepreneurs.
[10] The Budget code of Turkmenistan. Adopted on 1. 3. 2014. Source: http://minjust.gov.tm/ru/mmerkezi/doc_view.php?doc_id=15004 (9. 5. 2015).
[11] In accordance with the law of Turkmenistan "on the State budget of Turkmenistan" for the planning period. (Art. 8 of the State Budget Code of Turkmenistan).
[12] In accordance with the Law of Turkmenistan "On hydrocarbon resources".
[13] Under Article 207 of the Tax Code.
[14] Paragraph 4, article 217 of the Tax Code of Turkmenistan.

- a dogs owners' charge payable by such individuals residing in the cities, and at a rate of 0.4% of the minimum wage.[15]

The target fee for the development of the infrastructure of the territories of the cities, towns, and villages is collected from:

- Individuals – being residents of Turkmenistan working under an employment contract and contracts of a civil nature related to the performance of employment duties concluded with legal entities: and residents of Turkmenistan, as well as foreign legal entities operating in the territory of Turkmenistan through a branch, representative office, individual entrepreneurs. These legal entities and individual entrepreneurs are recognised as tax agents;
- Individuals – residents of Turkmenistan who are not connected with legal entities, individual entrepreneurs and who receive income from the performance of work under civil contracts, receiving royalties or remuneration for the creation, performance or otherwise of works of science, literature and art, remuneraion of the authors of discoveries, inventions and industrial designs, from the implementation of scientific, creative activities, performance of other duties, as well as persons independently engaged in the production of agricultural products. This category of persons includes individuals who receive income from employment from abroad;
- individuals - individual entrepreneurs; and
- legal entities, including foreign ones, operating in the territory of Turkmenistan.

In addition, the local authorities (*Gengesh*[16]), also have a right to introduce local charges and procedures for payments.[17] However, the charges listed above are paid to the local budgets and not shared with the State.
The local budget is a form of income and expenditure of monetary funds designed for the financial support of the goals and functions of local authorities (known variously as *velayat*, Ashgabat (capital) city, *etrap*, city with the right of *etrap*, and *etrap* in the city).

In the provinces, *etraps* and cities, the members of the local authorities (the *Halk Maslakhaty*) are elected by citizens residing in the respective administrative-territorial units (Art. 109). The *Halk Maslakhaty*:

- participate in the organisation of economic, social and cultural development programmes;
- approve the local budget and its execution report;

[15] Tax Code of Turkmenistan.
[16] The *Gengesh* is the body with local administrative functions, which acts as a representative body of public power on the territory of the city in *etrap*, village or on the territory of one or several towns. See: The law of Turkmenistan „On the (new version)" from 25. 10. 2005. Source: http://minjust.gov.tm/ru/mmerkezi/doc_view.php?doc_id=5466 (1. 4. 2017).
[17] Art. 86 of the Constitution of Turkmenistan, under Art. 20 of the Law „On the *Gengesh* (new version)" from 25. 10. 2015, subsequently amended on the 16. 4. 2015. Source: http://minjust.gov.tm/ru/mmerkezi/doc_view.php?doc_id=5466 (1. 4. 2017).

- assist in the observance of law and order, protection of the rights and legitimate interests of citizens;
- receive the information of the heads of local Executive authorities on the activities carried out in the fields of economic, social and cultural development of the territory; and
- resolve other issues referred by the legislation of Turkmenistan to the competence of the *Halk Maslakhaty*.

Resolutions adopted by the *Halk Maslakhaty* are obligatory for execution in the respective territory. The functions, powers and order of activity of the *Halk Maslakhaty*, and their membership are determined by law (specifically, the Constitution of Turkmenistan).

The tax year in Turkmenistan aligns with its financial year (1st January to 31st December).[18] The tax services are administered by the Main State Tax Service of Turkmenistan and its representatives located in the *velayats*, cities and *etraps*.

The Tax Services are partially financed by the State, specifically 50 % of their costs are financed from the State budget, and 50 % from the funds received from punitive sanctions and late payment penalties.

1.1 Procedure for the registration of a taxpayer

Official registration as a taxpayer is required for:

- individuals-entrepreneurs;[19]
- legal entities established according to the legislation of Turkmenistan;
- foreign legal entities established in Turkmenistan through their branches and representative offices;
- foreign legal entities acting in Turkmenistan as permanent establishments; and finally
- foreign legal entities which are not acting in Turkmenistan through branches, representative offices or permanent establishment and which hold real estate in Turkmenistan.

The corresponding taxpayers have to be registered at:

- their place of establishment;
- the place of (individual's) residence;
- the place at which they carry out the relevant activity within the territory of Turkmenistan; or

[18] The Budget year is the financial year. Law of Turkmenistan „On the budget system" from 18. 6. 1996 (Art. 3).
[19] The Tax Code of Turkmenistan determines specifically that „individuals-entrepreneurs" are taxpayers of the property tax.

- the place of location of their property.

If a taxpayer has any doubts concerning the place of registration, the final decision is taken by the Main State Tax Service of Turkmenistan.

The State Tax Register of Turkmenistan consists of a register of individuals and a register of legal entities. Both registers are maintained by the Main State Tax Service of Turkmenistan.

1.1.1 Property tax

The property tax in Turkmenistan is classified as a:
- property tax imposed on State-owned legal entities;
- property tax imposed on non-State-owned legal entities; and
- property tax imposed on other taxpayers.[20]

Table 28.1: Taxpayer for the property tax purposes

	Taxpayer	
1	Legal entities	owning a property
2	State-owned legal entities	holding on its books a property which is subject to tax
1	Lessee (party of a leasing agreement)	in the case of holding of a taxable property on lease
2	Concession holder	in the case of holding of a taxable property under a concession agreement
3	Landlord (party of a rent agreement)	in the case of the transfer of a taxable property under a rental agreement by a taxpayer of property tax (except State-owned legal entities)

[20] Attachment №1 to the order of Ministry of Finance of Turkmenistan from 1. 3. 2011 № 24 „The classification of State Budget income" Source: http://minfin.gov.tm/pdf/rubudget/Turkmenistanyn%20Dowlet%20byujetinin%20girdejilerinin%20toparlara%20bolunisi-r.pdf (24. 3. 2017).

4	Operator of property	in the case of a transfer of state-owned or municipal-owned property under a rental agreement

Source: Authors' own.

Property tax in not payable by:

- State-funded organisations;
- The Museum of National Values of Turkmenistan;
- The Central Bank of Turkmenistan;
- Privately owned legal entities (not publicly traded) ; nor
- State public and administrative authorities, local executive and administrative authorities.

According to the Law of Turkmenistan „On hydrocarbon resources"[21], legal entities, who are acting as contractors and subcontractors within the hydrocarbon industry, are exempt from the payment of property tax. The legislation[22] defines oil works as all kind of works on exploration and production which are carried out according to the agreement (between the Concern and the Contractor) on carrying out oil works. In this situation, "production" means all types of extraction from the subsoil of hydrocarbon resources by primary methods, or with artificial maintenance of energy of layer, to storage, preparation, loading, warehousing, transportation, measurements, deliver and marketing of hydrocarbon resources. Also included are other activities including the construction of facilities of infrastructure and other constructions, the acquisition and lease of tangible and intangible assets, according to the Agreement or at the request of Concern.

Nevertheless, in the case of property generally used for petroleum activities[23], but unrelated to the petroleum industry's taxable transactions, such entities become taxpayers for property tax purposes. Thus, the payers of the subsoil use tax are legal entities and individuals (individual entrepreneurs) engaged in the extraction of mineral resources in the territory of Turkmenistan, including those involved in chemical elements and compounds, as well as the extraction and sale of underground water (hereinafter – minerals) for profit. However, legal entities and individuals who are contractors and subcontractors are not recognised as taxpayers for subsoil use. When these persons carry out activities which are not related to oil works and in accordance with the Law of Turkmenistan "On hydrocarbon resources", they are subject to the subsoil use tax.

[21] Law of Turkmenistan, August 20,2008. No. 208-III, On hydrocarbon resources. Available at: http://cis-legislation.com/document.fwx?rgn=24234.
[22] Article 129 of the Tax Code of Turkmenistan, part 2, and Article 1 of the law "On hydrocarbon resources".
[23] Under Art. 129 Tax Code of Turkmenistan.

1.1.2 Classification of the types of property in Turkmenistan

For the purposes of taxation, property in Turkmenistan is classified according to its ownership, as shown in Table 28.2.

Table 28.2: Types of property in Turkmenistan[24]

	Type	Notes
1	Private property	a) Private property is subdivided into the property of individuals and the property of legal entities of Turkmenistan; b) Private property of legal entities is divided into: • the property of enterprises; and • the property of entrepreneurial unions.
2	State-owned	
3	Property of non-governmental (unions) organizations	
4	Property of co-operative associations	
5	Property of joint ventures	Joint ventures with the participation of legal entities and individuals of Turkmenistan and foreign States can own any property required for carrying out of activities specified by their incorporation documents
6	Mixed (combined) property	
7	Property of international organisations	

[24] Arts. 6 - 27 of the Law of Turkmenistan "On the ownership" from 21.11.2015 as subsequently amended on the 15. 10. 2016 № 461-V Source : http://minjust.gov.tm/ru/mmerkezi/doc_view.php?doc_id=15069 (24. 3. 2017).

8	Property of foreign States, their legal entities and individuals (citizens and stateless persons)	Foreign legal entities have a right to own industrial and other enterprises, buildings, installations and other properties used for carrying out of business and other activities to the extent permitted by the applicable law of Turkmenistan and according to the procedures established by the legislation of Turkmenistan.

Source: Arts. 6 - 27 of the Law of Turkmenistan "On the ownership" from 21.11.2015 as subsequently amended on the 15. 10. 2016 №461-V at http://minjust.gov.tm/ru/mmerkezi/doc_view.php?doc_id=15069 (24. 3. 2017).

Taxable activities and assets are defined[25] and outlined in Table 28.3 below.

Table 28.3: Taxable activities and assets

Type of a party	**Legal object**	**Notes**
Legal entity - resident of Turkmenistan	Property, plant and equipment (fixed assets), as well as circulating and current assets (inventories) used for industrial purposes	The legal object is the property located both within the territory of the country and outside of Turkmenistan
Legal entity - non-resident of Turkmenistan, acting through its branches, representative offices or permanent establishments within the state	Property, plant and equipment (fixed assets), as well as inventories used for industrial purposes	These assets should be located within the country and should be part of the property of the representative offices or permanent establishments
Legal entity - non-resident of Turkmenistan, which is not acting through its branches, representative offices or permanent establishments	Industrial real estate	These assets should be located within the territory of the country

Source: Authors' own, based on Article 139 of the Tax Code of Turkmenistan.

[25] Art. 139 of the Tax Code.

Both subsoil and State reserves' of property, as well as property having a preservation status[26], are exempt from taxation according to the Tax Code.

1.1.3 Tax and accounting period.

The taxable period is the fiscal year. The accounting period is the first quarter, the first half of the year, nine months, and the fiscal year.

If the property was acquired and disposed of during the calendar year, the taxable period with regard to this property is determined as the period when the property was in fact owned by a taxpayer during that calendar year.

1.1.4 Property tax allowances

The following types of entities are exempt from property taxation: investment pension funds; non-governmental organisations of persons with disabilities; non-governmental organisations; religious associations; educational institutions; health care institutions; and agricultural undertakings.

The Tax Code also provides for tax allowances to the following: gas pipelines (excluding main gas pipelines),[27] railway lines, and public highways; property used for the production and storage of agricultural and forestry products; property used in housing and communal services; utilities' infrastructure; property used solely in science, education, sport, rehabilitation of persons with disabilities; environmental conservation, etc.; property used for the storage of urban public motor transport (excluding taxis); new buildings and other infrastructure for the reception of tourists in the national touristic zones during the first 15 years of completion.[28]

According to the Tax Code[29], the following are not included in the tax base for the purposes of individual income tax:

- assets received from the disposal of the property owned by individuals, excluding assets received from the disposal of the property acquired as a result of an entrepreneurial activity, as well as from the disposal of shares, bonds and other securities, interest participation in the capital of the legal entity; and
- the value of privatised property, received according to the Law of Turkmenistan.

[26] According to a Resolution of the Government of Turkmenistan.
[27] Law of Turkmenistan „On the main gas pipelines" from 4. 5. 2013, Ashkhabad, Source: http://www.turkmenistan.gov.tm/?id=4039 (1. 5. 2017).
[28] Art. 143, the Tax Code of Turkmenistan.
[29] Art. 187.

Table 28.4: Tax basis for property tax

Object of taxation	Tax basis	Notes
Property, plant and equipment (fixed assets)	Annual average net book values	
Circulating and current assets (Inventories)	Annual average value	Value is determined on the basis of the accounting data and other documentary supported information.

The tax basis is defined separately for each object of taxation[30] as the average value of the designated objects for every corresponding accounting period (i.e. quarter).

The tax basis for the corresponding accounting period is determined as one fourth, one seventh, one tenth and one thirteenth part of the total amount of (net assets) values of the objects of taxation in the first day of each month of the accounting period and the first day of the month following the accounting period.

1.1.5 Tax rate

The property tax rate in Turkmenistan imposed on the tax base is 1 %. The estimated rate for the corresponding tax period is calculated in the following way:

- 0.25 % - from the tax basis for the first quarter;
- 0.5 % - from the tax basis for the first half of the year;
- 0.75 % - from the tax basis for nine months;
- 1 % - from the tax basis for the fiscal year.

1.1.6 Property tax assessment

The amount of tax payable is calculated by the taxpayer. It is determined as the tax base (i.e. the annual average net book values) for the accounting period, multiplied by the tax rate, minus the amount of property tax calculated for the previous accounting period.

The Tax Services is able to levy the assessed amount of tax or additional payments due to the assessed amount of tax for five years after the issue of the tax payment notice.

The property tax can be deducted from the corporate income tax of a legal entity.[31]

[30] Excluding the tax exempt property, according to the allowances provided by the legislation.
[31] Art. 145 of the Tax Code.

1.1.7 Tax return and payment of tax

The tax return and the terms for the property tax payment should be submitted to the local tax authorities according to the place of registration at the end of every tax period, in particular before the 20th day of each month following the accounting period.

The property tax should be paid by the taxpayer before the 25th day of the month following the accounting period.

Certain categories of taxpayers can have different terms for the submission of their tax return and payments of property tax, and these are determined by the Main State Tax Service of Turkmenistan. In any event, payment must be made not later than 30 days after the statutory due date for tax payment.

The taxpayer is obliged to pay additional interest for the late payment of tax at the rate of 0.03 % of unpaid tax for each day the amount is outstanding, in cases of violation of the due date for tax payment[32].

1.1.8 Offset of tax on property located outside Turkmenistan

The amounts of property tax paid outside Turkmenistan in accordance with the tax legislation of other states are taken into account by legal entities being also residents of Turkmenistan when paying property tax in Turkmenistan.

At the same time, the amount of tax to be considered may not exceed the amount of tax calculated in accordance with the Tax Code of Turkmenistan.

The basis for the offset are the documents of the tax or other authorised body of foreign states confirming the fact of payment of tax outside Turkmenistan. This applies to the amount of property tax, which by virtue of the agreement on the elimination of double taxation and in compliance with established procedural rules cannot be returned to the taxpayer.

Property tax calculated in accordance with the tax legislation of other states on property that is not subject to taxation in accordance with Part 3 of Article 139 of the Tax Code of Turkmenistan, as well as those on which benefits are established in accordance with Article 143 of the Tax Code, shall not be offset.

In order to be exempt from property tax or other tax privileges, a non-resident taxpayer must submit an application to the tax authority of Turkmenistan, together with an official confirmation that such an individual is a resident of the state with which Turkmenistan

[32] p. 2 Art. 70 the Tax Code of Turkmenistan.

has concluded a double taxation treaty in force during the relevant tax period (or part thereof).

The application and residency confirmation as a result of which the taxpayer claims to be entitled to receive the exemption from tax or privileges, can be submitted both before the property tax becomes payable and within three years after the end of the tax period.

The form of the application and the procedure for its submission is established by the Ministry of Finance and the Economy of Turkmenistan. The statement not made in the established form, or the violation of the order of its representation are the bases for a rejection of such statement by the tax authority.[33]

1.1.9 Special aspects of taxation of legal persons

In the case of non-residents of Turkmenistan who receive an income from a rent from real estate within the Republic, or on the disposal of real estate in Turkmenistan, special rules apply.

The following income from sources within Turkmenistan is included as part of the tax base for corporate income tax purposes:

- rental payments for real estate located in Turkmenistan received from a legal person resident in Turkmenistan, individuals, and entrepreneurs or a legal person not resident in Turkmenistan if this real estate is used for the purposes of a branch, representative office or permanent establishment of this legal person being a non-resident in Turkmenistan; and
- income from the disposal of real estate located in Turkmenistan.

Taxable income is calculated according to the provisions of the Tax Code. In the case of the sale of fixed assets (including a compensation-free transfer) the difference between the net asset value and the amount of the amortisation costs calculated for the period of its use are deductible from the gross profit.

If a tax agent cannot determine the taxable income, the tax should be levied on the gross income.

The tax on Turkmenistan income sources is levied on the gross amount without any deductions (except VAT deductions) and paid by the tax agent. The parties which are liable for the distribution of such profits are: legal entities being residents of Turkmenistan, legal entities being a non-resident of Turkmenistan, which are acting through their branches, representative offices or permanent establishments, entrepreneurs.

[33] Art. 146 of the Tax Code of Turkmenistan.

The amount of tax is withheld from the amount due to be paid to such a legal entity, including the payments made abroad.

If it is not possible to calculate and withhold corporate income tax from a tax agent, or if it is not possible to determine a tax agent, such foreign legal entities are obliged to register for taxation purposes and execute their tax duties at their own discretion.

The same rule is applicable in the case of the disposal of real estate located in Turkmenistan if both parties of the agreement are non-residents of Turkmenistan and the purchase is conducted through a branch, representative office or permanent establishment located in Turkmenistan.

1.1.10 Property tax credit with regard to property located outside Turkmenistan

Property tax paid outside Turkmenistan according to the legislation of other states is credited against property tax paid in Turkmenistan by legal entities that are residents of Turkmenistan.

The amount of credited tax cannot exceed the amount of tax calculated according to the Tax Code of Turkmenistan.

The property tax paid abroad should be proven by corresponding documents of the competent authorities of foreign states. This is applicable to the amount of property tax, which cannot be refunded according to the Double Tax Treaty and when established procedural norms are respected.

The calculated and withheld amount of foreign property tax cannot be credited if the taxed property is not an object of taxation according to the Tax Code of Turkmenistan, or if it is tax exempt according to the Republic's Tax Code.

Tax relief or any other tax allowances on property tax can be granted to a non-resident of Turkmenistan if the taxpayer provides the Tax Service of Turkmenistan with an application request and official proof of its residency in a state with which Turkmenistan has concluded a Double Tax Treaty, valid during the corresponding tax period.

The application request and the official proof can be submitted either before tax is paid or during the following three years after the end of the tax period when a taxpayer makes a request for tax relief or any other tax allowances.

The Tax Service of Turkmenistan can reject the application request if the form[34] of the request or procedure of submitting is not correct.

[34] The form of application request and procedure of submittion is established by the Main State Tax Service of Turkmenistan together with the Ministry of Finance of Turkmenistan.

1.2 Use of land and corresponding payments in Turkmenistan

The use of land in Turkmenistan is subject to charges, which can take the form of land charges and rental payments. The rental payments are paid to the local budgets according to the location of the land.

In particular, the Ministry of Finance of Turkmenistan defines the following lands and uses of land as being subject to land charges:

- land owned by individuals in Turkmenistan;
- land used by individuals in Turkmenistan;
- land used by legal entities incorporated in Turkmenistan;
- land leased out to individuals;
- land leased out to legal entities incorporated in Turkmenistan;
- land leased out to foreign legal entities;
- land leased out to foreign states and international organisations;
- land and the lease of land by an agricultural joint-stock company; and
- land and the lease of land by other individuals and legal entities.[35]

Land charges are levied on citizens of Turkmenistan who own land plots as well as on citizens of Turkmenistan, legal entities, and residents of Turkmenistan, who use land plots. Under the Tax Code[36], the following are deductions for determining the profit tax: the property tax, the tax for the use of mineral resources and charges (excluding the trust fee on arrangement of territory of cities, settlements and rural settlements), established by this Code. The funds to be transferred to the Currency Reserve of the government of Turkmenistan are excluded from the gross income.

Land charges are considered to be "other expenses" of a taxpayer and are deductible from the corporate income tax base of a legal entity[37].

The Government of Turkmenistan defines the tax rates, tax allowances, the regime for the calculation and the payments of land charges, as well as the conditions and terms with regard to rental payments.[38]

Income from land charges and rental payments for land are paid into the corresponding local budgets where the land is located.

[35]http://minfin.gov.tm/pdf/rubudget/Turkmenistanyn%20Dowlet%20byujetinin%20girdejilerinin%20toparlara%20bolunisi-r.pdf (23. 3. 2017) – no longer available online.
[36] Art. 154.
[37] Art. 154 of the Tax Code.
[38] Under Art. 10 of the Land Code of Turkmenistan.

The amount of these payments and the regime for the use of these assets is determined by the Cabinet of Ministers of Turkmenistan. However, no information is available as to the amount of these payments.

1.2.1 Charge paid by the owners of car parking areas

Individuals, entrepreneurs and legal entities who own car parking areas are liable to pay a charge in respect of such areas, in addition to rental payments for land.

The object of the tax is the land plot. The tax basis for the purposes of calculating this charge is the total size of the land plot. The charge rate is based on a 'per square metre' calculation and varies with the location of the car parking areas. For example, the charge rate per square metre in Ashgabat is 1.5 TMT[39]; cities which represent centres (*velayats*) and the cities of Turkmenbash and Abadan impose a charge rate of 1.2 TMT; while a charge rate of 0.9 TMT applies in other localities. The charge is calculated by the charge payers themselves.

The taxable and accounting period of the charge paid by the owners of the car parking areas corresponds to a quarter of the year.

The relevant tax return should be submitted to the local tax authorities according to the place where the land is registered at the end of every taxable period, in particular before the 20th day of each month following the accounting period.

The property charge should be paid by the taxpayer before the 25th day of the month following the accounting period.

2 Privatisation in Turkmenistan

The privatisation of immovable property (both in terms of industrial and residential real estate) became a reality in the country only recently (2013 - 2017 years),[40] although the 2016 legislation is the fourth law in Turkmenistan on denationalisation and privatisation.[41]

[39] 1.5 Turkmen *manats* is approximately 0.38 EUR (1.2 TMT = 0.31 EUR, 0.9 TMT = 0.23 EUR).
[40] *Vedomosti* of the *Majlis* of Turkmenistan. 2013. №4. P.88. The law entered into force on 1 July2014, as subsequently amended by the following laws of Turkmenistan from 8. 11. 2014, № 147-V, 28.02.2015 № 198-V, 23.05.2015 № 235-V, 26. 3. 2016 № 383-V and 23. 11. 2016 № 484-V.
[41] Previously the following laws were applicable: The law of Turkmenistan ,,On denationalization and transfer of property in Turkmenistan" from 19. 2. 1992 (*Vedomosti* of the supreme soviet of Turkmenistan 1992. №2. P.11); The law of Turkmenistan ,,On denationalization and transfer of property in Turkmenistan" from 1. 10. 1993 (*Vedomosti* of the *Majlis* of Turkmenistan. 1993. №9-10. P.60); The law of Turkmenistan ,,On denationalisation and privatisation" from 12. 6. 1997 (*Vedomosti* of the *Majlis* of Turkmenistan. 1997. №2. p.15).

The information on the measures aimed at ameliorating efficient State control over real estate and strengthen the role of the private sector in actions related to denationalisation and privatisation of State-owned property has only recently been made public.[42]

At the end of June 2016, the Ministry of Economic and Development of Turkmenistan announced the putting up for tender of the State-owned shareholdings which are currently under the trust management of the Ministry of Trade and External Economic Relations, the National Union of Food industry, the Ministry of Agriculture and Water Economy and the Ministry of Textile Industry of Turkmenistan.

According to the published list, 15 enterprises are subject to a complete or partial privatisation programme, including: eight livestock enterprises, two knitting factories, one textile factory, one textile manufactory, one consumer goods production factory and two dairy products factory.[43]

2.1 Privatisation of State-owned property

On 22 June 2013 the Law „On denationalisation and privatisation of State-owned property" [44] № 413-IV was adopted in Turkmenistan.
The main principles of denationalisation and privatisation are the following:

- the equality of rights of citizens;
- the competitive basis;
- social security of employees;
- transparency; and
- State and public control.

The objects (items) of denationalisation and privatisation are the following formerly State-owned enterprises:

- property complexes, buildings, installations, assets under construction, industrial and non-industrial organisation units;
- economically autonomous subdivisions of State enterprises;
- non-residential surfaces in residential buildings;
- shares in the capital of joint-stock companies;

[42] http://minfin.gov.tm/ru/node?page=2 (1. 5. 2017).
[43] Source: http://turkmenportal.com/blog/8292 (1. 4. 2017).
[44] *Vedomosti* of the *Majlis* of Turkmenistan. 2013. № 4. p.88. The Law came into force on 1 July 2014, and has subsequently been amended by the following laws of Turkmenistan from 8. 11. 2014, № 147-V, 28. 2. 2015 № 198-V, 23. 5. 2015 № 235-V, 26. 3. 2016 № 383-V and 23. 11. 2016 № 484-V. This is the fourth law in Turkmenistan on denationalisation and privatisation. Previously the following laws were applicable: The Law of Turkmenistan „On denationalisation and the transfer of property in Turkmenistan" from 19. 2. 1992 (*Vedomosti* of the Supreme Soviet of Turkmenistan 1992. №2. P.11); the Law of Turkmenistan „On denationalisation and the transfer of property in Turkmenistan" from 1.10. 1993 (*Vedomosti* of the *Majlis* of Turkmenistan. 1993. № 9-10. p.60); the Law of Turkmenistan „On denationalisation and privatisation" from 12. 6. 1997 (*Vedomosti* of the *Majlis* of Turkmenistan. 1997. №2. p.15).

- shares in the assets of the enterprises of various legal organisational forms owned by the State; and
- other State property.

The parties to denationalisation and privatisation are the following:

- citizens of Turkmenistan;
- foreign citizens;
- stateless persons;
- legal entities incorporated according to the legislation of Turkmenistan (their branches and representative establishment);
- legal entities incorporated according to the legislation of foreign States;
- international organisations, their branches and permanent establishments in Turkmenistan, who purchase State property; as well as
- public authorities participating or partially participating in denationalisation and privatisation of State-owned property.

However, foreign legal entities, international organisations, their branches and permanent establishments in Turkmenistan can participate in denationalisation and privatisation only under the approval of the Agency of Protection of Economy and Risks, which is attached to the Ministry of Economics and Development of Turkmenistan. This State authority is responsible for the denationalisation and the privatisation of the State-owned property.

There are two forms[45] of denationalisation in Turkmenistan: the transformation of a State-owned enterprise into a joint-stock company or the enterprise of another legal organisational form; and the contribution to the equity capital of a joint-stock company or an enterprise of another legal organisational form.

There are five forms of privatisation[46] envisaged by the legislation in Turkmenistan:

- disposal by investment tender;
- disposal by auction;
- disposal of the State-owned shares through stock exchanges;
- direct (targeted) disposal of the privatisation items; and
- purchase of the item under rental agreements by the tenants.

Excluded from such disposals are items designed for trade, household or administrative use.

[45] Denationalisation in Turkmenistan is considered as the transformation of a State-owned enterprise into a joint-stock company or an enterprise of another legal organisational form, where the founder (or one of its founders) was the State.

[46] The privatisation of State property is a compensated conveyance of properties formerly owned by the State to individuals and (or) non-State-owned legal persons.

The choice of the particular form of denationalisation and privatisation of State-owned property for each item is assigned to the competent authority, in consultation with the Cabinet of Ministers of Turkmenistan. The bodies engaged in the privatisation of residential premises areas[47] are local authorities which engage in the privatisation of residential premises in the form of the direct (targeted) transfer free of charge and in the form of the redemption of premises, being the bodies of local executive power (local government) and local meetings (*Gengesh*). The organisation and implementation of the privatisation of residential premises through the process of auctions are carried out by the State authority.

The programme of privatisation of the State-owned enterprises and other State-owned properties was developed between 2013 and 2016, and implemented on 1 January 2014.

The main areas covered by this programme are the manufacturing industry, the construction industry, the transport, telecommunication and other economic sectors.

The areas not included within the privatisation programme are mineral resources, land, forest resources, water resources, resources of territorial waters and the maritime economic zone, designated natural areas under State surveillance, objects of historical and cultural heritage of Turkmenistan, unified electric power systems, highway transportation facilities, railways, maritime and inland waterways, main pipelines used for the transportation of hydrocarbon resources and oil-products, and other items of national significance.

The right of ownership of privatised items is subject to State registration, according to the procedure established by the legislation of Turkmenistan.

2.2 Privatisation of State housing fund

The legal relationship with regard to the privatisation of the State Housing fund is regulated by the Law ,,On Privatisation of residential accommodation of the State Housing fund“[48].

The privatisation of the residential accommodation of the State Housing fund took the form of a 'free of charge' or compensatory transfer of the above indicated residential accommodation into the ownership of the citizens of Turkmenistan and stateless persons resident in Turkmenistan.

[47] Art. 14 of the Law on Privatization.
[48] *Vedomosti* of the *Majlis* of Turkmenistan. 2013. №2. p.43. Entered into force on 1. 1. 2014, as subsequently amended by the Law of Turkmenistan from 16. 8. 2017 №112/V and from 23. 11. 2016 № 484V, Source: http://minjust.gov.tm/ru/mmerkezi/doc_view.php?doc_id=7532 (24.03.2017).

The residential objects of privatisation are defined as residential houses, parts of residential houses, apartments in apartment blocks, or parts of the apartments in the apartment blocks.

The privatisation of residential accommodation took the form of direct (targeted) disposal of the object for privatisation into the ownership of the occupying parties free of charge[49]. This provision benefited the tenants of residential premises permanently residing in such premises under a lease agreement for more than ten years in the houses of the State housing fund, the period of operation of which is at least 15 years; and persons who permanently reside in a dwelling under a tenancy agreement for more than five years in houses of the State housing stock[50], the period of operation of which is not less than ten years. The persons specified in this legislation can use the right to privatisation of premises free of charge only once.

Similarly, there is a right to repurchase residential accommodation[51] with a fifty-percent discount from its value, which is available to tenants permanently resident in the premises under a lease agreement for more than five years in houses of the State housing Fund. The right to privatisation of premises by buyback at full cost is held by the tenants permanently resident in premises under a lease agreement of less than five years in houses of the State housing fund, the period of operation of which is less than ten years. There is also a right to privatisation of the premises built by ministries and departments for their employees.[52] There is also the opportunity to acquire of residential accommodation by auction.

The main principles of the privatisation programme of residential accommodation in Turkmenistan are: the voluntary basis of the acquisition, the equality of rights of citizens, transparency of process, openness, accessibility, observation of social fairness, and assured ownership rights to the residential accommodation.

The Cabinet of Ministers of Turkmenistan is the competent authority[53] for the privatisation of residential accommodation; and local administrative authorities and the *Gengesh* are responsible for the State control over the privatisation of residential accommodation. These authorities accept, register and process the application requests with regard to the privatisation of residential accommodation; they take corresponding decisions concerning these issues and notify applicants about their decisions in writing. The local administrative authorities and the *Gengesh* issue the Certificate of Ownership of the privatised residential accommodation to the new owner.

[49] According to the Article 13 "On the Law of Privatisation of residential accommodation of State Housing fund".
[50] Art 65, paragraph 1, of the Housing Code of Turkmenistan.
[51] Art. 13 of the Law "On Privatisation of residential accommodation of State Housing fund".
[52] Except for the premises specified in Part two of Article 2 of this Law, as well as offices.
[53] Being the *Khyakimlik* - local mayoral administration or mayor's office.

2.3 Legal Status of Land in Turkmenistan[54]

The legal relationship with regard to land is regulated by the Land Code[55] of Turkmenistan. The Land Code determines the system of State land utilisation, and the maintenance of the State Land Cadastre.

These form the basis for the origin, adjustment and termination of rights with regard to land, its use and the rent payable for the land, and the regime of rights and duties of the owners of land, the land users and tenants of land.

The government control of the legal relationship with regard to land is exercised by the Cabinet of Ministers of Turkmenistan, the State Land Resources Management body, local executive authorities and the municipal administration.

In particular, the Government of Turkmenistan has established the regime for the maintenance of the State Land Cadastre, the system for the collection of land charges as well as the granting of exemptions from land charges, and the regime and the conditions for the granting and withdrawal of land plots.

The State Land Resources Management body maintains the State Land Cadastre, receives applications from citizens of Turkmenistan and requests from legal persons of Turkmenistan for the granting of land plots, for own use and to rent. It produces the necessary paperwork with regard to the granting of land plots to individuals and legal persons of Turkmenistan and foreign states, as well as to foreign states themselves and international organisations. In addition, it registers ownership rights to the land plots, land use rights and land rent rights, as well as releasing the documents certifying these rights.

The *Khyakimlik*[56] of *velayats* and Ashgabat controls the collection of land charges. The *Khyakimlik* of Ashgabat take decisions with regard to the granting of land plots into the ownership of families of citizens of Turkmenistan in Ashgabat for the purpose of private housing construction[57].

The *Khyakimliks* of *etraps* (cities) also control the collection of land charges, take decisions with regard to the granting of land plots into the ownership of families of citizens of Turkmenistan for private plot activities (home garden) and for the purpose of private housing construction.

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[54] All lands of Turkmenistan are State-owned, except those to which individuals (citizens) are granted ownership rights.
[55] The Land Code of Turkmenistan from 25. 10. 2004 (with amendments and modifications from 16. 4. 2015). Source: http://minjust.gov.tm/ru/mmerkezi/doc_view.php?doc_id=8375 (1. 5. 2017).
[56] *Khyakimlik* is the body of local administration. See: The Law of Turkmenistan „On local administration" from 10. 5. 2010 // *Vedomosti* of the *Majlis* of Turkmenistan. 2010. №2. p.33.
[57] Art. 12 of the Land Code.

Table 28.5 provides information about the legal rights of individuals (citizens of Turkmenistan and the foreign citizens as well) with regard to land plots.

Table 28.5: Legal rights of individuals with regard to land plots

Status of individual	Form of use of the land plot	Objective of granting the land plot	Notes
Citizen of Turkmenistan	Private ownership	Private plot activities (home garden) purposes	Succession rights are provided; Disposal, donation, exchange and pledge rights are not provided.
Citizen of Turkmenistan (i.e. families of citizens of Turkmenistan residing in cities and villages)	Private ownership	Private housing construction purposes in cities and villages	Succession right are provided; Disposal, donation, exchange and pledge rights are not provided.
Citizen of Turkmenistan (i.e. tenant)	Private ownership	Production of agricultural goods	By the decision of the President of Turkmenistan.
Citizen of Turkmenistan	Use		Land plot for permanent or temporary (up to 39 years) use.
Citizen of Turkmenistan	Rent	• Irrigated land; • Land used for non-agricultural purposes.	
Foreign citizen	Rent	• Land used for construction purposes and other non-agricultural purposes; • Land for allocation of temporary projects.	

Source: Land Code of Turkmenistan.

The following Table (Table 28.6) provides information about the legal rights of legal entities of Turkmenistan and foreign states with regard to land plots.

Table 28.6: Legal rights of legal entities with regard to land plots

Legal identity of legal entity	Form of Use	Goal of granting	Notes
Legal entities of Turkmenistan	Rent		
Legal entities of Turkmenistan	Use		
Legal entities of foreign states	Rent	For the purposes of: • construction of non-agricultural purposes; • allocation of temporary trading and other commercial outlets, car parking areas, etc.	Land is granted by the decision of the President of Turkmenistan. Sub letting is prohibited.

Source: Land Code of Turkmenistan.

Land plots for the use of citizens and legal entities of Turkmenistan are granted by the decision of the government of Turkmenistan. Land plots can be rented for construction and other non-agricultural purposes for up to 40 years, and the allocation of temporary trading warehouses and car parking areas for up to five years. The State Land Resources Management Body registers agreements for the renting of land plots for non-agricultural purposes.

The Cabinet of Ministers has the power to control the leasing arrangements of parties. Specifically, it has the following powers with regard to land relations:

- to ensure the implementation of a unified State policy in the field of land relations;
- to approve State target programmes for the rational use of land, including the improvement of soil fertility, and the protection of land resources, in conjunction with other environmental measures;
- to coordinate the activities of State bodies and services that ensure the rational use and protection of land;
- to form the State system of regulation and stimulation of activity on the rational use and protection of lands;

- to manage the Land Fund of Turkmenistan;
- on the recommendation of The State Commission on land issues, to make decisions on the provision of land ownership, use and lease;
- to make the withdrawal of lands for the State and public needs from all categories of lands, regardless of the size of the land plot;
- to approve the forms of documents certifying the ownership of land, the right to use land and the right to lease land;
- to establish restrictions on the rights of land owners, land users and land tenants;
- to establish the procedure for the State land management, land cadastre and land monitoring;
- to approve the procedure for the collection of payments for land and providing benefits for these payments;
- to establish standards and procedure for compensation of losses of agricultural and forestry production;
- to define the procedure for State control over the rational use and protection of land;
- to approve the procedure and conditions for granting and withdrawing land plots;
- to approve the annual report on the availability, distribution and use of the land Fund of Turkmenistan;
- to approve special land funds;
- to consider and resolve land disputes; and
- to resolve other issues related to land relations.

2.4 State Land Cadastre (Cadastre) in Turkmenistan

The Cadastre is a system of data and documentation with regard to natural, economic and legal regimes of land, categories of land, quantitative and quality characteristics and economic values, location and sizes of land plots, allocation of land plots based on owners, land users and land tenants[58]. The Cadastre is maintained by the State Land Resources Management Body.

The Cadastre includes the State registration of rights with regard to the land; the details of the quantity and quality of the land; reports of the existence, distribution and use of land; soil evaluation and land evaluation, and other relevant data.

The Cadastre in Turkmenistan is maintained according to the principles of full coverage of the land, the authenticity of land-cadastral information, as well as the accessibility of Cadastre data. Such data is, however, not publicly accessible.

The principal elements of the land-cadastral documentation are the land-cadastral book, the State land-cadastral book in *etraps* (cities); the Cadastre of *velayats*, the Cadastre of Ashgabat and the Cadastre of Turkmenistan.

[58] Art. 94 of the Land Code.

The registration of ownership rights to the land plots, rights of the user and rental rights by individuals, legal entities of Turkmenistan and foreign states, as well as the rights of foreign states and international organisations are maintained at the location of the land plot and are filed in the State land-cadastral book of *etraps* (cities).

The basis for the State registration of rights over land plots are the documents certifying, modifying and terminating these rights.

In particular, these are the:
- State Act[59] of the ownership rights on the land plot;
- State Act of the right of use of the land plot; and the
- Certificate of the rental right of the land plot (issued to the individual holder of the right).

The ownership right on the land plot and the right of use of the land plot should be included in the public register.

2.5 State registration of rights in real estate (Cadastre)

The definition of real estate[60] (immovable property) includes land plots, mineral resources, isolated bodies of water and everything which is inseparable from land, meaning that the displacement of such objects is not possible without proportional harm (and thus includes forests, perennial plantations, buildings and other structures).

The items which are not included within the scope of immovable property, include cash and financial instruments, which are considered to be movable property.

The law establishing the regime of the State registration of rights and encumbrances on real estate, as well as transactions involving real estate came into force on 1 January 2016.[61]

The law covers the following types of real estate;
- land plots;
- buildings, facilities and assets under construction;
- residential and non-residential accommodation;
- enterprises as asset complexes;
- real estate forming a part of an asset complex;[62] and

[59] A State Act is an official document adopted and issued by government agencies.
[60] Art. 167 of the Civil Code of Turkmenistan.
[61] Law of Turkmenistan „State registration of rights on real estate and transactions involving real estate" from 3. 5. 2014. Source: http://minjust.gov.tm/ru/mmerkezi/doc_view.php?doc_id=15020 (01.04.2015).
[62] Art. 6 of the Law of Turkmenistan „On State registration of rights on real estate and transactions involving real estate".

- other types of real estate permitted by the applicable law of Turkmenistan.

The State control over the State registration of rights over real estate and transactions involving real estate is maintained by the Service of the State Registration of Rights (Cadastre) which is attached to the Ministry of Justice (*Adalat*) in Turkmenistan. Such control is administered at the local level by the Service of the State Registration (Cadastre) regarding the rights in *velayats* and in cities with the rights of *velayats*. This service maintains the State Register of Turkmenistan with regard to information about existing and terminated rights and encumbrances, as well as the right holders whose rights are registered in the registration books.

The regional offices of the Service register the rights in real estate and transactions involving real estate, release documentation certifying State registration of the right, and perform other related functions.

The main goals of the State registration are the:

- recognition and protection of rights in real estate by the State;
- assistance in the formation of the real estate market;
- creation of the information system concerning real estate items, rights and encumbrances; and the
- provision of information[63] with regard to the items of real estate to individuals, public and administrative authorities, local authorities, courts, credit organisations and other legal entities.

State registration is required for such rights as ownership rights; the rights of operational management; the rights of succession to land plot; the rights of trust management; rental rights or rights of use of land plots; servitudes.

The State bodies responsible for real estate are the Ministry of Agriculture of Turkmenistan, Ministry of Municipal infrastructure of Turkmenistan, Ministry of Economy and Development of Turkmenistan, local administrative authorities and the *Gengesh*. Amongst other duties, they compile a cadastral file of each item of real estate and release certificates of ownership rights on items of real estate.

3 Real Estate Market

Over the past few years, there has been a real construction boom in Turkmenistan: 1.35 million square metres of housing were commissioned in 2015 alone, with the total investment in the construction sector amounting to 49 billion dollars. This was made possible as a result of the budgeted funds for the preparation for the Asian Indoor and Martial Arts Games, which Ashgabat hosted in 2017, and the long-term socio-economic development programme scheduled to continue until 2020.

[63] Not freely available.

Within the framework of this strategic document, there has been a mass programme of construction taking place throughout the country, providing modern hospitals and health centres, buildings of higher educational institutions, schools and kindergartens, sports facilities equipped with advanced technologies, as well as housing. As representatives of the government note, medical care and education is free for all residents of Turkmenistan, but despite the increasing burden on the national budget, the work continues.

The leadership of the Republic stimulates the renewal of social infrastructure and resolves the housing problems of its citizens through the provision of preferential mortgages. Housing under construction is also becoming available to residents through the mortgage loans offered for a period of 30 years and at a one-percent annual rate of interest.

The growth of the real estate market in Turkmenistan is also the result of the entry of new companies into the market. At the moment, there are more than 1,000 companies in the country engaged in construction or construction contracts. As a consequence, at the end of 2015 two large industrial plant have been put into operation, being the involved in large-panel housing construction "*Turkmennebitonumleri*" in Ashgabat and Abadan. The use of these pre-fabricated wall panels accelerates the construction of residential neighbourhoods, and reduces their cost. It is this development that has allowed the number of rented apartments to increase by 2,000 units per annum.[64]

Conclusion

The system of property taxation established by the Tax Code of Turkmenistan looks quite simple at first sight. On the one hand, the main tax legislation is modern and meets the needs of the State and society. Tax rates are low, not only in comparison with other CIS countries, but also with other countries in the world. However, this fact reflects the poor development of the real estate market, including the market for land plots.

At the same time, land plots in Turkmenistan cannot be objects of private ownership: the granting of rights to land plots is limited to private plot activities, household plots[65] and private housing construction purposes, and the scope of use is limited by the framework of inheritance.

In spite of its low tax rate (1 %), the property tax has a fiscal nature without any additional functions. As far as land charges are concerned, it is important to include them in the scope of taxes of the Tax Code of Turkmenistan. Currently, land charges are levied on

[64] Source: https://realty.rbc.ru/news/577d082b9a7947e548ea420f.
[65] Household plots is a legally-defined farm type in all former socialist countries. This is a small plot of land (typically less than 0.5 hectares) attached to a rural residence. The household plot is primarily cultivated for subsistence farming and its traditional purpose since the Soviet times has been to provide the family with food. Surplus produces from the household plot are sold to neighbours, relatives, and often also in farmers markets in nearby towns.

the basis of Government Decrees[66]. This fact conflicts with the modern trend towards the supremacy of State law in taxation.

Turkmenistan respects the principle of transparency with regard to the publication of laws and regulations in the area of budgetary legislation, as well as information concerning the fiscal policy of the State. Nevertheless, in practice researchers face a lack of transparency from the financial and tax bodies. Indirectly, this is a negative in the working of the tax system of the country.

Much attention is paid to the development of the Republic's oil and gas industry, since the Tax Code and the special law[67] provide various privileges and preferences for contractors engaged in the production of hydrocarbons in the Republic, up to the complete exemption from the payment of a number of taxes and fees.

But the features of the tax legislation discussed in this chapter can, under certain conditions, cancel these advantages and positive aspects.

Discussions on the taxation of property in Turkmenistan within the framework of the principles of European tax policy can only be expected in the future, although, the monitoring of the tax system of this, the southernmost country of Central Asia, is both necessary and useful.

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Law „On denationalisation and privatisation of State-owned property"68 № 413-IV from 22. 6. 2013.

[66] According to the Article 55 of the "Land Code" of Turkmenistan, the rates, the procedure for calculating and making payments for land is established by the Cabinet of Ministers of Turkmenistan.

[67] Law of Turkmenistan "On hydrocarbon resources".

[68] *Vedomosti* of the *Majlis* of Turkmenistan. 2013. №4. P.88. The law entered into force on 1 July2014, as subsequently amended by the following laws of Turkmenistan from 8. 11. 2014, № 147-V, 28.02.2015 № 198-V, 23.05.2015 № 235-V, 26. 3. 2016 № 383-V and 23. 11. 2016 № 484-V.

This is the fourth law in Turkmenistan on denationalization and privatization. Previously the following laws were applicable: The law of Turkmenistan „On denationalization and transfer of property in Turkmenistan" from 19. 2. 1992 (*Vedomosti* of the supreme soviet of Turkmenistan 1992. №2. P.11); The law of Turkmenistan

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
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Property Taxation Problems in Uzbekistan

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Abstract It is very positive that the planned changes in land and civil legislation should be carried out against the background of important changes in the tax legislation of Uzbekistan. On 29 June, 2018 the Concept of Improving the Tax Policy of the Republic of Uzbekistan was approved, which contains new rules related to the property tax and the land tax. This Concept identifies problems in the stability of the tax legislation of Uzbekistan, the existence of numerous contradictions and conflicts in the normative legal acts in the sphere of tax relations, which negative impact on the rights of conscientious taxpayers. The provisions of the Concept are aimed at reducing the high level of tax burden, introducing a system of analysis and risk management, while exercising control over business entities. Finally, the Concept recognises the absence of full-fledged accounting and objective determination of the value of real estate and land. It is planned to introduce a mechanism for determining the market value of the real estate of legal entities, taking into account international best practices for conducting mass appraisal.

Keywords: • Uzbekistan, property tax, immovable property tax, valuation, tax reform

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Introduction

At the end of 2016, Uzbekistan held the election of the second President of Uzbekistan. With his arrival, there were hopes for significant political transformations, and major changes in the judicial and legal systems as well as the economy. In 2017, the Strategy of Action on the five priority directions of the development of Uzbekistan during 2017-2021 was approved.[1] It provided for various measures to liberalise the country's economy, strengthen the competitiveness of its economy, for the continuation of institutional and structural reforms to reduce the State's presence in the economy, to strengthen the protection of individuals' rights and the major role of private property, and to improve the investment climate. The Strategy's directions for the development and liberalisation of the economy included such matters as the reduction in the tax burden and the simplification of the taxation system, improving tax administration and expanding measures to raise more revenue.

The efforts of the Government of Uzbekistan to ensure the rule of law and the reform of the judicial and legal systems, the foundations of economic freedoms, and a favourable tax system are important, particularly against the background of negative international assessments of the Rule of Law and Good Governance.[2] Efforts by the government to change legislation are certainly important to achieving systemic and effective reform in the realm of law enforcement, and the strengthening of trust in public authorities. In terms of structural reforms, positive examples have appeared and, despite their unevenness and incompleteness in application, they emphasise to some extent that the positive intentions of the authorities can be successfully implemented. The government has also announced a number of sectoral reform programmes. However, regarding taxation, no notable decisions have yet been made, and the reforming of the tax system on the principles of constitutionalism is yet to be achieved. However, Uzbekistan has no other option, because reform is the only alternative to "tightening" ("strengthening"), which for a long time has prevailed not only in tax policy[3], but also in the policy of the State's regulation of business.

The tax legislation of Uzbekistan is embedded within the framework of its young legal system. Having a short history of development (over some 25 years), the tax legislation reflects all the economic, social and legal problems of the country. Legislation on property taxes has twice been codified, and it is considered relatively stable, less controversial (conflict) in terms of the relationship of taxpayers with the administrative regulators, in

[1] See: Strategy of actions in five priority directions of development of the Republic of Uzbekistan in 2017-2021: Appendix No. 1 to the Decree of the President of the Republic of Uzbekistan dated February 7, 2017 No. UP-4947 // Sobranie zakonodatelstva RUz, February 13, 2017, No.6, Art.70 (hereinafter referred to as SZ RUz).

[2] See, for example: The Worldwide Governance Indicators (WGI), 2017 Update // http://info.worldbank.org/governance/wgi/#reports

[3] The point is not the actual income raised by property tax, but that any tax was considered by the State mainly in the fiscal aspect, and its regulatory function did not work in practice. The entire policy of the Ministry of Finance and the tax authorities was aimed at collecting the tax and basically the entire system was fixated on the controlling actions of the authorities, i.e. the creation of a complex administrative system. Taxation has always been evaluated by business as an instrument of pressure on business

comparison with the enforcement of other taxes. Uzbekistan has declared its commitment to take into account the modern international experience of taxation. Separate projects of international organisations (such as the United Nations Development Programme (UNDP), Gesellschaft International Zusammenarbeit (GIZ), and the International Finance Corporation (IFC)) in this area offer hope for the successful adaptation of foreign experience in the development of the Uzbekistan's tax system. However, there are problems regarding the Republic's taxation system, and they can be outlined as follows:

- constitutionalism and taxation are not considered as interrelated phenomena: understanding that taxation is a restriction of property rights has not become a paradigm for the actions of administrative bodies. Framework administrative procedures (such as proportionality, legal certainty, and legitimate expectations) in the tax legislation have not been adapted;
- within the administrative regulation, violations of the balance of public and private interests are often evident. Neither the legislation nor the administrative processes have provided effective traditional tools for their solution. The discretionary powers of administrative bodies is very strongly expressed, not within the law, but within regulatory departmental acts. This causes a conflict between the taxpayer and the authorised bodies. The subjectivity of tax authorities in conjunction with the perversity of tax morality does not yet provide an opportunity to escape from the vicious circle of the punitive-fiscal paradigm of the administrative regulators;[4]
- the development of tax legislation is predetermined generally by economic views, and taxation legislation is drafted by economists. As a result the legislative technique suffers, the rules are declaratory, presentation is inconsistent and the wording inexact and inaccurate.
- the weakness of the tax law doctrine and its minimal impact on the codification of tax legislation is recognised. In Uzbekistan, it is quite difficult to conduct independent sociological research. Statistics are not always available to all scientists, and scientific research in the areas of public law is largely under the control of the State, which does not want the publication of critical materials. This negatively influences the quality and quantity of scientific literature in the field of property taxation;[5]

[4] See also: Хван, Л.Б. К реформе "налогового администрирования": понимание проблемы и опыт решений в Республике Узбекистан (To reform of "tax administration": understanding of a problem and experience of decisions in the Republic of Uzbekistan). Налоговое администрирование (Tax administration, Proceedings of the 5th Annual Conference). - Москва: Статут, 2008. P.53-72; Хван, Л.Б. Налоговое законодательство Республики Узбекистан: проблемы правовой интеграции и экономического сотрудничества (Tax Legislation of the Republic of Uzbekistan: problems of legal integration and economic cooperation). Российский ежегодник налогового права (Russian Year-book of the Tax Law). Санкт-Петербург. 2009 (1). P.133-176.

[5] Хван, Л.Б. Налоговое право (Tax Law).-Ташкент: Консаудитинформ, 2001. P.13 and other. One of the rare works devoted to the tax law of the CIS countries, etc. Central Asia was published in Moscow in 2008. See: Щекин Д.М. Налоговое право государств-участников СНГ (общая часть): учебное пособие (The tax law of the CIS member states / General part: a textbook). M., Статут, 2008, pp. 42-44, 390-392, etc. This work also notes the problems of the conceptual, technical and legal level of regulation of tax legal relationship, and the priority of accounting for public interest.

- the highly problematical character of tax audits and their fiscal nature, means that the results may be unfairness. Problems in taxation could be partially compensated for by an independent judiciary, but the evaluation of the Rule of Law component is also negative. The "equity" of the adoption of judicial decisions is still in doubt. An analysis of judicial decisions is impossible given the fact that such decisions are not published and, therefore, the lack of transparency.

Uzbekistan is a country with a transitional economy and it is obvious that the planned reforms will be difficult and are currently ambiguous in terms of their implementation. It is clear that the government is in the process of developing new approaches to the tax system, but while still maintaining the current Tax Code and its principles. At the same time, the development of and the planned adoption at the end of 2017 of the law on administrative procedures can significantly affect the relationship between business and tax authorities, based on the principles of proportionality, legal certainty and the protection of legitimate expectations. The creation in 2017 of a system of administrative courts that from 1 June 2017 handles disputes with tax authorities[6] can also positively affect the development of the tax system and associated legislation.

The country's orientation toward a full participation in the global economy, and the concern of the country's leadership with regard to its position in the leading international ratings, suggest that there is no other option other than the proper implementation of the announced reforms in the legal system and economy for Uzbekistan.

The purpose of this chapter is to present the system of property taxes, the definition of principles, trends and characteristic problems in the taxation of Uzbekistan. The application of historical and logical methods, analysis and generalisations makes it possible to show the national model of the development of property taxes, and to indicate their role in the country's budget. Consideration is given to all types of taxes on property: corporate property tax; individual property tax; corporate land tax; individual land tax; as well as the single land tax. Detailing the structural components of these taxes makes it possible to understand the general nature and features of their application. The related analysis of property issues (land, buildings and constructions, the privatisation process and the system of state cadastres in Uzbekistan) ensures the completeness and complexity of the study. Stable and systematic development of legislation on property taxes is possible only when solving the existing problems of providing a suitable rule of law, in particular, an independent judiciary, and adapting the principles of the administrative procedures (due process) in tax practice. In general, this will solve the sensitive issues of taxation which have been identified in research, and which is a key aspect of doing business in Uzbekistan. It is also important to initiate the preparation of a new concept of property taxation in Uzbekistan, and the development of the tax law doctrine, which will predetermine ways of optimising the legal regulation of its property taxes.

[6] from 1 June 2017

1 The Property Taxes in the Republic of Uzbekistan: historical overview

The development of property tax in the contemporary history of the Republic of Uzbekistan[7] originates from the Law of RUz ,,On Taxes Imposed on Enterprises, Associations and Organizations" of 15. 2. 1991.[8] The stated Law was the first to introduce the corporate property tax to the tax system.

The individual property tax has been enacted in 1993 (by the Law of RUz ..On Individual Property Tax" of 28. 12. 1993).[9]

A Land Tax was first introduced in 1991. It was specified by the Declaration On the Principles of Budget Formation of the Uzbek Soviet Socialist Republic within the confines of the Law of the Uzbek Soviet Socialist Republic ,,On the State Budget of the Uzbek Soviet Socialist Republic for 1991".[10] The land tax for legal entities (corporate land tax) and individuals (individual land tax) has been came into effect in 1993 and governed by the Law "On Land Tax" of 06. 5. 1993.[11]

These Laws were repealed on 1 January 1998 under the Resolution of the Oliy Majlis of RUz (the Parliament) dated 24. 4. 1997 together with the introduction of the country's first Tax Code (effective from 1 January 1998) (hereinafter referred to as TC RUz).[12]

A decade later, the second codification of tax laws took place in Uzbekistan and a new Tax Code was approved on 25 December 2007 (effective from 1 January 2008).[13] This 2007 Code is currently applied to and deal with all property taxes levied in the RUz.

The distinguishing feature of the individual property tax enacted in 1994 was the inclusion within the definition of taxable objects (along with the premises, houses, buildings and constructions) of vehicles owned by individuals: being motor boats, helicopters, airplanes (but excluding, however, cars, motorbikes and other self-propelled vehicles and those using pneumatic (compressed gas) engines). This provision was valid up to 1 January 2008.[14]

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[7] Hereinafter referred to as RUz.
[8] Vedomosti Verkhovnogo Soveta UzSSR. 1991. No.4. Art.86. Effective 1 January 1991 (The Law as in effect on 14. 1. 1992 // Vedomosti Verkhovnogo Soveta RUz. 1992. No.4. Art.177).
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[10] See: Vedomosti Verkhovnogo Soveta UzSSR, 30 November 1990. No.31-33. Art.349; Vedomosti Verkhovnogo Soveta UzSSR, 30 April 1991. No.4. Art.57.
[11] Vedomosti Verkhovnogo Soveta of RUz. 1993. No.5. Art.215. Law no longer in force from 1 January 1998 pursuant to Resolution of the Oliy Majlis of RUz of 24. 4. 1997.
[12] Tax Code of RUz. Approved by Law of RUz of 25. 12. 2007. Effective 01. 1. 2008 // Sobranie zakonodatelstva RUz. 2008. No.52(II).
[13] Vedomosti palat Oliy Majlis RUz. 2007. Annex 1 to No. 12.
[14] Agreements on avoidance of double taxation provide that 'sea and river vessels, aircrafts, railway and automobile vehicles' shall not be considered immovable property. See, e.g. Agreement between the Government

Rates of corporate property tax were established by law up until 1 January 1998; and, subsequently, by the decision of the Government of RUz, until 1 January 2008. The rates of individual property tax and the rates of land tax had been set by the Government of RUz up until 1 January 2008. From 1 January 2008 all rates of property taxes are established by the President of RUz.

1.1 The Property Taxes of Uzbekistan. General

The system of property taxes in Uzbekistan differs from that of European countries. The main difference along with the terms used[15] and the taxable base formation mechanism is the differentiation of the legal regulation of:

i) the property tax; and
ii) the land tax

as the two main forms of property taxation in Uzbekistan.

Worldwide practice generally combines these two taxes into one "real estate tax". In Uzbekistan, land plots are not subject to property taxation, and the land tax is a separate form of property tax. The reason for this lies in the fact that, within the Republic, land is not a tradable commodity[16] and cannot therefore be included together with "property" (i.e. buildings etc.) for the purposes of taxation. The Civil Code of RUz divides "property" (as the object of individual rights) into movable and immovable property (and thus movable estate and real estate). Land, subsoil, buildings, constructions, perennial plantations and other property firmly affixed to the land and which cannot be removed without inflicting incommensurable damage to their purpose, are immovable property (real estate) (Art. 83 of Civil Code of RUz). The right of ownership and other proprietary rights to real estate, their accrual, transfer, restriction and termination is subject to State registration (Art. 84 of Civil Code of RUz).

For the purposes of taxation, "property" includes material assets (including money (as a liquid asset), securities, and shares (interests, contributions)) and non-material assets which can be the objects of ownership, use or disposal. Until 30 December 2009, Art. 22 of the TC RUz contained the reservation that the attribution of objects within the term "property" should be governed by civil legislation. Later this reservation was removed.

Another peculiarity of the tax legislation of Uzbekistan is that the property tax is imposed not only on such real estate as buildings and constructions, but also on equipment. Thus, up to 1 January 2013 non-material assets were also subject to property taxation.

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of RUz and the Government of the Republic of Kazakhstan on avoidance of double taxation of incomes and property, Almaty, 12 June 1996, approved by the Resolution of the Gov. of RUz No.32 of 20. 1. 1997. Effective 21. 4. 1997.

[15] E.g. Tax Code of RUz uses the term Property, and does not use the term Real Estate.

[16] Pursuant to Art.16 of the Land Code of RUz land is the state property which is nation wide treasure and is not subject to sale-purchase unless explicitly provided for by the law. However, there are some legal options for privatization of land (see further privatization issues).

Currently, Uzbek legislation provides for four taxes on land and "property":[17]

- corporate property tax;
- individual property tax;
- corporate land tax; and
- individual land tax.

Thus, the Uzbekistan Tax Code differentiates the regulation of property taxes according to the nature of the taxpayers (corporates and individuals). These taxes may only be established, amended or abolished by the legislative body.

The regulatory development in the field of taxation up to 1 January 2008 admitted the application of administrative regulations which significantly supplemented legislative acts. [18]
Tax privileges are granted by the Oliy Majlis[19] of RUz or the President of RUz. In addition, the granting of privileges within the property taxes, (either the land tax or single land tax (see note [17] below), may be within the competence of local State authority.[20]

A tax authority may assess or reassess the amount of the said taxes within five years from the end of the tax period. Reassessment of incorrect taxation (the offset or the return of overpaid amounts) is also permitted within five years from the end of the tax period.

Accounting for property is to be made according to the legislation on accounting.[21] Property tax and land tax are both local taxes.[22]

The statistics on the amount of tax collected are presented in Table 29.1.

[17] Tax Code RUz also established the single land tax (hereinafter referred to as SLT) payable as part of simplified taxation system. SLT is payable by agricultural manufacturers. SLT was first enacted on 1 January 1999.
[18] This refers to such administrative regulations as “Instruction”, “Letter”, “Explanation” adopted by the Ministry of Finance of RUz and the State Tax Committee of RUz.
[1919] Supreme Assembly or Parliament of Uzbekistan.
[20] See: Resolution of the Cabinet of Ministers of RUz No.281 of 2. 10. 2012 // SZ RUz. 2012. No. 40. Art. 467.
Granting of these privileges is subject to certain reservations and preconditions. They are limited in time and are granted to certain types of taxpayers. This is evidence of decentralisation in the field of taxation; however, so far no such decisions have been adopted.
[21] See e.g.: National Standard of Accounting of RUz (NSA) No.5 “Capital Assets”, approved by the Ministry of Finance of RUz No.114 of 09.10.2003, registered by the Ministry of Justice of RUz No.1299 on 20. 1. 2004.
[22] See Art. 23 of Tax Code RUz; Art.52 of Budget Code (approved by Law of RUz on 26. 12. 2013).

Table 29.1: Property Tax and Land Tax Revenue (in billion Soum) State Budget of RUz for 2008 – 2016

Year	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Property tax	224.1	319.1	432.9	571.5	736.1	1,011.6	1,273.8	1,393.0	1,659.3	2,129.7
Land tax	186.0	231.5	322.7	437.2	486.3	583.4	647.5	750.1	966.7	1,091.8

Source: Data from the Ministry of Finance, available on the website of the Ministry of Finance.

The property tax is a significant part of the State Budget's revenue. In 2013 revenue from the property tax amounted at 1,011.6 bln. Soum (being about 105 million EUR)[23]. Revenue from corporate income tax amounted to 1,038.8 bln. Soum; individual income tax was 2,717.3 bln. Soum; and customs fee 1,007.4 bln. Soum. In 2014-2015, the property tax made the sixth biggest contribution to the budgetary revenue after individual income tax, VAT, excise tax, customs fee and tax on the use of the subsoil.[24] In 2016 property tax made the fifth largest contribution to the budgetart revenue after individual income tax, VAT, excise tax and the tax on the use of the subsoil.[25] In 2017, the property tax made the fourth biggest contribution to the budgetary revenue after the individual income tax, VAT, excise tax.[26]

In the fulfilment of their property tax obligations, tax authorities cooperate with other State institutional bodies, local municipalities, local self-administration bodies, banks, etc. In particular, prior to 1 February each year, authorities undertaking the State registration of rights to immovable property are obliged to forward to the relevant tax authorities[27] information on the land plots and real estate situated within their territory, and on its owners (propriators) as at 1 January. In the case of a new right to the land plot or other real estate within the year, they must forward the information within 10 days from the State registration of the new right to the real estate.

Authorities performing the accounting for and (or) the evaluation of land resources are obliged to forward to the relevant tax bodies information on the termination of rights to the land plot with details of the right holder and the 'normative value'[28] of the land within the specific agricultural area.

[23] Soum is the national currency of Uzbekistan. The official exchange rate of the Central Bank of RUz as of December 27, 2017 is: Euro 1 = 9624.72 soum.
[24] Source: https://www.mf.uz/media/file/state-budget/1/ (as at: 10. 4. 2015); https://www.mf.uz/media/file/state-budget/61/ispolnenie_2015_godovoy.pdf. (as at: 1. 6. 2016).
[25] Source: https://www.mf.uz/media/file/state-budget/1/godovoy_2016_predv.pdf (as at: 1. 5. 2017).
[26] Source: https://www.mf.uz/media/file/state-budget/1/2017.pdf. (as at: 8. 2. 2018)
[27] The tax authority which is responsible for the jurisdiction where the land and property is located.
[28] The normative value (or costs) of agricultural land is the value of land, determined by the income approach using standard indicators. The results of determining the normative value (or costs) are included in the State land cadastre. The normative value (or costs) is produced annually.

Uzbekistan is the only state within the Commonwealth of Independent States (CIS) countries which instituted the position of „local tax inspector".[29] Local tax inspectors record individual payers of the property and land taxes in relation to the appropriate land plot and monitor the timely payment of the taxes.[30] The bounderies of land plots and the numbers of local tax inspectors are determined by the Government of the RUz.

1.1.1 Corporate Property Tax Structural components

Currently, the structural components of the corporate property tax are determined by the TC RUz, and the taxpayers and objects of the taxation are outlined in Table 29.2 below

Table 29.2: Types of taxpayers and taxable objects of corporate property tax

Taxpayer	**Type of taxpayer**	**Taxable object**		
legal entity	resident	taxable property in the possession of the taxpayer, within the territory of the Republic of Uzbekistan		
		1) immovable property, including those received under a finance lease contract;	2) assets under construction;[31]	3) equipment not put into operation within a set time.[32]
legal entity	non-resident owning real estate in the territory of Uzbekistan.[33]	Immovable property. If it is impossible to establish the location of the owner of the immovable property, the taxpayer is the person who has this property in possession and (or) use.		

Source: Author's own.

[29] See: Law of RUz "On State Tax Service" dated 29. 08. 1997 // Vedomosti Oliy Majlis RUz. 1997. No.9. Art. 232.

[30] Хван, Л.Б. Правовое регулирование статуса финансовых инспекторов и участковых налоговых инспекторов в Республике Узбекистан (Legal regulation of the status of financial inspectors and local tax inspectors in the Republic of Uzbekistan). Юстиция. Российский научно-практический журнал (Justice. Russian Journal). 2009 (1). P.31-37.

[31] Objects under construction and not completed within the term set forth by the design estimate documentation, or within 24 months from the commencement of the construction, if the term is not fixed in the documents.

[32] Equipment requiring installation within objects under construction or reconstruction and (or) upgrading, involving capital investment within the term set forth by the design estimate documentation.

[33] Information on the immovable property (real estate) acquired (owned) by a non-resident of Uzbekistan should be presented by the authority performing the State registration of the title to the property within 10 days from the registration. The authority performing the State registration of title is the branch of the State Enterprise on Land Tenure and Cadastre Registry of the Republic of Karakalpakstan (an autonomous republic within Uzbekistan), regions and the city of Tashkent in the respective districts (cities).

A non-commercial organisation[34] is not liable to pay this tax, unless, when conducting an entrepreneurial activity, it becomes the taxpayer of the property to the extent that the property is involved in the business activity. Table 29.2 shows that taxable objects are differentiated according to the taxpayers' residency status.

The ownership of land plots acquired under the laws of RUz are excluded from the category of objects taxable within the property tax.[35]

The taxable base is determined[36] as follows:

Table 29.3: Taxable base for the Corporate Property Tax

Type of property	Tax size	Notes
Immovable property	Average annual depreciated book value	The depreciated book value of immovable property (real estate) is evaluated as being the original (replacement) value of the property minus depreciation cost, calculated in accordance with the taxpayer's accounting procedure
Assets under construction and equipment not put into operation within the required time limit	Average annual value	
Immovable property of non-residents	Average annual value	The taxable base of immovable property (real estate) is determined on the basis of the value specified in the documents confirming the ownership of these objects.

The average annual depreciated book value (average annual value) of taxable objects is determined on an accrual basis, as one twelfth of the sum of the depreciated book value (average annual value) of the taxable object as at the last day of each month of the tax period.

Uzbekistan, being a country at a transitional stage of its economic development, is tending to apply various tax privileges. In terms of the Corporate Property Tax, there are two types of privileges actively applied in Uzbekistan: tax exemption; meaning an exemption from taxation for certain types of property; and tax reduction meaning a decrease in the tax rate in the case of an increase of export share of produced goods, services or works. Tax exemptions may be granted to all taxpayers or only to certain types of taxpayers.

[34] "Non-commercial organization" refers to a legal entity which does not have as its primary purpose the collection of profits and does not apportion received income among its participants (members). Such organizations include local municipalities, budget-financed institutions, non-governmental non-commercial formations, and local self-administration bodies.
[35] Such assets are taxed within the land tax (see below Corporate Land Tax).
[36] in Art.267 TC RUz

Privileges may be granted on a permanent basis or for a limited period of time. The tax exemption may apply to public utilities; objects related to art and culture, education, health care, sport and physical culture, social security service, objects used for the purposes of nature protection, fire safety,[37] railways and public highways, main pipelines, communication and power transmission lines and others (Art. 269 TC RUz).

All social and cultural entities as well as municipal housing and utility agencies are excempted from the property tax. An example of an efficient tax privilege is the tax exemption granted to newly-founded enterprises for a period of two years from their State registration. [38]

Another example of temporary tax privilege is that of business entities which adopt a decision on voluntary liquidation and which may apply for temporary tax privileges during the process of liquidation. The privilege comes into force from the moment of the notification to the State authority performing the State registration of legal entities on the adoption of the decision on voluntary liquidation.[39]

The tax period is a calendar year.[40] Calculation of the tax is performed by the taxpayer on the basis of the taxable base and the fixed rate of tax (Table 29.4).

Table 29.4: Corporate property tax rates for 2018

#	Taxpayers	Tax rate as a % of the taxable base
1.	Legal entities	5 (fixed rate)

Source: Annex 17 to the Resolution of the President of RUz No.PP-3454 dated 29. 12. 2017. Source: http://lex.uz/docs/3480354.

The amount of tax for equipment not installed within the specified time period is double that which would otherwise have been payable.

The corporate property tax is set off against other expenses of the taxpayer, as a deduction for the calculation of corporate income tax.[41]

[37] Objects are considered as used for the purposes of nature protection or fire safety on the basis of a certificate issued by a nature protection authority or a State fire inspection service.
[38] This privilege does not apply to enterprises founded on the basis of reorganised legal entities, nor to legal entities conducting business on the territory of other enterprises using equipment rented from these enterprises.
[39] In the case of non-completion of the voluntary liquidation within the legally prescribed term or the cessation of the liquidation process and recommencement of business, the tax privilege does not apply and the tax will be collected in the full amount for the whole period of the privilege.
[40] The Tax Code RUz defines *tax period* as a time period upon the expiration of which it is required to estimate the taxable base and calculate the due amount of the tax or another mandatory contributions. A tax period may be divided into several accounting periods upon the expiration whereof it is required to submit estimate statements and effect payment of the due taxes or other mandatory contributions.
[41] Art. 145 TC RUz

The order of the calculation, the presentation of estimates and the payment of corporate property tax differs according to the type of taxpayer, and the procedure is different for residents and non-residents.

Residents of RUz are required to submit their estimated tax statements to the tax authority within their jurisdiction of residency, annually, and within the terms prescribed for submission of annual financial reports.[42] If the immovable property (real estate) of a resident is situated outside the taxpayer's jurisdiction of residency, the estimate statements should be sent to the tax authority for the location of the property.

Within the tax period taxpayers are required to make the current tax payments. Prior to 10 January of the current tax period (for newly founded companies this term is restricted to 30 days from the date of State registration), the taxpayer is required to present to the tax authority a certificate of the amount of corporate property tax for the current tax period, calculated on the basis of the proposed taxable base (i.e. the average annual value) and the fixed rate. The time frames and size of current payment are shown in Table 29.5.

Table 29.5: Time frames and size of the current payment

Form of legal entity taxpayer	Deadline for tax payment	Payment size
Microfirm or small business[43]	No later than 25th day of the third month of each quarter	1/4 of the annual corporate property tax amount
Other taxpayers	No later than the 10th day of each month	1/12 of the annual corporate property tax amount

If the sum of the current payments effected within a tax period appears to be less than the tax due (according to the estimation report) by more than 10 per cent, the tax authority recalculates the current payments based on the due amount of the corporate property tax, plus accrued pecuniary penalty charges.[44]

[42] Corporate property tax report forms are established by the Ministry of Finance and the State Tax Committee of RUz. See Annex 7 to the Resolution No. 23/2013-8 dated 4. 3. 2013, registered with the Ministry of Justice on 22. 3. 2013 No. 2439.

[43] Under Uzbek legislation, "microfirms" and small businesses come within the category of small entrepreneurial entities. The decisive criteria for this categorisation is the average annual number of employees and the field of activity. Thus, the number of employees of a microfirm engaged in a production branch may not exceed 20 persons: in the service sector or other non-production sectors the maximum cannot exceed 10 persons: and in retailing and wholesale or public catering, a maximum of 5 persons. Similar preconditions are prescribed for small enterprises, where the average annual number of employees of a small enterprises engaged in the production of consumer goods, food processing or construction materials industry cannot exceed 200 persons; and in science, transport, communications or service sector (save for insurance companies), the sale and catering or other nonproduction sectors, the maximum is 25 persons. Art. 5 of Law RUz On Guarantees of Freedom of Entrepreneurial Activity dated 25. 5. 2000 (new edition) // SZ RUz. 2012. No.18. Art. 201.

[44] Under Uzbek legislation, a pecuniary penalty is a financial sanction (penalty) which accrues on an outstanding tax liability on and from the day following the prescribed payment date through to the day on which the outstanding payment is made. The pecuniary penalty rate as of 1 May 2017 is 0.033 % of the outstanding debt. (Art. 120 TC RUz).

There is a different order of calculation and payment of corporate property tax provided for non-residents of RUz. First, the calculation of tax is made by the tax authorities. Second, since 1 January 2018, the procedure for calculating the tax has been significantly simplified. Previously, a non-resident of RUz has been obliged to present to the tax authority at the tax domicile of the permanent establishment, a certificate of the taxable property (being list of property), no later than 25 January of the year following the accounting period. This information is required to be provided to the authority that carries out the State registration of rights to immovable property (real estate). Third, the time frames for tax payment are also different: for non-residents, the tax is payable once a year and no later than 15 February of the year following the accounting tax period.

1.1.2 Taxpayer recording procedures and object recording procedures

A non-resident of RUz with rights to real estate or a land plot and, thus, who is obliged to pay the respective property tax or land tax, must meet certain formalities related to the recording procedure. Thus, the taxpayer is required to file with the tax authority a special application for the recording of these rights, supplemented with documents confirming the data specified in the application. No later than three days from filing of the application, the tax authority, assigns an identification number to the taxpayer and issues a certificate confirming the recording of the taxpayer in relation to the taxable object.

From 1 January 2008, a new procedure of the so called "object recording" of the taxpayer has been introduced in Uzbekistan. The procedure is also followed by the taxpayer itself at the location of the taxable object.[45]

The "object recording" procedure is finalised upon the completion of the taxpayer's recording procedure,[46] in the case of the taxpayer's obligation on the payment of the property tax or land tax occuring in a location other than the place of the taxpayer's recording. If the taxpayer has such an obligation, the taxpayer[47], is obliged to contact the tax authority for the recording of the taxable objects at their location, within 10 days from the State registration of the title to the appropriate land plot, or from the day of accrual of the taxable object. Within three days from such an application, the tax authority undertakes the object recording procedure, according to the previously issued taxpayer's identification number.

Thus, the correct fulfillment of property tax obligations requires a non-resident legal entity to pass two subsequent administrative procedures: i) taxpayer recording and ii) object recording[48].

[45] Art. 81 TC RUz

[46] Art. 80 TC RUz.

[47] Taxpayer being a legal entity. Object recording of individual taxpayers is performed by the tax authority itself.

[48] This registration takes place at the location of the object and is not a registration within the State Cadastral Register.

1.1.3 Individual property tax structural components

Taxpayers of the individual property tax are individuals (physical persons), including foreign citizens, and dekhkan entities[49] possessing rights to taxable property.

Taxable objects are dwelling houses, apartments, country-side constructions, garages and other constructions, premises and facilities situated in the territory of RUz.[50]

The taxable base is the cadastral value of the taxable objects determined by the authority performing the State registration of the immovable property (real estate).[51] The control over the evaluation and re-evaluation of taxable objects is excercised by the tax authority. The main evaluation criterion of dwelling houses and apartments is the total floor area in square metres.

The itemisation of houses, apartments, premises, etc. is performed at least once every five years. In the absence of the cadastral value of a taxable object, the taxable base is deemed to be the notional cost of the object established by the legislation.[52]

Legislative grounds for granting privileges in respect of this tax are determined by the affiliation of the person to certain social groups or special achievments. So, persons exempted from the payment of the tax include:

- handicapped persons and veterans;[53]
- women with ten or more children;
- retired persons; and
- disabled persons of groups I and II[54].

The privilege granted to women having ten or more children, retired persons and disabled persons of groups I and II is limited to the extent of the legally prescribed fixed non-taxable floor area.[55] Any privilege only covers one property at the choice of the owner. Persons entitled to privileges are required to submit documents confirming their right

[49] The Dekhkan entity refers to a family or small commodity household engaged in the production and sale of agricultural goods using the personal labour of family members, and at a land plot granted personally to the head of the family for lifetime ownership with hereditary succession. It may be founded both with or without the incorporation of a legal entity.
[50] Art. 273 TC RUz
[51] See: Regulation On Evaluation, Re-evaluation of Buildings and Constructions Owned by Individuals on the Right of Ownership: Annex to Resolution of the Cabinet of Ministers RUz No.478 dated 29. 12. 1995.
[52] In the absence of cadastral value of property, the "value" of the property for taxation purposes is considered to be the notional cost, which amounts at 2,0100 thousand Soum for Tashkent, and 9,000 thousand Soum for other cities and rural areas. See Annex 18 to Resolution of the President RUz No.PP-3454 dated 29. 12. 2017. Such an order has applied since 1999. Within the period from 1994 until 1998, and in the absence of any evaluation results, the tax was calculated based on the value of the property estimated for the purposes of the obligatory State insurance.
[53] Including without limitation veterans of World War II 1941-1945.
[54] being the more seriously affected.
[55] The non-taxable floor area is currently 60 m^2.

thereto. Tax privileges do not apply to taxable objects used by physical persons for the purposes of conducting a business or letting out for lease to a legal entity or individual entrepreneur.

The calculation of the tax is performed by the tax authority at the location of the taxable object, irrespective of the residence of the taxpayer. A tax bill is forwarded to the taxpayer by the tax authority on an annual basis no later than 1 May. The taxpayer is passive at the tax calculation stage. Payment of the tax accrued for the tax period must be made before 15 October of the accounting year. The tax amount is calculated on the basis of the cadastral value of the property as at 1 January and the fixed tax rate (Table 29.6).

Table 29.6: Individual property tax rates

#	**Taxable object**	**Tax rate** (% of the cadastral value of the property)
1.	Dwelling houses, apartments (save for those situated in cities, with a total floor area exceeding 200 m^2), country-based constructions, garages and other constructions, premises and facilities.	0.2
2.	Dwelling houses and apartments situated in cities with total floor area:	
	above 200 m^2 but not exceeding 500 m^2	0.25
	exceeding 500 m^2	0.35
3.	Dwelling houses and apartments situated in other populated area with a total floor area exceeding 200 m^2	0.25

The tax payable on constructions, premises and facilities, being in the joint shared ownership of several proprietors, is payable by each proprietor proportionally to their share.

In the case of the transfer of the title to the property from one proprietor to another within a calendar year, the original proprietor pays the tax due from 1 January of that year up to commencement of the month in which the title was sold to another, and the new proprietor is liable for the the tax on and from the month in which title was acquired.

The tax on newly-built constructions accrues from the commencement of the year following the year of the completion of the building or other structure.

The tax on the property transferred by succession accrues from the month in which the heir gained title to the property.

If a physical person uses taxable objects for any entrepreneurial activity or lets them out on lease to a legal entity or an individual entrepreneur, the tax payable on such property is payable at the rate established for the corporate property tax.

The income of a physical person which is received from the rent of a property let on lease, and income received from sale of property held under the right of private ownership, attracts the individual income tax (IIT), rather than the property tax, and, provided that the income from the sale of the property is calculated as the difference between the sale price and the purchase price of the property, which must be confirmed by documents. In the absence of documentation confirming the purchase price of the property, the income is deemed to be equal to the sale price of the property. In respect of immovable property, income from sale is equal to the difference between the inventory value and the sale price.

The income of an individual is taxed with under the individual income tax (IIT) if it is received from the sale of a dwelling possessed by an individual under the right of private ownership on the precondition of performance by the individual of more than one transaction within one successive twelve month period. Thus, it is only the income from the second sale in a year which is taxable.

The income (rent) which an individual receives from a property lease and income received from the sale of immovable property owned by the individual under the right of private ownership is taxed at the minimum rate applied to the Indiviual Income Tax (7.5 %).

1.1.4 Corporate land tax structural components

Payments to the State budget for the use of land plots are effected in the form of a land tax or a lease fee. The lease fee for the land plots let out by the Government of the Republic or by local municipalities is equal to the amount of land tax, and there is no double taxation here.[56]

Payers of the land tax are legal entities (including non-residents of RUz) possessing land plots under the right of ownership, possession, use or under a leasehold tenure. In the case of the letting of the immovable property, the land tax is payable by the landlord.

Non-commercial organisations are not payers of land tax; however, the land tax accrues on land plots where they are used in the performance of entrepreneurial activity . Land tax is not charged to legal entities using the simplified taxation order.[57]

The land tax is not levied on lands for public use situated in populated localities (squares, streets, roads), lands used for cultural purposes and recreation (parks, city forests, parkways, public gardens); public utility lands (burial places, household wastes collection

[56] Legal entities renting land plots shall under corporate land tax rates, as well as the associated privileges, comply with the order of calculation, submission of estimates and payment prescribed for payers of corporate land tax.

[57] The simplified taxation order applies to certain categories of taxpayers and provides for a special regime of computation and payment of a *single tax payment, single land tax* and *fixed tax* for certain types of businesses, as well as the special order of tax reporting on said taxes.

and sorting sites); nor reserve lands retained by the State authorities and intended primarily for agricultural purposes.

The taxable base is the total area of the land plot reduced by areas of non-taxable land plots pursuant to the Tax Code.

For the purposes of the land tax, Uzbek law provides for privileges in the form of tax exemptions. These may be granted on a permanent basis or for a limited period of time. Non-taxable land plots include, without limitation:[58]

1) public gardens, viticultural and land used for households' vegetable farming;
2) State nature reserves, reservation parks, etc.;
3) conservation areas, archeological sites, etc.;
4) lands under public highways and railways;
5) land for construction included in the Investment Programme of RUz (for the period prescribed for the project construction); and
6) land under cultivation (for the period of cultivation and five years thereafter).[59]

The law also provides for tax exemptions for land used for cultural, educational, health care and social protection institutions which are relieved from the land tax on the land plots used for the fulfillment of their specific purposes.

With effect from 2018, for legal entities that purchase State-owned objects, the amount of the land tax is reduced by the amount of tax attributable to State-owned objects, with the target direction of the released funds for modernisation, technical and technological re-equipment, and the development of privatised objects.The tax exemption is applied within 12 months from the date of signing the contract of sale.

The law also provides for tax privileges for other categories of persons. Tax privileges, however, do not apply to land plots used other than as intended.

In the case of the worsenning of agricultural land quality (decrease of site or soil quality) through the fault of the proprietor of the land plot (land owner, land user, leasee), the land tax is payable at the rates prescribed prior to the worsenning of the land quality.

The land tax payable on agricultural lands within the administrative borders of cities and villages is double the rates fixed for agricultural areas.

Since 2018, for objects under construction which have not been completed within the normative period established in the design and estimate documentation, and in the absence of the established normative period of construction, within twenty four months from the beginning of construction on the land plots allocated for entrepreneurial

[58] Except for lands where an economic activity is performed.
[59] There are 26 such exemptions (as at 1 January 2018).

activities, the land tax is calculated on the basis of the taxable base and three times the set rate.The tax period is a calendar year.

A The order of calculation, presentation of estimates and payment of corporate land tax

The tax is calculated as at 1 January of each tax period, and the tax estimate statements submitted to the tax authority at the place of the location of the land plot by 10 February of the current tax period. The calculation of the tax payable is a function of the taxable base and the fixed rate. Payment of the land tax is made by legal entities before the 10th day of each month at a rate of one twelfth of the annual amount of land tax. These rules were amended in 2018.

Agricultural enterprises which have not switched to the single land tax pay the tax twice a year: 30 % of the annual tax amount by September 1 of the accounting year, and the rest by December 1 of the accounting year.

A separate order is established for "microfirms" and small enterprises which are required to make a single tax payment during the year.

The land tax is deductible for the purposes of the corporate income tax.

1.1.5 Individual land tax. Structural components

The land tax is a tax paid by individuals owning land plots on the basis of property rights, the right to lifetime ownership, or other rights specified in the legislation of Uzbekistan.

Table 29.7: Individual land tax

Taxpayer	Taxable object	Taxable base	Notes
Physical person (individual)	Land plot	Land area	Land plots may be allotted to lifetime ownership with hereditary succession for family farms (dekhkan) or for the construction of individual dwellings, for collective gardening, viticulture and vegetable farming; lands also may be let out for use for the purposes of conducting business, etc.
Family farm (dekhkan)	Land plot	Land area[60]	

Source: Author's own.

[60] Data on the land plot's area is provided by the regional department of the LGCSC RUz. In some cases this information is provided by the organization or institution to which the land plot is allotted.

However, the taxable base for the single land tax[61] is not the land area, but the normative value of the agricultural lands[62] which is established by the Land Resources, Geodesy, Cartography and State Cadastre (LGCSC) department. The rate is established as a percentage of the normative value. In 2018 this rate was 0.95 %.[63]

Likewise the corporate land tax, the lease fee for the land plots let out to individuals by the Government of RUz or local municipalities is equal to land tax.

Land plots under apartment blocks are non-taxable, unless the building is leased or used for the purposes of conducting business.

In terms of the individual land tax, Uzbek law provides for tax reductions for specific individuals. The privileges applies without limitation to:

- citizens awarded with high ranks; [64]
- handicaped persons and veterans;
- disabled persons of groups I and II;
- retired persons living alone; and
- large families whose breadwinner is deceased.

Privileges only cover one land plot at the option of the taxpayer. Persons entitled to such privileges are required to submit documentation confirming their rights thereto.

The tax period is a calendar year.

A The order of calculation, presentation of estimates and payment of individual land tax

The calculation of the tax payable is performed by the tax authority. The tax bill which specifies the tax amount due and the payment deadline is forwarded to the taxpayer annually and no later than 1 May.

The tax is collected and payable to the local budget of the district of the land plot irrespective of the taxpayer's domicile. The tax is payable regardless as to whether or not the land plot has been in use.

The tax is payable before 15 October of the accounting year.

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[61] Payable by agricultural manufacturers.

[62] See Resolution of the Cabinet of Ministers RUz "On Improvement of the System of Determination of Normative Value of Agricultural Lands" No.235 dated 18. 8. 2014 // SZ RUz. 25 August 2014. No. 34 Art. 434. The calculation of the single land tax on the basis of the normative value of the agricultural land according to provisions of Resolution No. 434 takes effect from 1 2016. The determination of the value is assigned to the LGCSC RUz.

[63] See Annex 20 to Resolution of the President RUz No. PP-3454 dated 29. 12. 2017.

[64] For example: "Hero of Uzbekistan", "Hero of the Soviet Union", "Hero of Labour".

1.1.6 Rates of corporate land tax and individual land tax

The rates of the taxes are established by the President of RUz and vary according to the category of land. There are seven categories:

- agricultural lands;
- land in populated localities;
- lands used for industry, transport, communications, defence and other similar purposes;
- lands used for nature protection, health-improvement, recreational, historical and cultural purposes;
- forest reserve lands;
- water reserve lands;
- reserve and public lands; and
- 28 subcategories.

The base tax rates are subject to adjustment according to land quality and corrective factors.[65]

The Tax Code provides for the order of determination of the corporate land tax rate for legal entities conducting business under production-sharing contracts. The rate of the land tax for the individual investor may be set out in the contract.[66] The recording of the land quantity is maintained in the cadastre of the district, which is the main documentary instrument of land quantitative and qualitative accounting and evaluation.[67] Cadastre data are an obligatory factor for the determination of the land fee. The land tax rate applicable in Tashkent is set out in Table 29.8.

[65] Such as the sufficiency of water supply for the land plot.
[66] Art. 256 TC RUz.
[67] See Resolution of the Cabinet of Ministers RUz "On Improvement of the Order of State Registration of Rights to Immovable Property" No.1 dated 7 January 2014 // SZ RUz. 13 January 2014. No. 2 Art. 19.

Table 29.8: Rates of land tax for the use of land plots in Tashkent city for 2018

Zone	Tax rate for legal entities (for each ha, in Soum)[68]	Base rates for lands allotted for individual dwelling construction (for each m^2 in Soum)
1.	131 175 469	752.1
2.	104 940 375	638.4
3.	78 705 281	524.7
4.	52 470 188	411.0
5.	26 235 094	297.3

The tax rates set out in Table 29.8 apply to land plots within the limits of the prescribed standard. The standard for Tashkent is 0.06 ha. Land plots in excess of this standard fall under a multiplying ratio applied to the base rates which is 1.5.

1.2 Overall review of taxation in Uzbekistan

1.2.1 Taxation as an aspect of doing business in Uzbekistan (domestic and international ratings)

A number of domestic and international publications take into consideration "property rights" and "taxation" in describing the business environment. They do not provide an accurate monetary appraisal of property and land taxation, but give a general insight into the the subject.

In 2017, out of 190 world economies Uzbekistan ranked No.87 in the "ease of doing business" index[69] and No. 141 in the Overall Paying Taxes ranking[70]. According to the estimate by PricewaterhouseCoopers, the time to comply for a nominal company in Uzbekistan is 193 hours, with the number of (all tax) payments amounting at 46, and the total tax rate of 38.1 %.[71] According to the same rating, Uzbekistan ranks No.75 in terms of "Registering property", with 9.0 procedures involved, 46.0 days to comply, 1.3% of

[68] On January 5, 2018, 1 euro - 9775.4 soums.
[69] See: Doing Business 2017. Equal Opportunity for All. Comparing Business regulation for domestic firms in 190 economies. Source: http://russian.doingbusiness.org/~/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Full-Report.pdf (as at: 1. 5.2017).
[70] See: Paying Taxes 2017. Source: https://www.pwc.com/gx/en/paying-taxes/pdf/pwc-paying-taxes-2017.pdf (as at: 1. 5. 2017).
[71] See: Paying Taxes 2017. pp. 113, 114, 127, 135.

the property value as the registration cost, and the quality of land administration index being 18.5.[72]

The "2017 Index of Economic Freedom"[73] study refers to twelve indicators for the comparison of nations' economies including the categories of „tax burden" (i.e. the overall burden from all forms of tax as a percentage of total GDP), and the security of „property rights". Uzbekistan ranks No.102 with 48 points on „property rights" and much more positively No. 26 with 90.7 points on „tax burden". Referring to the national research, the „Tax Environment Index" (TII) is maintained by the State Committee of the Republic of Uzbekistan to provide Assistance to Privatised Enterprises and the Promotion of Competition.[74]

As a result of this study, the Tax Environment Index was 53.4 in the second quarter of 2014. This demonstrates the satisfaction of entrepreneurs with the availability of the electronic tax reporting system (74.2) and the compliance of tax authorities with tax laws (60.5).

The data given in the Business Activity and Business Environment Index of Uzbekistan for 2012[75] indicated such aspects as "Attitude of controlling authorities: tax inspection" and "Taxation, tax reporting and privileges". Both indicators are highly ranked: "Attitude of controlling authorities: tax inspection" at 27.1 and "Taxation, tax reporting and privileges" at 26.7. However, both indicators are tending to visibly decrease over the year (Table 29.9).

[72] See: Doing Business 2017. p. 249.
[73] See: 2017 Index Economic Freedom. Promoting Economic Opportunity and Prosperity. P.191. The Heritage Foundation & The Wall Street Journal. Source: http://www.heritage.org/index/pdf/2017/book/index_2017.pdf (as at: 1. 5. 2017).
[74] On 1 June 2016, data published on the results of the monitoring of the system of the quarterly appraisal of the degree of business environment development as of end of quarter II 2014. Source: http://www.gki.uz/ru/deyatelnost/otsenka-delovoj-sredy/monitoring/281-monitoring-sostoyaniya-delovoj-sredy (as at: 1. 6. 2016). Previously the Business Environment Index was maintained by non-governmental institutions: Center for Economic Research, Chamber of Commerce of RUz in cooperation UNDP.
[75] See e.g. Business Activity and Business Environment Index of Uzbekistan October – December 2012 (current), January – March 2013 (expected). Source: http://www.cer.uz/upload/iblock/95a/aemhuz%204%20slphkcekzhqflr%202012.pdf (as at: 13. 11. 2013).

Table 29.9: Index behaviour

Indicator	I quarter 2012	II quarter 2012	III quarter 2012	IV quarter 2012
Attitude of controlling authorities: tax inspection	46.3	34.8	29.5	27.1
Taxation, tax reporting and privileges	25.0	34.4	30.1	26.7

The same study indicates that one of the five main obstacles to the further development of the economy and business pointed out by entrepreneurs is the pressure from the high level of tax (51.3 % and 54 % respectively).

The data given in the Business Activity and Business Environment Index of Uzbekistan for 2013[76] shows the growth of one indicator and a drop of the other one (Table 29.10).

Table 29.10: Indicators

Indicator	I quarter 2013	II quarter 2013
Attitude of controlling authorities: tax inspection	35.2	29.0
Taxation, tax reporting and privileges	32.5	42.5

In general, tax regulations in the Republic are characterised as follows:

a) the weak function of judicial powers in the settlement of tax disputes and their minimal impact on the development of tax legislation. The efficiency of court decisions is contingent upon the court's independence and adherence to the principles of the rule of law. There are, however, some problems in this regard, which are regularly shown by international research, such as the World Justice Project (WJP) Rule of Law Index. There is no case of a published decision of the Economic Court, where a judge has applied the principle of proportionality, the principal of legal certainty or the principle of the protection of legitimate expectations. Reforming the judical and tax systems on the basis of these constitutional principles is forthcoming. Of signigicance is that decisions of economic and general jurisdiction courts are published only on a selective basis;

[76] See e.g. Business Activity and Business Environment Index of Uzbekistan April – June 2013 (current), July – September 2013 (expected). Source: http://cer.uz/upload/iblock/7b2/luwjld%202%20gxrxgpkmbrmwew%202013.pdf (as at: 13. 11. 2013). No further publicly available data. On 19 April 2015 these data became technically inaccessible. In 2015, the calculation of the Index on the new methodology was resumed. However, a number of components of the business environment are no longer there.

b) the practical impossibility of a large-scale application of administrative or constitutional justice. For example, a national of the Republic of Uzbekistan has no legal recourse to appeal to the Constitutional Court on the unconstitutionality of a regulatory act;
c) the problems with tax inspections arise because they are fiscal and, therefore, unfair, because the principles of administrative procedures are not applied. A tax authority must make a forecast of a quarter or of its total annual budget, and a part of the funds collected as a result of inspections (including pecuniary penalties), and financial sanctions imposed for breach of tax legislation and penalties collected for administrative violations within the tax authorities' competence, are allocated in part to the State budget, and in part for the support of tax inspectors (via a special Social Aid Fund to purchase, for example, equipment);
d) the instability and inconsistency of tax legislation. For example, Art.11 TC RUz states that "all irresolvable discrepancies and ambiguities of the tax legislation shall be construed to the benefit to the taxpayer". However, this statement is meaningless in practical terms. The TC RUz in force from 1 January 2008 has undergone about 79 amendments in a single year. It should be noted that when amendments are made to tax legislation, their importance for the budget and business is declared. But, despite the formal nature of the amendments, with the passage of time, the authorities recognise their momentary character and thus the instability of legislation, the presence of problems in tax legislation, including contradictions. Thus, they fail to resolve the presence of the conflicting provisions of the law. Therefore, the amendments to the legislation fail to ensure that the above quote is implemented.

1.3 Challenges and future developments

1.3.1 Property and parafiscal payments

One of the problems of Uzbek tax legislation is the application of so-called parafiscal payments, such as an equipment fee[77] payable by business entities (except for "microfirms" and small enterprises) in the amount of 0.25 % of the replacement value of the original equipment which was introduced in 2011. The purpose of the fee is to encourage the timely replacement of aging or obsolete equipment. However, the collection of this fee has been established not by the TC RUz, but by a departmental decision. This parafiscal payment should be regulated by law which can provide greater confidence in the justification of the fee, both in principle as well as in terms of the amount levied, and the maturity of the fee administration. This will positively affect the degree of taxpayers' protection and allow for a more positive attitude to the authorities' introduction of such fees.

[77] Resolution of President RUz "On Forecast of Main Macroeconomic Performance and Parameters of State Budget of the Republic of Uzbekistan for 2011" No. PP-1449 dated 24.12.2010. See Regulation On the Order of Collecting Fee for Deteriorated Equipment Being in Use, Annex to Resolution of Ministry of Economy RUz, Ministry of Finance RUz, State Tax Committee RUz No. 3/7/2011-2 dated 25. 1. 2011, registered with Ministry of Justice RUz on 21. 2. 2011 No.2199 // SZ RUz. 2011. No. 7-8. Art. 77.

1.3.2 Difficulties in determining the taxable base

The corporate property tax is calculated on the basis of the average annual net book value of the property computed using either the i) cadastral value; or the ii) nominal value fixed according to the legislation. Neither option reflects the real value of the property.

Likewise, the calculation of the corporate and individual land taxes is based, not on the market value of the land plot, but on its area. The calculation of the single land tax is based on the normative value of the land which also may not be deemed its market price.

In order to introduce a real estate tax, the taxable objects must include not only the buildings and other similar structures, but also the land. The taxable base must be determined in the same combination (land value + value of buildings and constructions thereon).

In Uzbekistan, it is usual for business entities to possess buildings and structures by the right of ownership; and to hold land on a leasehold basis, as land is the property of the State. Thus, in the light of the current situation in Uzbekistan, a real estate tax would be payable by one person being simultaneously the owner of buildings and the lessee of the land. It is likly that, in such a situation, the introduction and the administration of a single tax may be highly controversial, particularly if the government decides to privatise land ownership.

It is also evident that the market based evaluation of real estate could lead to a significant increase of the tax payable which, subsequently, will seriously affect the financial status of physical persons, most of which belong to social groups requiring constant state support. The introduction of a real estate tax will require a highly differentiated system of tax exemptions and tax reliefs, particularly in order to prevent the erosion of tax revenue and damage to the economy. It is thought that the solution to the question of private land ownership and the growth in citizens' welfare might allow the real estate tax to become a part of an efficient tax system of Uzbekistan.[78]

2 Privatization in Uzbekistan - General

Reforms in Uzbekistan are based on certain principles such as the "State is the main reformer", the phasing principle, and social stability. Private land ownership and the right of restitution (return of expropriated property to its initial owner) have never been applied

[78] The real estate market is underdeveloped. Indirect confirmation thereof are the following data: as at 1 January 2017, the Expert Commission of the State Committee of the Republic of Uzbekistan on the Assistance to Privatised Enterprises and the Promotion of Competition engaged in the licensing of evaluation, exchange and real estate activity, issued 236 licenses of which only four licenses were for the evaluation of real estate. Of the rest, 177 licenses were for the evaluation of business and 23 for the evaluation of movable property. Source: https://gkk.uz/ru/deyatelnost/rezultaty-deyatelnosti/press-relizy-o-rezultatakh-deyatelnosti-komiteta/2350-press-reliz-itogi-za-2016-god (as at 01.05.2017).

in the country, and nor have the strategic industrial sectors and mining sector been privatised.

The legal basis for the transformation of public property by way of denationalisation[79] and privatisation[80] was created at the end of 1991.[81]

Denationalisation and privatisation are carried out in the following forms:

- The transformation of a State-owned enterprise into a business partnership or a company; and
- The sale of State-owned property to non-State legal entities and individuals on a competitive basis, or at auction, or other forms of disposal prescribed by the legislation of the Republic of Uzbekistan.[82]

According to the statistics of the State Committee of the Republic of Uzbekistan on the assistance to Privatised Enterprises and the Promotion of Competition for the period 1992-2005, more than 131,000 State-owned enterprises and objects were privatised, with more than 78,000 given a legal entity status, and the basis for incorporation given to more than 50,000 enterprises of various forms of ownership. In the first phase (1992 - 1993) were privatised public housing,[83] small- and medium-sized enterprises of trade, services, local industries, consumer goods and food industries, road transport and construction. In the second stage, (1994 - 1996), the privatization process involved all industries (excluding those in the strategic sectors), including the agro-industrial complexes. Since 1998, privatisation has involved industrial "giants", subsidiary enterprises of the fuel and energy industries, chemistry, metallurgy and mechanical engineering organizations.[84] In 2016, 609 State assets were sold to the private sector.[85]

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[79] Transformation of State-owned enterprises and organisations to business entities and companies, other enterprises and organisations out of public ownership. See: Regulation On the Order of Transformation of State-owned Enterprises and State-owned Institutions to Business Entities, approved by Resolution of the Cabinet of Ministers RUz No.279 dated 6. 10. 2014 // SZ RUz. 13 October 2014. No.41. Art. 506.

[80] Acquisition of State-owned objects or shares of State-owned joint stock companies by individuals or non-State legal entities.

[81] Law of RUz "On Denationalisation and Privatisation" dated 19. 11. 1991 // Vedomosti Verkhovnogo Soveta RUz. 1992. No. 1. Art. 43.

[82] Sale of State-owned shares: sale of State-owned shares in the charter capitals of limited liability companies; sale of State-own immovable properties; sale of State-owned property at "zero" purchase price conditioned upon assumption by the purchaser of investment and social obligations; sale of State-owned property under decisions of the State Commission for conducting tenders to foreign investors. See: Resolution of the Cabinet of Ministers "On Approval of Regulations on the Order of Privatisation of State-owned Property" dated 10. 6. 2014 No.279.

[83] Privatisation of public housing refers to sale or donation of apartments, houses (parts of houses) of the State public housing to the ownership of citizens. See: Law of Uzbekistan "On Privatisation of Public Housing" dated 7. 5. 1993 // Vedomosti Verkhovnogo Soveta RUz. 1993. No. 5. Art. 230. Statistics on the privatisation of public housing in the city of Tashkent shows: 252,100 applications were filed for privatisation of apartments, which is 99 percent of the total quantity of apartments in apartment blocks owned by local State power bodies. 218,000 apartments have been transferred to private ownership of citizens, including 92,900 thousand donated.

[84] Source: http://www.gki.uz/ru/deyatelnost/direction/privatization (as at: 19. 4. 2015).

[85] Source: https://gkk.uz/ru/otkrytye-dannye/perechen-rieltorskikh-i-otsenochnykh-organizatsij (as at: 1. 5. 2017).

2.1 Privatisation of land plots

As noted above, the land is owned by the State, and can not be subject to sale or purchase, except as set out in the legislation of Uzbekistan. There are only five cases which envisage the possibility of transferring land to private ownership:

a) the acquisition by individuals or legal entities (including foreign ones) of trading or service facilities and land plots thereunder;[86]
b) the purchase of residential premises along with the land thereunder by foreign legal entities and individuals, being members of the diplomatic corps, representatives of the press accredited in Uzbekistan, employees of permanent representative offices of companies and international organisations, individuals employed on a permanent basis by joint ventures, or such persons permanently residing in the country and holding a residence permit;[87]
c) the purchase by employees of the Association of Organized Agrochemical Services ("Uzagrohimservis") to the private ownership of the association's corporate stores along with the land thereunder;[88]
d) the acquisition of fuel/petrol filling stations by individuals or legal entities (including foreign ones) by private ownership along with the land there under;[89] and finally,
e) from 1 January 2007, the norm entitling resident legal entities of RUz to privatise the land plots under their buildings, constructions, industrial facilities owned or privatized by them and ancillary accommodation to the extent required for their production activities, according to the applied technology processes and urban planning regulations.[90] The same decision entitles residents of RUz from 1 January 2008, to privatize land plots allocated to them for the construction of an individual dwelling and the maintenance of a dwelling house. Unfortunately, the mechanism for the implementation of this has not yet been developed.

There is no published statistics available on those who have become owners of land under these legal opportunities.

[86] Decree of President RUz "On Measures for Further Intensification of Economic Reforms, Providing Protection of Private Ownership and Development of Entrepreneurship" No.UP-745 dated 21 January 1994.
[87] Decree of President RUZ "On Initiation and Stimulation of Private Entrepreneurship " of 5 January 1995 No. UP-1030.
[88] Item 6 of the Resolution of the Cabinet of Ministers of RUZ of 10 March 1995 No.82.
[89] Item 2 of Resolution of the Cabinet of Ministers RUz "On Privatization of Certain Fuel Stations Selling Gasoline to Population on Noncash Basis" No.215 dated 10 June 1995, and Item 2 of Resolution of the Cabinet of Ministers RUz No.107 dated 20 March 1996.
[90] See: Decree of the President of Uzbekistan "On Privatisation of Land Occupied by Buildings and Constructions of Legal Entities and Citizens" dated 24. 7. 2006, No.UP-3780 // SZ RUz. 2006. No. 30. Art. 288.

3 Property taxes and the system of State Cadastre of Uzbekistan

The Unified System of State Cadastre was introduced in Uzbekistan in 1996.[91] However, until October 2004, there was no single administrative body appointed to deal with these issues and the responsibility of several agencies overlapped.

In 2004, in order to ensure national accounting and the evaluation of the natural and economic potential of the country, a single specially authorised body was created for the management of Unified System of State Cadastre - the State Committee of Uzbekistan on Land Resources, Geodesy, Cartography and State Cadastre (LGCSC RUz).[92] This has been important for ensuring the unity of the methodological requirements for the maintenance of the cadastres, the completeness of the data, their reliability and availability. At present, the maintenance of the State cadastre of buildings and constructions, and the State land cadastre is performed by a single system of authorities which is the State-owned enterprises of land utilization and cadastre of real estate of districts (cities) under the LGCSC RUz.[93] The State Cadastre includes the State registration of property rights and other rights to objects, including such properties as buildings, land, and their valuation. The State registration of rights to cadastral objects is a legal act of recognition and confirmation by the State of the rights of legal entities and physical persons to such cadastral objects and is mandatory for all owners and holders of rights to cadastral objects. The information and data on the objects within the Cadastre is presented in a common format by LGCSC authorities.

The State cadastre is a system of updateable data and documents on the legal status, quantitative and qualitative characteristics, and the evaluation of each particular type of object. The structure of Cadastre includes (as at 1 May 2018), 21 State cadastres,

[91] Hereinafter referred to as USSC. See: Resolution of the Cabinet of Ministers of 17. 7. 1996 No.255 // Sobranie postanovleniy Pravitelstva RUz. 1996. No. 7. Art. 21 (no longer in force). Law of Uzbekistan "On State Cadastre" adopted on 15. 12. 2000 // SZ RUz. 2000. No.11. Art.160. 16. 2. 2005 the Government adopted a new decision No. 66, approving the "Regulation On Establishment and Maintenance of the Unified System of State Cadastre" // Sobranie postanovleniy Pravitelstva RUz. 2005. No.2. Art.12.

[92] See: Regulations on the State Committee of the Republic of Uzbekistan on land resources, geodesy, cartography and the state cadastre (Appendix No.1): approved by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan of July 19, 2017 No. 529 // SZ RUz, July 31, 2017, No. 30, Art.733.

[93] In 2017, it is planned to transform the State-owned enterprises of land utilization and cadastre of real estate of districts (cities) into branches of the State-owned enterprises of land utilization and the cadastre of real estate of the sovereign Republic of Karakalpakstan (and part of the Republic of Uzbekistan), regions and the city of Tashkent. See: Decree of the President of the Republic of Uzbekistan "On measures to strengthen control over the protection and rational use of lands, improve geodesy and cartographic activities, streamline the management of State cadastres" dated 31. 5. 2017 No.5065 // SZ RUz,
June 5, 2017, No.22, Art.415.

including the State Cadastre of Buildings and Constructions[94] and the State Land Cadastre.[95]

3.1 State Cadastre of Buildings and Constructions

The State Cadastre of Buildings and Constructions was created on 1 June 1997 and it is maintained by the departments of LGCSC. This national cadastre is created on the principle of territoriality. The cadastre includes data on the legal,[96] economic,[97] and the architectural status of buildings and constructions.

3.2 State Land Cadastre

The State Land Cadastre includes the State registration of rights to land plots, the quantity and quality of lands, soil appraisal and land valuation. The State Land Cadastre is the basis for determining the value of the land.

The monetary value of lands of all categories is based on natural and value indicators. The valuation of lands is performed for the determination of the level of efficiency in their use, the calculation of the payment for the land and its normative price, and the starting price of the land plots sold at auctions, compensation for losses and damages in the case of the seizure of the land for State or public needs[98]. The price valuation data constitute the land evaluation information.

The main document on the State registration, accounting and valuation of land is the district land cadastre, which contains information for the determination of the location and the purpose of the land plot, rights of possession, use, lease and ownership to the land plot, and on the quantity, quality and evaluation of the land.[99] The cadastre books use data on the normative value of lands of the agricultural manufacturers as the price valuation of the land.[100]

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[94] See: Regulation on the Order of Maintenance of the State Cadastre of Buildings and Constructions: approved by the Cabinet of Ministers on 2. 6. 1997 No.278.

[95] See: Law RUz "On State Land Cadastre" of 28.08.1998 // Gazette of Oliy Majlis RUz. 1998. No.9. Art. 165 (hereinafter - SLC Law); Regulation on the Order of Maintenance of the State Land Cadastre: approved by the Cabinet of Ministers RUz on 31. 12. 1998 No.543.

[96] Information on the location of the buildings and constructions, the rights of legal entities or individuals in terms of ownership or other proprietary rights, the grounds and dates of the acquisition of these rights, the terms of their termination, any conditions or restriction of property rights and other proprietary rights, and the rights of third parties to these objects.

[97] Including, without limitation, data on the value of the buildings and constructions.

[98] Art.19 of the SLC; paragraph 21 of the Decision of the Government of Uzbekistan No. 543

[99] See: paragraphs 2 and 9 of the Regulation On the Order of Maintenance of Land Cadastre of Districts (Cities): Annex No. 2 to the Resolution of the Cabinet of Ministers dated 7. 1. 2014, No. 1.

[100] Price valuation is carried out according to the Instructions of LGCSC RUz dated 16. 2. 2006 No.19 (registered by the Ministry of Justice of the Republic of Uzbekistan on 19. 4. 2006 No.1563; the instruction is no longer valid in accordance with the resolution of LGCSC RUz of April 3, 2017 No. 1563-1) // SZ RUz. 2006. No.16. Art.137.

3.3 State registration of real estate (land plots, buildings and constructions) and transactions

Since January 2014, the State registration of real estate (land plots, buildings and constructions) and associated transactions is performed by the State enterprises of LGCSC RUz on a "single window"[101] principle. At the request of the right holder, registration is performed by the issuing of a certificate of State registration of the rights to land plots, buildings and constructions.[102] State registration procedure is required for: the right of ownership and other rights to real estate, its acquisition, transfer, limitation and termination of these rights, and associated transactions.

The government has introduced a provision establishing that, with effect from June 2014, in the case of the sale of buildings or constructions owned by a foreign legal entity or individual, the State registration of the buildings or constructions is conditional upon the submission of a certificate confirming the payment of corporate income tax, or individual income tax, on the income received from the sale of the buildings or constructions. This provision does not apply to sales of the buildings or constructions to an entity which has State registration in the Republic of Uzbekistan.

In respect of the reliability of the procedures for the registration of property rights and other rights to real immovable property, the formal purpose of the introduction of the registration system is the protection of the rights of legal entities and individuals to real estate. The law provides that the State registration of rights to cadastral objects is a legal act of recognition and confirmation by the State of the rights of legal entities and individuals to those cadastral objects. The accuracy of the cadastre information is related to the basic principles of State cadastres. It is presumed that maintenance of the State Cadastre of Buildings and Constructions is carried out using reliable documents on these objects. The authorised State body receives documents and information necessary for the registration of rights to immovable property and transactions therein from other authorities.

The government has established a norm according to which the registration of rights to cadastral objects is mandatory for all owners of and holders of rights to cadastral objects. The right of ownership and other property rights of legal entities and individuals to real

[101] See: Regulations On the Order of State Registration of Rights to Immovable Property and Transactions Therewith: Annex №1 to the Resolution of the Cabinet of Ministers dated 1. 7. 2014, No.1.

[102] From October 1, 2018, the requirement to issue a certificate of registration of rights to immovable property (real estate) is cancelled, and the procedure for making an appropriate entry in the State register of rights to immovable property and transactions with them in electronic form is introduced. Thus, information on property rights is submitted using info-communication systems (ICT). The territorial bodies of LGCSC issues an extract from the State register rights to immovable property (real estate) and transactions with them in electronic and (or) paper form, confirming the State registration of the corresponding right. See: Decree of the President of the Republic of Uzbekistan “On measures to further improve the system for protecting the rights and legitimate interests of business entities” dated July 27, 2018, No.UP-5490. Source: http://lex.uz/ru/docs/3839752?query. (as.at.: 01/10/2018)

estate becomes effective only after the State registration of these rights, and any transaction involving that real estate is invalid, in the absence of the State registration of rights to the real estate objects.

Thus, the State has established exclusive jurisdiction to determine the procedures for the acknowledgement of a person's rights as a property owner, as well as the performance of other transactions involving such property.

Unfortunately, the law is silent about the responsibility of the State registration authority, its form, limits and conditions of operation. The principle of the protection of legitimate expectations is, at this time, not typical for the legal system in Uzbekistan. This should be taken into account when analysing the stability and reliability of procedures for the registration of real estate.

4 Application of information technologies

The introduction of electronic technologies in Uzbekistan was first observed in 2002.[103] Information technologies and electronic document circulation are applied by tax authorities and the departments of the LGCSC RUz. By way of an example, electronic technology is applied in the system of the registration of rights of legal entities to immovable property under LGCSC RUz.[104] The maintenance of the Land Cadastre on the basis of information technology was planned to be introduced in 2015. In 2011, the submission of reports to the financial, tax and statistics authorities was simplified by the phased transition to electronic submission.[105] From 1 January 2013, business entities have the right to submit in electronic format procedures as the payment of taxes and other manadatory contributions via the system of remote access to bank accounts; to check the amounts of tax payable on property and land tax (single land tax) and others. In particular, a number of these issues have already been resolved in the framework of the provision of electronic public services:[106] registration of legal entities and individuals; the sending of reports and tax returns; the sending of payment orders of legal entities and the payment of property and land tax; property tax and land tax calculator, etc.

[103] See: Presidential Decree of Uzbekistan "On Further Development of Computerisation and Deployment of Information and Communication Technologies" dated 30. 5. 2002, No. UP-3080 // SZ RUz. 2002. No. 10. Art.77. See also: Resolution of the President of the Republic of Uzbekistan "On Additional Measures for Further Development of Information and Communication Technologies" dated 8. 7. 2005, No.PP-117 // CS RUz. 2005. No.27. Art.189.
[104] See: Presidential Decree RUz "On Measures for Further Drastic Improvement of Business Environment and Granting More Freedom to Entrepreneurship" dated 18. 7. 2012 No.UP-4455 // SZ RUz. 2012. No. 29. Art. 328.
[105] See: Presidential Decree RUz "On Additional Measures for Creation of Maximum Favourable Business Environment for Further Development of Small Business and Private Entrepreneurship" dated 24. 8. 2011 No.UP-4354; Presidential Decree RUz "On Measures for Drastic Reduction of Statistics, Tax and Financial Reporting of Licensed Types of Activity" dated 16. 7. 2012 No.UP-4453, and others.
[106] See: https://my.soliq.uz/main/?lang=ru (as.at.: 01/10/2018)

Conclusion

2018 was a period of serious changes in civil and tax legislation, some of which are directly related to the topic of this study. First of all, from July 1, 2019, it is planned to start the privatisation of non-agricultural land plots.[107] This decision was made by the President of Uzbekistan in the summer of 2018,[108] with the aim of including such land in property markets and the expansion of investment opportunities for domestic enterprises. It is assumed that legal entities, as well as individual entrepreneurs (residents of the Republic of Uzbekistan) will be able to acquire privatised rights to those land plots, on which are located buildings and constructions owned by them, as well as industrial infrastructure facilities, and also the land plots adjoining to them belonging to them on which the property rights are located. Citizens of the Republic of Uzbekistan, and also persons without citizenship who are normally resident in the Republic of Uzbekistan, will also be granted the right to privatise the land plots allocated to them for individual house construction and the maintenance of a residential house. Legal entities, individual entrepreneurs (residents of the Republic of Uzbekistan) and citizens of the Republic of Uzbekistan will also have the right to acquire State-owned real estate objects in the course of privatisation together with their land plots.

The draft document establishes the principle of the unity of land plots and those objects constructed on or indivisible from them. [109] Thus, upon the transfer of ownership of a building or a construction belonging to the owner of the land plot on which it is located, the title to the land plot occupied by the building or property is transferred to the acquirer of the building or structure construction necessary for its use.

Until 1 January, 2021, the payment for the privatisation of land plots is proposed to be established by their cadastral valuation, and after 1 January, 2021 at market value.[110]

In order to stimulate individuals and legal entities to privatise land plots, as well as a specific delimitation of the status of the owner and user of the land plot, the developers

[107] See: "On measures for stage-by-stage introduction of the right of private property of non-agricultural land plots". ID 956. Draft Decree of the President of the Republic of Uzbekistan // Source: https://regulation.gov.uz/ru/document/956. At the same time, agricultural, environmental, historical and cultural lands, as well as lands of forest and water resources are not subject to privatization (as.at.: 15/10/2018).
[108] See: clause 19 of the Programme of Measures to Increase the Investment Attractiveness of the Country, approved by Decree of the President of the Republic of Uzbekistan of 01.08.2018 No. UP-5495. Source: http://lex.uz/docs/3845276?query=%D0%B8%D0%BD%D0%B2%D0%B5%D1%81%D1%82%D0%B8%D1%86%D0%B8%D1%8F#3847474 (as.at.: 01/10/2018).
[109] Thus, within the framework of the forthcoming new codification of the Civil Code of the Republic of Uzbekistan, it will be necessary to make a decision on clarifying the concept of real estate. Currently, civil legislation describes land and buildings constructed on land as independent objects of real estate. Many experts consider this a disadvantage. There are disputes about whether this or that construction is "real estate". The new proposal of the Civil Code of the Republic of Uzbekistan will help introduce a single property that unites land and buildings on them. This will mean that the property should be considered only as a land plot, and everything that is built on it, as a part of that land plot. As a result, in order to use the building, it will be imperative to get the legal right to the underlying land.
[110] This will be determined depending on their location, the availability of access and other conditions.

of the draft document propose to establish a reduced land tax rate of one half of the established rate for land plot owners.

It is very positive that the planned changes in land and civil legislation should be carried out against the background of important changes in the tax legislation of Uzbekistan. On 29 June, 2018 the Concept of Improving the Tax Policy of the Republic of Uzbekistan[111] was approved, which contains new rules related to the property tax and the land tax. This Concept identifies problems in the stability of the tax legislation of Uzbekistan, the existence of numerous contradictions and conflicts in the normative legal acts in the sphere of tax relations, which negative impact on the rights of conscientious taxpayers. The provisions of the Concept are aimed at reducing the high level of tax burden, introducing a system of analysis and risk management, while exercising control over business entities. Finally, the Concept recognises the absence of full-fledged accounting and objective determination of the value of real estate and land.

From 1 January, 2019, Uzbekistan plans to reduce the tax rate on the property of legal entities from 5% to 2%[112]. Also from this date, it is expected that all subjects of entrepreneurship (including legal entities) with a revenue[113] of up to 1 billion soums[114] will become payers of the property tax of legal entities, and the land tax.

At the same time, the order will be preserved regarding the treatment of equipment not completed in the normative time frame, and the construction objects that are not completed within the normative time limit, i.e. that the relevant taxes are paid at the double rate. Similarly, legal entities that use buildings and constructions inefficiently, including earlier privatised objects, will be required to pay the tax at double the rate.

It is planned to introduce a mechanism for determining the market value of the real estate of legal entities, taking into account international best practices for conducting mass appraisal.

[111] See: Decree of the President of the Republic of Uzbekistan "On the Concept of Improving the Tax Policy of the Republic of Uzbekistan" of 29.06.2018, No. UP-5468 // Sobranie zakonodatelstva RUz, July 2, 2018, No.26, article 509 (hereinafter referred to as SZ RUz).
[112] (subparagraph "c" of paragraph 2 of the Decree of the President of the Republic of Uzbekistan №5468)
[113] "Revenue" is the cash flow from the sale of goods, the provision of services or work. In other words, "revenue" is the gross income of a company. The term can be translated into English as "revenue".
[114] On January 5, 2018, 1 euro - 9775.4 soums.

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Resolution of the Cabinet of Ministers RUz “On Privatization of Certain Fuel Stations Selling Gasoline to Population on Noncash Basis” of 10.06.1995, No.215 [Postanovlenie Kabineta Ministrov Respubliki Uzbekistan o privatizatsii otdel`nykh avtozapravochnykh stantsiy respubliki, realizuiushchikh avtobenzin naseleniiu za nalichnyi raschet] Source: http://lex.uz/ru/docs/461743 (as.at.: 01.03.2016) (Russ.)

Resolution of the Cabinet of Ministers RUz of 20.03.1996, No.107 [Postanovlenie Kabineta Ministrov Respubliki Uzbekistan o privatizatsii avtozapravochnykh stantsii respubliki, realizuyshchikh avtobenzin naseleniy za nalichnyi raschet]. Source: http://lex.uz/ru/docs/399180 (as.at.: 12.12.2016) (Russ.)

Resolution of the Ministry of Finance and the State Tax Committee of the Republic of Uzbekistan "On approval of tax reporting forms" of 4. 3. 2013 No.2439, registered with the Ministry of Justice of 22. 3. 2013 No.2439 [Postanovlenie Ministerstva finansov, Gosudarstvennogo nalogovogo komiteta ob utverzhdenii form nalogovoi otchetnosti: zaregistrirovano Ministerstvom iustitsii], Sobranie zakonodatelstva RUz [Collection of legislation of the Republic of Uzbekistan]. March 29, 2013. No.12 (I). Art.162. (Russ.)

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razvitiiu informatsionno-kommunikatsionnykh tekhnologii], Sobranie zakonodatelstva RUz [Collection of legislation of the Republic of Uzbekistan]. 2005. No.27. Art.189. (Russ.)

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Statistics for licensing evaluation, stock and real estate activity on 1 January 2017. Source: http://www.gki.uz/ru/deyatelnost/rezultaty-deyatelnosti/press-relizy-o-rezultatakh-deyatelnosti-komiteta/1331-press-reliz-o-rezultatakh-deyatelnosti-goskomkonkurentsii-respubliki-uzbekistan-za-2014-god, (18. 4. 2015.); https://gkk.uz/ru/deyatelnost/rezultaty-deyatelnosti/press-relizy-o-rezultatakh-deyatelnosti-komiteta/1806-itogi-za-1-kvartal-2016-g (1. 6. 2016); https://gkk.uz/ru/otkrytye-dannye/perechen-rieltorskikh-i-otsenochnykh-organizatsij (as at: 1. 5. 2017); https://gkk.uz/ru/deyatelnost/rezultaty-deyatelnosti/press-relizy-o-rezultatakh-deyatelnosti-komiteta/2350-press-reliz-itogi-za-2016-god (as at 1. 5. 2017).

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
M. Radvan, R. Franzsen, W. J. McCluskey & F. Plimmer

Effectiveness and Fairness of Property Taxes in the Republic of Tajikistan

FARRUKHJON IBROHIMOV

Abstract The real property tax in Tajikistan has undergone significant changes since the country became independent. In the early years of independence, this tax was recognised mainly as a national or State tax; later, real property taxes, in the form of the Land Tax, remained in the national budget, while the Real Property Tax became a local tax, and was paid into local budgets. However, at present, both the Land and the Real Property Taxes are paid into local budgets. Apparently, a full transfer of the real property taxes to local taxes is associated with the intention of improving collection performance and profitability. Because, in relation to other taxes collected, the income derived from real property tax constitutes a relatively small amount, it may be said that role of real property tax is insignificant, and this is one of the reasons for the transfer of real property tax from State taxes to the local taxes. In addition, such a transfer may help to improve the process of the application and performance of this tax, because local governments and authorities have more information about the real property within their territory, which can be used by the tax inspectorate at the local level. In this regard, local governments should be able to better predict the final amount of the collected funds through real property tax, and also coordinate with the tax inspections, the process of collection of real property tax.

Keywords: • Tajikistan, property tax, immovable property tax, valuation, tax reform

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Introduction

The Republic of Tajikistan is one of countries in Central Asia and it announced its independence in 1991. Until that time, Tajikistan had been a part of the Union of Soviet Socialist Republics (USSR), and, following USSR's disintegration and Tajikistan's declaration of independence, various aspects of country's systems and fundamental principles have changed. Different types of property were acknowledged and the institution of private property was recognised once again.

According to Art. 12 of Constitution of the Republic of Tajikistan, the State guarantees the protection of all forms of ownership, including private ownership. Also, the above-mentioned article states that the economy of Tajikistan shall be based on various forms of ownership. At the same time there some peculiarities to the nature of ownership of certain objects in the Republic of Tajikistan. Land, its ancillaries, water, airspace, flora and fauna, and other natural resources are owned by the State in the Republic of Tajikistan.[1]

Recognition of different forms of ownership and various types of properties created the need for the administration of new types of taxes. Therefore, the payment of taxes and duties was declared mandatory.[2]

This chapter provides information regarding the real property tax in Tajikistan and describes the situation with regard to its character, its administration and the performance of real property tax. The problems of real property tax do not receive sufficient attention in political debate, nor in academic research. Legal norms and the rules of taxation are adopted by the State and administrated by State tax authorities. However their effectiveness and fairness are not the subject of national scrutiny.

Taxation, as major field of State policy, has been the subject of research by scholars, State bodies and independent specialists. However, such researches by scholars are mainly concentrated on tax and taxation as part of the tax laws or focused in its economical features. Scientific literature in the area of taxation is presented in published articles, theses and dissertations. Also course text books relating to tax law for use in the law faculties of universities were developed by faculty members. Unfortunately real property tax and property taxation are researched only as part of tax law. In the past years, research solely concentrating on the problems of real property and real property tax has not been undertaken. Therefore, this chapter in unique in its provision of information relating to and insight into issues connected with real property taxation in Tajikistan.

The chapter also provides information regarding the history of real property tax in Tajikistan with a focus on events after the proclamation of independence. In addition, the structure of the real property tax, its associated procedures, the calculation of the tax, the

[1] Art. 13 of the Constitution of the Republic of Tajikistan. Dushanbe, 1994.
[2] Art. 45 of the Constitution of the Republic of Tajikistan. Dushanbe, 1994.

rules of taxation and roles of Majlisi Oli[3], the government and its agencies in this regard are described. Certain matters on the revenue performance of the real property tax in the Republic of Tajikistan and its impact on State and local budgets as well as its administration are also examined.

The development of a real property market in the country, the registration of rights to real property and the trading in real property rights are reviewed as part of this work. The chapter also contains information regarding the real property market, and data about the process of the preparation of cadastres.

1 Real property tax

1.1 Historical overview

Prior to becoming an independent State, the territory of the Republic of Tajikistan had been a part of various historical states and state formations, which have existed within the territory of the Central Asia or included in parts of this region. One of the most important tasks of states at any time has been and continues to be collection of taxes. The tax collection function of the State continues to be recognised as one of the important institutions of Statehood. Amongst the various types of taxation in the historical territory of Movarounnahr, (which included the present territories of Tajikistan), and which has been a part of various states in different historical periods, was a land tax. This was considered to be one of the main taxes at the time, alongside the property tax which was applied mainly to real property and sometimes to movable property.

Certain scholars of legal history recognise the development of tax legislation based on the development of the national statehood in Tajikistan in the following periods:

1) the emergence and the development of tax relationships from ancient times until the formation of the Tajik state of the Samanids (up to the IX century);
2) the tax system of the first Tajik State of Samanids (IX-X centuries);
3) the peculiarities of the legal regulation of tax relations during a period of unstable statehoods (monarchic, feudal states, including the last feudal states of the Central Asian region, Khanate of Bukhara, Khiva (XVI century - 1920), Kokand Khanate (XVI c.- 1876), also the Turkestan general governorate of the Russian Empire (1868-1917));
4) the Soviet period of Tajikistan's taxation and the development of tax legislation (1918-1991);

[3] Majlisi Oli is the parliament (Supreme Assembly) of the Republic of Tajikistan, which consist of two houses: Majlisi Namoyandagon (house of representatives) and Majlisi Milli (senate).

5) the post-Soviet period of taxation and tax legislation, which began with the declaration of independence, until today.[4]

It should be noted, that there was a land tax during all abovementioned periods, except during the Soviet period.

During the extended period of history starting from the end of III millennia B.C. and until the fourth to the seventh centuries A.D., taxes in the present territory of the Tajikistan took two forms: a rent tax and a mandatory labour service ("public works"). The rent tax was applied up to 30-40 % of the value of goods produced on land, which leads to the conclusion that the rent-tax was, in essence, a land and property tax. This system emerged during the time when Central Asia was part of Akhmenid's empire (sixth to the fourth centuries B.C.) and without any substantial amendments, this system continued to function until the transition to feudalism (fourth to the sixth centuries, A.D.).[5]

The land tax continued its existence during the period of Eastern feudalism, and from the fourth to the seventh centuries A.D., took the place of the "asian" method of production, which was applied in Middle Asia for more than three and half thousand years. In the territory of Tajikistan, during the dominion of the Arab khalifat in Central Asia and later, during the period of Samanid's states, the system of Muslim law was introduced which regulated the determination of land tax, which was named the *kharaj*. As a result, all cultivated land was charged with the *kharaj*, which required the payment by owners of the lands of almost half of the crop harvested.

In the Temurid state (which included parts of present day Tajikistan) land tax was also collected. However, in the second half of the fifteenth century, the amount of this tax was decreased in comparison to the amount paid in first half of same century. During the rule of Temurids, the land tax (*kharaj*, being a tax from arable irrigated lands) was paid in two forms:

1) in kind, i.e. as crops; or
2) depending on size of land, the tax was paid by money. According to some sources, the amount of such a tax was equal to the value of one third of the crop.[6]

[4] Haitov, S. P. Formation and development of tax legislation in the Republic of Tajikistan. Dushanbe, 2011. Available at: http://www.dissercat.com/content/stanovlenie-i-razvitie-nalogovogo-zakonodatelstva-v-tadzhikistane #ixzz 3 McSA4TQk.

[5] Ismoilov, T. S. History of formation and development of national tax system of the Republic of Tajikistan: dissertation, candidate of economical science: 08.00.01. Dushanbe, 2007. РГБ ОД, 61:07-8/3444.

[6] See Haitov, S. P. Formation and development of tax legislation in the Republic of Tajikistan. Dushanbe, 2011. Available at: http://www.dissercat.com/content/stanovlenie-i-razvitie-nalogovogo-zakonodatelstva-v-tadzhikistane #ixzz 3 McSA4TQk. P. 134.

In the second half of the fifteenth century, another type of land tax was introduced, called the "ushrona" which was equal to 0.1 part of the crop[7]. This tax was collected from lands personally owned by members of State bureaucracy and by the clergy.

In the sixteenth century, during the Shaybenids rule, the total amount of taxes collected from land plots was equal to 30 % and sometimes 40% of the harvested crop[8] and was paid in kind or goods.

In the early nineteenth century in the Bukhara Emirate, the payment of land taxes in kind was completely replaced with cash payments, and, for this purposes the Emirs of Bukhara set the equivalent of one gold coin from each *tanob* (a measure of land approximately equal to 2,730 square meters or 0.273 hectares) of land, or one-third of the crop. Such a system of paying taxes in gold was in force until the end of the nineteenth century, covering also many of the taxes.[9]

In the middle of the XIX century, the current territory of Tajikistan was annexed by the Russian Empire, and, as a result of this the legislation of the Russian Empire was applied in the territory, and the taxes established in the Russian Empire were levied. Residents of the northern regions of the present Tajikistan, as well as in all of the Turkestan general governorate of the Russian Empire, paid a land tax in the amount of 10 % of the average gross yield, as a tax-rent – *tanabona*.[10] In addition, in other areas of Tajikistan at this time, other taxes on land and property were also imposed. For example, in Hissar bekigari a (which included parts of modern Tajikistan), taxes under the name of *Hums* and *Ushr* were levied, which were equal to one-fifth and one-tenth of the harvested crop, respectively.[11]

During the Soviet period of Tajikistan's history, which begins in the early twentieth century, the tax system in Tajikistan was consistent with the tax system of the Soviet Union; and because in the Soviet Union as a result of the nationalisation of land, the land tax was abolished, in Tajikistan as well, the land tax legislation was repealed.

During this period, and in accordance with the Constitution of the Tajik Soviet Socialist Republic (1931), the Tajik Congress of Soviets and the Central Executive Committee of the Tajik SSR had certain powers in relation to adopting State and local budgets and taxes.

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[7] Gafurov, B.G. Tajiks. Primordial, ancient, middle ages and new history – Latest edition. Dushanbe: Donish, 2008.
[8] Gafurov, B.G. Tajiks. Primordial, ancient, middle ages and new history – Latest edition. Dushanbe: Donish, 2008.
[9] Gafurov, B.G. Tajiks. Primordial, ancient, middle ages and new history – Latest edition. Dushanbe: Donish, 2008.
[10] Haitov, S. P. Formation and development of tax legislation in the Republic of Tajikistan. Dushanbe, 2011. Available at: http://www.dissercat.com/content/stanovlenie-i-razvitie-nalogovogo-zakonodatelstva-v-tadzhikistane #ixzz 3 McSA4TQk. P. 134.
[11] Gafurov, B.G. Tajiks. Primordial, ancient, middle ages and new history – Latest edition. Dushanbe: Donish, 2008..

The adoption of the budget of the Tajik SSR, as part of a single State budget of the USSR, the establishment, in accordance with the Constitution and laws of the USSR, of State and local taxes duties and non-tax levies was part of such powers (Art. 61). Based on such authority a land tax, a tax from the owners of vehicles, a tax from the owners of cattle,[12] etc. were introduced. Later, many of these taxes were abolished, including the land tax. Therefore, during the period of the Soviet Union, the property and land taxes were not levied and did not form part of the tax system of the USSR. This system existed until the collapse of the USSR.

The current tax system of the Republic of Tajikistan began to emerge in the late 1991, after the declaration by the Republic of Tajikistan of State sovereignty. The formation and the development of the tax system took place over several stages.

The first stage includes the period from 1991 to 1998, when certain legislative and regulatory acts in the area of tax policy and tax administration were adopted. At the heart of the tax system in this period lay the Law "On the fundamental principles of the tax system of the Republic of Tajikistan", adopted by the Supreme Council of the Republic of Tajikistan in early 1994, which introduced a two-tier tax system. According to this law, taxes on personal property, corporate property tax, land tax, a tax on property transferred by way of inheritance and as a gift were introduced as Republican (State) taxes.[13] Under the same legislation, the tax on personal property and the tax on property transferred by inheritance and gift were to be paid to the local budgets of the municipalities within whose territory the property is located.

The start of the second phase of the tax reform is considered to be the official introduction of the Tax Code of the Republic of Tajikistan adopted on 12 November 1998, and effective from 1 January 1999. The Tax Code from 1999 was the result of a systematic and comprehensive review of the entire tax system in Tajikistan, and it thus became a unifying legislative Act governing all tax-related issues, including the relationship of the tax authorities and taxpayers, and the procedure for the calculation and payment of all taxes provided for therein.[14] The Tax Code also provided for a two-tier tax system. At the first level were the national taxes, which also included the land tax and the tax on corporate property. The second tier comprised the local taxes imposed within the regions, cities, districts, and towns. Among these was a tax on the real property of individuals.[15]

[12] Haitov, S. P. Formation and development of tax legislation in the Republic of Tajikistan. Dushanbe, 2011. Available at: http://www.dissercat.com/content/stanovlenie-i-razvitie-nalogovogo-zakonodatelstva-v-tadzhikistane #ixzz 3 McSA4TQk. P. 134.

[13] Article 18 of Law "On the fundamental principles of the tax system of the Republic of Tajikistan" 1994. (Bulletin of Supreme Counsel of RT, 1994, No 14, Art. 203).

[14] Boboev, M. R. Taxes and taxation in the republic of Tajikistan. Tax bulletin 2000 (10). Available at: http://fin-buh.ru/text/88990-1.html.

[15] Mashrapov, N. T., Mambetaliev, M. R., Boboev, M. R. Formation and development of tax system of the Republic of Tajikistan. Available at: http://www.nalvest.ru/nv-Art.s/detail.php?ID=25479.

According to the Tax Code, from 1999, the land tax ranged from 1.5 to 3 *tajik* rubles (beginning in 1995 until 2000 in the Tajikistan transitional currency, the *tajik* ruble was used). In 30 October 2000,the somoni, the current currency of Tajikistan, replaced the *tajik* ruble. The *tajik* ruble was exchanged at the following rate: 1 somoni = 1000 tajik rubles) per square meter, and the tax on the real property of individuals was equal to 1 % of the real property's market or inventory value.

In accordance with the 1999 Tax Code, the land tax in the Republic of Tajikistan was calculated by taking into account the composition of the land, the quality and location of the land and its cadastral valuation, usage patterns and environmental features. On the basis of these features, the land for tax purposes was divided into two types: the urban land of cities and towns (for which land the tax rate was equal to 3 rubles per square metre); and land outside cities and towns (where the tax rate was equal to 1.5 rubles per square metre). Land users were obliged to provide the calculation of the land tax due from them to the tax authorities at the location of the land on an annual basis and no later than 1st of March of the reporting year. The amount of tax was paid by taxpayers in four equal installments, not later than the 15 March, 15 June, 15 September and 15 December[16].

The replacement of the 1999 Tax Code took the form of the Tax Code of the Republic of Tajikistan adopted in 2004, and which came into force on 1 January 2005. Art. 6 of this Tax Code established that taxes in the Republic of Tajikistan comprise national taxes and local taxes. The land tax was recognised as a national tax and the real property tax as a local tax. Because, in accordance with the Constitution of the Republic of Tajikistan, land is in the exclusive ownership of the State, land users were recognised as land tax payers (under Art. 264 of the Tax Code). Usually such land users had the land either for unlimited use, limited use or for a lifetime's inheritable tenure. The basis for the calculation of the land tax and also for the real property tax was the area of such land plots and real property in hectares or square meters. As before, the land tax was calculated taking into consideration the quality and location of the land, its cadastral valuation, usage patterns and environmental features of the land.[17]

The 2004 Tax Code specified (in Art. 266) the rate of land tax on the land within cities and towns, and (in Art. 267) the rate of the land tax applied to land outside the cities and towns. The tax rate differed depending on status of the city, its size in terms of both area and population. The tax rate for land plots in cities and towns was established in the following amounts:

- In Dushanbe - 500 somoni per hectare;
- In Khujand, Kulyab and Kurgantyube - 375 somoni per hectare;
- In the cities of republican and region subordination (cities directly subordinate to the State government or regional government as opposed to cities subordinate to

[16] Boboev, M. R. Taxes and taxation in the republic of Tajikistan. Tax bulletin 2000 (10). Available at: http://fin-buh.ru/text/88990-1.html.
[17] Art. 265. Tax code of the RT from 2004 (Newsletter of Majlisi Oli of RT, 2004, No 12, art. 688, 689).

districts, through districts subordinate to regions and regions subordinate to the State) and the city of Khorog - 250 somoni per hectare;
- In other cities and towns - 180 somoni[18] per hectare.

The calculation of the land tax on lands for the construction of housing or located under houses depended on the area of the land allocated to the landholder, using a special index for the tax rate. Basically, for lands used for housing and comprising up to 800 m^2, the standard land tax rate specified in Article 267 of the Tax Code of 2004 was used. If the area of the land was more than 800 m^2 but less than 2,000 $m^{2,}$ the amount of tax was calculated at twice the standard tax rate; and for any area more than 2,000 $m^{2,}$ the amount of tax was calculated at five times the tax rate.

Land tax on lands outside the cities and towns in excess of one hectare depending on the cadastral zones and types of land, was established in the amounts shown in Table 30.1.

Table 30.1: Land Tax Rates (in Somoni)

Type of land Name of cadastral zone	Croplands perennial plantations Irrigable/bogar (rainfed) lands	grazing	hayfield	Roads, streets, public buildings, forests, squares, channels, ditches and collectors	Other lands not used in the production of agricultural products and goods
Sogd, including mountain regions	60.0/11.0	2 4	4 6	7 6	1 0.8
Gissar, including mountain regions	64.0/26.0	4 4	5 5	6 5	1 0.8
Rasht	52.0/38.0	4	6	6	0.8
Kulob, including mountain regions	66.0/31.0	3 4	5 6	6 5	1 0.8
Vakhsh, including mountain regions	93.0/23.0	2 4	4 4	7 5	1 0.8
Gorno-Badakhshan Autonomous Region (without Murgab zone)	18.0/8.0	2	3	3	0.8

[18] On November 1, 2017 1 Euro was equal to 10.2432 somoni. See: http://nbt.tj/tj/kurs/kurs.php?date=01.11.2017

It should be noted that under the 2004 Tax Code, the real property tax was designated as a local tax. Taxpayers of the real property tax were individuals and legal entities being the owners of real property or persons using such property.[19] According to the 2004 Tax Code, the real property tax was applied to homes, apartments, cottages, garages and other buildings, structures and facilities[20].

The tax base was the total area of the unit of real property (residential building), adjusted by specified coefficients, to reflect the nature and size of the property, the floor on which the accommodation is situated, and for other constructions (i.e. non-residential buildings or incomplete buildings), the base was recognised as the area of land actually covered by such a building [21].

From 2004 to 2013, the tax rate on real property was established as a multiple of the land tax rates and, depending on the purpose of real property, had the following value:

- Real property, used as living quarters was taxed at 15 times the rate of the land tax;
- Real property used for commercial activities specifically for organisations providing public catering and consumer services the rate applied was 60 times the rate of the land tax; and for
- Real property used for other purposes not listed in Tax Code, the tax rate was 40 times the rate of the land tax.

On real property situated in areas of tourism and recreation, a 'tourism' tax rate was established, being:

1. 20 times the rate of the land tax, for the accommodation;
2. 250 times the rate of land tax for real property used for commercial activities for the organisations proving catering and lodging services; and
3. 100 times the rate of land tax for real property used for other purposes.[22]

In the years before 2013, certain work groups were established and researches conducted to review the Tax Code, but the real property tax was reviewed only as part of other taxes and there was no specific focus on the issues of real property tax. Nevertheless, with effect from 1 January 2013, the current stage of the development of the tax system of the Republic of Tajikistan began with the adoption of the new Tax Code of the Republic of Tajikistan[23].

[19] Art. 325. TC of RT from 2004. (Newsletter of Majlisi Oli of RT, 2004, No 12, art. 688, 689)
[20] Art. 326. TC of RT from 2004. (Newsletter of Majlisi Oli of RT, 2004, No 12, art. 688, 689)
[21] Art. 327. TC of RT from 2004. (Newsletter of Majlisi Oli of RT, 2004, No 12, art. 688, 689)
[22] Art. 329. TC of RT from 2004. (Newsletter of Majlisi Oli of RT, 2004, No 12, art. 688, 689)
[23] The new Tax Code of the Republic of Tajikistan was adopted on 17 September 2012 and become effective starting from 1January 2013.

1.2 Current status of real property taxes in the Republic of Tajikistan

It should be noted that the recognition of the rights of citizens to private property, including real property, and the ownership of real property became possible as a result of the independence of the Republic of Tajikistan, the adoption of the new constitution and the Republic's development towards a market economy.

As was noted above, previously, the land tax was a national tax and the tax on real property was local tax. The peculiarity of the current 2012 Tax Code of the Republic of Tajikistan and its major difference from the first two (the Tax Code of 1999 and the Tax Code of 2004) lies in the fact that the new Tax Code includes the land tax, along with the tax on real property, as local taxes. Local taxes are main sources of income of local budgets, after financing provided from State budget.

The 2012 Tax Code contains a separate chapter dedicated to real property taxes. According to the norms of the 2012 Tax Code, the land tax and the real property tax should be paid for the possession and the use of land and real property. Thus, a taxable land plot is land available for use or actually used, either on the basis of supporting documents or without them; and real properties are buildings, structures and other property, constructed on land, i.e. objects which cannot be moved without being materially damaging as a consequence.[24]

1.3 Structural components

1.3.1 Land tax

In the Republic of Tajikistan, the lands of communities, and the lands outside communities are subject to taxation by the Land Tax based on their quality, cadastral valuation, use and environmental features[25].

In general, the land users who hold land for the lifetime inheritable, unlimited, limited use or on a lease, or land users actually utilising the land plot are recognised as taxpayers. However, a land user engaged in agricultural activity and the production of agricultural products and who has chosen a special tax regime of simplified taxation system, does not pay the Land Tax,[26] because that under the simplified taxation regime, a person pays only one general tax.

The area of the land plot specified in the supporting documents (land cadastral documentation) of the land user, or that which is actually used by the taxpayer, comprises the tax base for the Land Tax. These include lands occupied by buildings, structures, lands

[24] Art. 269. TC of RT from 2012. (Newsletter of Majlisi Oli of RT, 2012, No 9, art. 838)
[25] Art. 271. TC of RT from 2012. (Newsletter of Majlisi Oli of RT, 2012, No 9, art. 838)
[26] Art. 271. TC of RT from 2012. (Newsletter of Majlisi Oli of RT, 2012, No 9, art. 838)

which are necessary for their maintenance, the sanitary protection zones of objects, and the technical and other areas relevant to the occupation of the land.[27]

The determination of the Land Tax rate every five years by the Government of the Republic of Tajikistan (in conjunction with the Tax Committee) and by the proposal of the authorised State body on land utilization is special feature of the land tax in the Republic of Tajikistan. The Tax Committee is authorised to apply an annual indexation figure to Land Tax rates in line with the level of inflation for the previous calendar year. Therefore, in 2014, the Resolution of the Government of the Republic of Tajikistan No.33 was adopted, in which the rates of the Land Tax were approved. For 2017, and based on abovementioned resolution and addendums to it, the rates of Land Tax have been approved, as shown in Table 30.2.

Table 30.2: Rates of Land Tax in the cadastral zones and regions of the Republic, including the mountain regions (in somoni per hectare), applicable for 2017

№	Name of cadastral zone city and regions	Croplands perennial plantations		Grazing	Hayfield	Lands in which roads, streets, public buildings, squares, bushes, channels, ditches and collectors are located	Other lands not used in production of agricultural products and goods
		Irrigated	bogar (ranfed) lands				
1	2	3	4	5	6	7	8
	I. Sogd	107.62	19.74	3.58	7.16	12.53	1.80
1	Asht	108.40	19.74	3.42	6.65	12.53	1.80
2	B.Gafurov	108.54	20.11	3.58	7.16	12.53	1.80
3	Devashtich	81.72	20.60	5.21	10.23	12.53	1.78
4	Zafarbod	127.18	19.74	3.42	6.65	12.53	1.80
5	Isfara	120.02	19.74	4.32	8.42	12.53	1.80
6	Istravshan	84.92	21.68	4.32	8.42	12.53	1.80
7	Conibodom	119.79	19.74	3.42	4.83	12.53	1.80

[27] See Instruction on the Procedure of Calculation and Payment of Real Property Taxes. Paragraph 13-14. Approved by order of Chairman of Tax Committee under the Government of the Republic of Tajikistan No 12 from 22 May 2013.

№	Name of cadastral zone city and regions	Croplands perennial plantations		Grazing	Hayfield	Lands in which roads, streets, public buildings, squares, bushes, channels, ditches and collectors are located	Other lands not used in production of agricultural products and goods
		Irrigated	bogar (ranfed) lands				
8	Mastchoh	126.20	23.12	3.42	6.65	12.53	1.80
9	Spitamen	130.94	23.12	3.42	6.65	12.53	1.80
10	J.Rasulov	128.71	21.68	3.94	8.06	12.53	1.80
	Mountain regions in Sogd	0.00	0.00	7.16	10.77	10.77	1.44
1	Ayni	61.84	10.83	6.46	9.69	10.77	1.44
2	Mountain Mastcha	63.78	11.39	6.46	9.68	10.77	1.44
3	Panjikent	99.16	8.71	7.71	11.64	10.77	1.44
4	Shahristan	53.37	18.82	7.71	11.64	10.77	1.44
	II. Hissor	114.77	46.65	7.16	8.95	10.77	1.80
1	Vahdat	98.50	50.86	7.91	8.61	10.77	1.80
2	Rudaki	104.94	46.44	8.06	10.05	10.77	1.80
3	Tursunzade	129.03	33.01	6.29	7.91	10.77	1.80
4	Shahrinav	149.89	37.36	8.06	10.05	10.77	1.80
5	Hissor	133.67	35.52	7.16	9.26	10.77	1.80
	Mountain regions in Hissor	0.00	0.00	7.16	8.95	8.95	1.44
1	Varzob	84.20	47.82	6.79	8.79	8.95	1.44
2	Fayzobod	88.39	83.02	7.91	9.87	8.95	1.44
	III. Rasht	93.26	68.14	7.16	10.77	10.77	1.44
1	Nurobod	79.90	68.36	8.06	12.02	10.77	1.44
2	Rasht	91.32	77.65	8.06	12.02	10.77	1.44
3	Rogun	79.90	66.56	8.06	12.02	10.77	1.44

№	Name of cadastral zone city and regions	Croplands perennial plantations		Grazing	Hayfield	Lands in which roads, streets, public buildings, squares, bushes, channels, ditches and collectors are located	Other lands not used in production of agricultural products and goods
		Irrigated	bogar (ranfed) lands				
4	Sangvor	96.78	60.49	6.65	9.87	10.77	1.44
5	Tojikobod	109.12	71.74	8.26	12.37	10.77	1.44
6	Lyakhsh	92.97	59.93	7.16	10.77	10.77	1.44
	IV. Kulyab	118.36	55.61	5.39	8.95	10.77	1.80
1	Vose	140.92	56.66	8.06	13.44	10.77	1.80
2	Dangara	90.17	58.15	4.83	8.06	10.77	1.80
3	Kulyab	132.53	57.42	5.21	8.61	10.77	1.80
4	Temurmalik	86.91	58.81	6.29	10.38	10.77	1.80
5	Farkhor	119.26	52.02	2.50	4.32	10.77	1.80
6	Hamadoni	132.99	58.15	4.83	8.61	10.77	1.80
	Mountain regions in Kulyab	0.00	0.00	7.16	10.77	8.95	1.44
7	Baljuvon	67.23	51.25	5.92	8.95	8.95	1.44
8	Muminobod	71.17	52.47	7.37	10.94	8.95	1.44
9	Norak	79.85	49.75	3.75	5.75	8.95	1.44
10	Khovaling	67.22	51.25	10.96	16.49	8.95	1.44
11	Shamsiddin Shohin	64.00	53.44	7.71	11.64	8.95	1.44
	V. Vakhsh	166.81	41.26	3.58	7.16	12.53	1.80
1	A.Jomi	159.90	28.19	4.48	8.79	12.53	1.80
2	Bokhtar	168.26	29.15	4.11	8.26	12.53	1.80
3	Vakhsh	180.50	48.36	3.58	7.16	12.53	1.80
4	Yavan	101.92	41.26	4.83	9.78	12.53	1.80
5	Kubodien	173.95	39.83	4.32	8.42	12.53	1.80

№	Name of cadastral zone city and regions	Croplands perennial plantations		Grazing	Hayfield	Lands in which roads, streets, public buildings, squares, bushes, channels, ditches and collectors are located	Other lands not used in production of agricultural products and goods
		Irrigated	bogar (ranfed) lands				
6	Jayhun	180.50	39.83	3.06	6.11	12.53	1.80
7	Nosiri Hisrav	161.58	39.83	2.68	5.23	12.53	1.80
8	Panj	187.05	41.07	4.48	8.79	12.53	1.80
9	Sarband	159.90	41.26	4.48	8.79	12.53	1.80
10	Khorasan	152.83	41.07	4.48	8.79	12.53	1.80
11	J.Balkhi	189.56	67.77	3.06	6.11	12.53	1.80
12	Dusti	189.90	39.83	2.68	5.39	12.53	1.80
13	Shahrtus	161.49	39.83	2.68	5.39	12.53	1.80
	VI. Gorno-Badakhshan Autonomous Region (without Murgab)	32.34	14.34	3.58	5.39	5.39	1.44
1	Vanj	43.17	0.00	2.87	4.11	5.39	1.44
2	Darvaz	41.21	14.34	4.11	6.11	5.39	1.44
3	Ishkashim	25.34	0.00	3.58	5.39	5.39	1.44
4	Roshtkala	26.86	0.00	3.58	5.35	5.39	1.44
5	Rushon	39.62	0.00	2.87	4.11	5.39	1.44
6	Khorug	32.27	0.00	3.58	5.39	5.39	1.44
7	Shugnon	26.86	0.00	3.58	5.39	5.39	1.44

Source: Resolution of the Government of the Republic of Tajikistan No.33 from 3 January 2014 (updated in 2017).

Table 30.3: Rate of Land Tax for land plots inside the boundaries of cities and townships (in somoni per hectare)

№	Administrative borders	Name of city and township	Tax rate
Cadastral zone Sogd			
1	Ayni	Zarafshon	322.23
2	Asht	Shaydon	322.23
		Adrasmon	322.23
3	B.Gafurov	B.Gafurov	322.23
		Khujand	672.46
		Guliston	448.32
		Zarnisor	322.33
		Sirdaryo	322.33
		Navgarzin	322.33
		Konsoy	322.33
		Chorukdaron	322.33
		Buston	448.32
		Palos	322.33
		Taboshar	448.32
4	Devashtich	Gonchi	322.33
5	Zafarobod	Zafarobod	322.33
		Mehntaobod	322.33
		Pakhtakoron	322.33
6	Istaravshan	Istaravshan	448.31
7	Isfara	Isfara	448.31

№	Administrative borders	Name of city and township	Tax rate
		Nurafshon	322.33
		Neftobod	322.33
		Shurob	322.33
8	Konibodom	Konibodom	448.32
9	Mastcha	Kuruksoy	322.33
		Buston	322.33
		Takeli	322.33
10	Spitamen	Nov	322.33
11	Panjikent	Panjikent	448.31
12	J.Rasulov	Proletar	322.33
II Cadastral zone Hissor			
1	Dushanbe	Dushanbe	896.63
2	Vahdat	Vahdat	448.32
3	Varzob	Takob	322.33
4	Rudaki	Somonien	322.33
		Navobod	3322.33
5	Tursunzade	Tursunzade	448.32
6	Fayzobod	Fayzobod	322.33
7	Shahrinav	Octyabr	322.33
8	Hissor	Hissor	322.33
		Sharora	322.33
III Cadastral zone Rasht			
1	Nurobod	Darband	322.33

№	Administrative borders	Name of city and township	Tax rate
2	Rasht	Garm	322.33
		Navobod	322.33
3	Rogun	Rogun	448.32
		Obigarm	322.33
IV. Cadastral zone Kulyab			
1	Vose	Vose	322.33
2	Dangara	Dangara	322.33
3	Kulyab	Kulyab	672.46
4	Muminobod	Leningrad	322.33
5	Norak	Norak	448.32
6	Temurmalik	Sovet	322.33
7	Farkhor	Farkhor	322.33
8	Hamadoni	Moscow	322.33
V. Cadastral zone Vakhsh			
1	A.Jomi	Kuybishev	322.33
2	Bokhtar	I.Somoni	322.33
		Bokhtarien	322.33
		Bustonkala	322.33
3	Vakhsh	Vakhsh	322.33
		Kirov	322.33
4	Yavan	Yavan	322.33
		Hayoti nav	322.33
5	Panj	Panj	322.33

№	Administrative borders	Name of city and township	Tax rate
6	Sarband	Sarband	448.32
7	Jayhun	Dusti	322.33
8	Qurgonteppa	Qurgonteppa	672.46
9	Khorasan	Obikiik	322.33
10	J.Balkhi	S.Isoev	322.33
		Orzu	322.33
11	Dusti	Garovuti	322.33
12	Shahritus	Shahrtus	322.33
VI. Cadastral zone GBAR			
1	Khorug	Khorug	448.32

Source: Resolution of the Government of the Republic of Tajikistan No.33 from Janury3, 2014 (updated in 2017).

Depending on the size of the land plot, the tax rate for the calculation of land tax is subject to a stepped increase. For the first 800 m^2 of the land plot the standard established tax rate is used; for the area of land which exceeds 800 but is less than 2,000 m^2 the established rate is multiplied two times; and for the area of land plot which exceeds 2,000 m^2 the relevant rate is five times the standard rate.

For example: If a taxpayer owns a house in Dushanbe and the land plot is 2,200 m^2, the amount of the Land Tax which should be paid is calculated as follows:

Calculation of the amount of land tax of up to 800 m^2
1) 800 * set land tax rate for Dushanbe for 1 m^2;
2) Calculation of the amount of land tax for the area exceeding 800 m^2 but not exceeding 2,000 m^2

2,000 - 800 = 1,200 m^2
1,200 m^2 * (set land tax rate for Dushanbe for 1 m^2 * 2)
3) Calculation of the amount of land tax for area exceeding 2,000 m^2
2,200 m^2 – 2,000 m^2 = 200 m^2
200 m^2 * (set land tax rate for Dushanbe for 1 m^2 * 5)

The above mentioned rules provide the for following calculation order:

Amount of tax for 2,200 m^2 = 800 * set land tax rate for Dushanbe for 1 m^2 + 1,200 m^2 * (set land tax rate for Dushanbe for 1 m^2 * 2) + 200 m^2 * (set land tax rate for Dushanbe for 1 m^2 * 5)

Land Tax rate for 2017 for Dushanbe was 896.63 somoni per hectare: therefore Land Tax rate per square metre is 896.93/10,000 m^2, which is 0.089693 somoni per square metre.

Amount of tax for 2,200 m^2 = (800*0.089693) + (1,200*(0.089693*2)) + 200 * (0.089693*5) = 71.7544 + 215.2632 + 89.693 = 376.7106 somoni

At the same time, the Tax Code offers some exemptions from the payment of the Land Tax. Mostly such exemptions depend on the purpose to which the land is put and the status of land user. Thus, the following groups of lands are exempt[28]:

- Lands designated as reservations, national and woodlands parks, botanical gardens, land occupied by glaciers, landslides, rivers, or used for scientific and educational purposes and similar objects;
- Lands used by government agencies and lands allocated for the defense and security of the State, lands kept as State reserve;
- Lands of buildings protected by the State as historical, cultural and architectural monuments;
- Lands recognised as damaged (requiring remediation) and lands in stages of agricultural development, in which case the exemption limited to five years from the beginning of such development;
- Lands in public use or occupied by objects of public and State use (such as roads, water supply facilities, and power stations); and
- Land not previously used for agricultural production and used for the development of orchards and vineyards, in which case the exemption is limited to five years from the frist year of their use as orchards and vineyards.

Depending on status of the land user, following groups of land are exempted from the payment Land Tax:

- Land allocated to soldiers-internationalists, veterans of the Great Patriotic War and persons associated with them, for housing construction[29];
- Land plots allocated to migrants from other parts of the Republic of Tajikistan for permanent residence in government-defined areas, limited to three years after the transfer of such lands;
- Lands and land for housing construction allocated to teachers and doctors working in rural areas in general education and medical institutions, for the duration of their work in such institutions;

[28] Article 274 of tax Code of RT from 2012. (Newsletter of Majlisi Oli of RT, 2012, No 9, art. 838)
[29] Veterans of the Great Patriotic War are veterans who participated in World War II of 1941-1945 and soldier – internationalist include soldiers who served in Afghanistan during Soviet-Afghan War of 1979-1989.

- Lands and land allocated for housing construction to disabled persons in the absence of an able bodied family member ; and
- Lands of organisations, not less than 50 % of whose staff are disabled persons.

1.3.2 Real Property Tax

The Tax on Real Property is levied separately from the Land Tax. The objects of the real property tax are mainly buildings, houses, rooms, cottages, garages, and other facilities and buildings, as well as buildings under construction beginning from the moment of occupation, or operation.[30] This tax is paid by owners or users of the real property. The total area occupied by the real property comprises the tax base for the purposes of the Real Property Tax. For multi-storey buildings, the area of each floor is taken into account. For attics, basements, and utility rooms, the tax base is decreased by 50 % of the area of such real accommodation.[31]

The tax rate for objects of real property in Tajikistan is determined in association with the area of the building occupied, the purpose to which the unit of real property is put as a percentage of the "index for the calculations", and taking into consideration the regional coefficient for the cities and regions within which the building is located. The "index for calculations" is set annually in the Law of the Republic of Tajikistan "On the State Budget for 2017" and it is a coefficient used for the calculation of taxes, duties and other mandatory payments and penalties and other purposes.[32]

Therefore, for real property used as a residential accommodation (room), with area up to 90 m^2, the tax rate is equal to 3 % of the "index for calculation" per square meter; and for the remaining area of more than 90 m^2, it is 4 % of the "index for calculation" per square meter. If real property is used for trading purposes, organising public catering or for consumer services, the tax for the area up to 250 m^2 is calculated at a rate of 12.75 % of the "index for calculation" per square meter; and the area over 250 m^2 at a rate of 15 % of the "index for calculation" per square meter. If the real property is used for any other purposes, the rate applied is 9 % of the "index for calculation" per square meter up to 200 m^2; and for an area over 200 m^2 a rate of 12 % of the "index for calculation" per square meter is used.

For real property located in areas of tourism and recreation, the tax rate is increased by 2 times these rates.

[30] Art. 276. TC of RT from 2012.(Newsletter of Majlisi Oli of RT, 2012, No 9, Art. 838).
[31] Instruction on procedure of calculation and payment of real property taxes. Paragraph 13-14. Approved by order of Chairman of Tax Committee under the Government of the Republic of Tajikistan No 12 from 22 May 2013.
[32] Law of RT On index for the calculations from 05. 1. 2008. (Newsletter of Majlisi Oli of RT, 2008, No 1 (part 1), Art. 15).

At same time, regional factors or coefficients govern the payment of taxes on real property and these are shown in Table 30.4.

Table 30.4: Regional coefficients[33]

Group	Cities and districts	Coefficient
1	Territory of city of Dushanbe	1.0
2	Territory of cities of Khujand, Qurgonteppa, Kulyab	0.8
3	Territory of cities Kayraqum, Chkalovsk, Taboshar, Istaravshan, Isfara, Konibodom, Panjikent, Vahdat, Tursunzade, Rogun, Norak, Sarband and Khorog	0.55
4	Territory of other cities and districts not mentioned in groups 1, 2 и 3	0.4
5	Territory of townships and villages, belonging to districts(cities): Istaravshan, Kayraqum, Chkalovsk, B.Gafurov, Isfara, Konibodom, Spitamen, J.Rasulov, Panjikent, Vahdat, Rudaki, Tursunzade, Shahrinav, Hissor, Yavan, Vose, Dangara, Kulyab, Farkhor, Hamadoni, Muminobod, Norak, Vakhsh, Kubodien, Qumsangir, N.Hisrav, Panj, Sarband, Khuroson, J.Rumi, Jilikul anmd Shahritus	0.3
6	Territory of townships and villages, belonging to districts(cities): Asht, Zafarobod, Mastchoh, Temurmalik, Baljuvon, Khovaling, A.Jomi, Bokhtar, Varzob, Fayzobod, Tavildara, Tojikobod, Jirgatal and Shuroobod	0.15
7	Territory of townships and villages, belonging to districts(cities): Ganchi, Auni, Mastchohi Kuhi, Shahristan, Nurobod, Rasht, Rogun, Vanj, Darvoz, Ishkashim, Roshtkala, Rushon, Khorog and Shugnan	0.09

The amount of tax is calculated by multiplying the area occupied by the real property tax rate and regional coefficient.

Some exemptions from the payment of the Real Property Tax (as well as for the Land Tax) are provided by the Tax Code. Therefore, the Real Property Tax is not imposed on real property owned, occupied or used by:

- Public institutions financed from the budget;
- Legal persons (organisations), not less than 50 % of whose workers which comprise disabled persons;
- Real property in the form of a residential house and other buildings, or one apartment, in which a Hero of the Soviet Union, a Hero of Socialist Labour, a Hero of Tajikistan, the participants of the Great Patriotic War of 1941-1945, persons of similar standing, participants of other military operations to protect Union of Soviet Socialist Republics, former guerrillas, soldiers-internationalists, participants of the

[33] Article 279 of Tax code of RT from 2012. (Newsletter of Majlisi Oli of RT, 2012, No 9, art. 838).

liquidation as a consequences of the Chernobyl nuclear power plant, and relevant disabled groups;
- Real properties of religious organisations that are not used for commercial purposes; and
- Real property owned by the State and made available to rent in the prescribed manner.

1.3.3 Real Property Sales Tax

When selling real property, the legislation of the Republic of Tajikistan does not demand the payment of a sales tax. However, legislation prescribes the mandatory payment of a State duty for the performance of notaries in connection with the alienation, sale, and transfer of real property. The amount of such a State duty is calculated based on the area of the real property multiplied by the specific percent from the relevant index, which depends on the location of the real property, the person acquiring ownership and the level of the purchaser's affinity with the seller.

For instance, if real property located in Dushanbe is sold to children or parents by parents or children, the amount of State duty is calculated at 10% of the index multiplied by the area of the real property. In Khudjand, this percent is 7 %. For other third party sales, where the purchaser is not related to the seller, this percentage is 40% for Dushanbe and 30% for Khujand.[34]

Also if the sale of real property yields a profit to the seller, such profit is subject to the payment of income tax at the rate of 13% of the profit. The rules of income taxation regulate such a sale at a profit and therefore in Tajikistan this is regarded as income tax.

1.4 Administration

The calculation of taxes on real property (Land Tax and (or) the Tax on Real Property) is implemented by multiplying the tax base by the relevant tax rates separately for each taxable entity or object. All procedures, methods and processes of administration are formalised in the Tax Code of the Republic of Tajikistan. The implementation of the Tax Code, the administration of tax processes, and the collection of taxes is the responsibility of the Tax Committee under the Government of the Republic of Tajikistan and its local tax inspectorates based in every city and district.

With the exception of individuals, taxpayers, annually and no later than 1 March of any given year, are obliged to provide the tax authorities with the calculation of taxes owed by them on real property. For individuals, the calculation of the amounts of real property taxes is made by the tax authorities not later than 1 May of any given year.

[34] Art. 4. Law of RT "About state duty" from 28.02.2004. (Newsletter of Majlisi Oli of RT, 2004, No 2, Art. 52).

For the payment of real property taxes by taxpayers which are not natural persons, the following time frames are set:

- On real property situated in designated populated localities - not later than the 15 February, 15 May, 15 August and 15 November of the current year; and
- On real property situated outside designated populated localities - not later than the 15 February, 15 May, 15 August and 15 November of the current year.

For individuals, the following end dates are used - 15 June, 15 August and 15 November.

It is also possible at any time during the current fiscal year to pay the remaining outstanding portion of the amount of each of the real property taxes in one payment in advance.[35]

However, in reality taxpayers do not have a high degree of tax discipline, which becomes a problem for the administration of the land and real property taxes. Many individual taxpayers are not obliged to complete a tax declaration every year, as compared to government employees for whom the annual submission of a tax declaration is mandatory. Therefore the tax inspectors do not receive always complete and up-to-date information regarding the payment of taxes by individual persons. In this regard, as currently practiced, the procedure for the calculation of Land and Property Taxes by the tax inspectorate and the sending out of notices about such calculations to owners of real property is adopted. However, because the tax inspectorate do not hold complete information about the owners of real property and land users, they have a limited coverage of taxpayers. The solution seems to be to enhance the tax discipline of taxpayers, and in the development of access to a comprehensive database about real property and their owners.

1.5 Revenue performance

Information regarding the implementation and collection of the property taxes is mainly available as part of the information about the State budget. Also, separate researches on the collection of the Real Property Tax in recent years have not been undertaken, nor has research been conducted regarding the Real Property Tax.

The total amount of the State budget (the total revenue of the national and local budgets) for 2014 was 13,901mln somoni,[36] , and for 2015, the total amount of the State budget was 15,278, mln somoni[37]. Accordingly, income from tax revenue in the territory of Tajikistan in the State budget for 2014 constituted 10,189, mln somoni[38] (approximately

[35] Part 4, Art. 282. TC of RT from 2012. (Newsletter of Majlisi Oli of RT, 2012, No 9, Art. 838).
[36] Law of RT On State Budget for 2014. Available at:
http://minfin.tj/downloads/Zakon%20o%20Gos%20Budjete%20RT%20na%202014%20god.pdf
[37] Law of RT On State Budget for 2015. Available at:
http://minfin.tj/downloads/Zakon%20o%20gos%20BD_2015rus.pdf
[38] Law of RT On State Budget for 2014. Available at:
http://minfin.tj/downloads/Zakon%20o%20Gos%20Budjete%20RT%20na%202014%20god.pdf

73% of total revenue of the State budget) and for 2015 income of the State budget from taxes was projected at 11,503, mln somoni (approximaely 75% of total revenue of State budget)[39]. In 2016, the total amount of State budget was equal to 15,774 mln, and the income from taxes in State budget constituted 10,097 mln somoni.

Table 30.5: State budget and tax revenue in mln somoni

	2014	2015	2016
Total amount of State budget	13,901	15,278	15,774
Tax revenue	10,189	11 503	10,097

As in previous years, more than 90 % of the State budget results from the collection of taxes, duties and penalties, that is, from the pockets of taxpayers. Grants from international financial institutions only account for around 2 % of the State budget, and around 2.7 % come from the sales taxes associated with the production of cotton fiber and primary aluminum.

In the light of the above, the collection of taxes, including the Real Property Tax, are very important for the budget of the Republic of Tajikistan. However, the amount of taxes collected as Real Property Tax, when compared to other types of taxes, make up a small amount.

For example, in 2012 the amount of tax revenue in the State budget was equal to 6,500 mln somoni; and in 2013 it was 7,689 mln somoni. However, from the total tax revenue only 142.4 mln somoni in 2013 and 106.9 mln somoni in 2012[40] were revenues from payments of property taxes. As for 2014, the amount of tax revenue in the State budget was 9,426, 5 mln somoni, of which only 167.9[41] mln somoni was revenue from payment of Property Tax.

Table 30.6: Tax revenue and property tax revenue in mln somoni

	2012	**2013**	**2014**
Tax revenue	6,499.7	7,689.1	9,426. 5
Property tax reveneue	142.4	160.9	167.9

Also, according to the data from the Ministry of Finances for future years, the Ministry in 2013 forecasted income from the Property Tax in the following amounts: 203.9 mln

[39] On November 1, 2017 1 Euro was equal to 10.2432 somoni per National Bank of Tajikistan.

[40] Social economic situation of the Republic of Tajikistan January-December 2012-2013. Available at: www.stat.tj.

[41] Social economic situation of the Republic of Tajikistan January December 2015. Available at: http://stat.tj/img/5fa574a7086749bfaafed8e37a7e56ae_1453451457.pdf

somoni in 2014, 236.6 mln somoni in 2015, and 279.1 mln somoni in 2016.[42] However, in 2014, the income of State budget from property tax was 167.9 mln somoni,[43] so it is clear that level of income anticipated by the Ministry of Finance has not been achieved. Also in 2015, income from the Property Tax failed to meet the Ministry's target, being only 189.7 mln somoni[44], and in 2016 income from Real Property Tax was 219.3 mln somoni.

Table 30.7: Ministry of Finance's 2013 forecast for property tax revenue and actual property tax performance in mln. somoni

Year	2014	2015	2016
Ministry of Finance's forecast	203.9	236.6	279.1
Actual property tax performance	167.9	189.7	219.3

As can be seen from these figures, despite the fact that the mechanism for the administration and collection of property tax is designed and implemented, the amount of tax revenues from immovable property in the State budget, compared to other taxes, constitutes a relatively small part. The Property Tax is currently is paid into the local budgets of the cities and regions. Taking in to account the number of such cities and regions, and without consideration of the cadastral zones and other specifics, roughly the average amount of Property Tax paid into local budgets in 2016 is approximately 3.78mln somoni (189.7 mln. somoni/58 (number of regions and cities)). Of course this is only a rough guide to the amount received, and in every city and region taking into consideration the cadastral zones and other specifics, the amount are different. However, this estimate shows that the contribution to the revenue of local budgets from the Real Property Tax is not adequate for the purposes of cities and regions. For example, in 2013 the total revenue of local budget of the Sogd region (which has 14 districts) was 884 mln somoni, and of this amount only 42.9 mln somoni was income from the Property Tax. Expenses of Sogd's local budget in 2013 constituted 832.3 mln somoni; while in the same year, total revenue and expenses of local budgets for other two regions of Tajikistan are shown Table 30.8.

[42] Indicators of income of State Budget of the Republic of Tajikistan for years 2014-2016. Available at: http://minfin.tj/downloads/files/15.04.13-Budjeti%202014-2016-posledniy%20(2).pdf.

[43] Social economic situation of the Republic of Tajikistan January-December 2013-2014. Available at: www.stat.tj

[44] Social economic situation of the Republic of Tajikistan January-December 2015. Available at: http://stat.tj/img/5fa574a7086749bfaafed8e37a7e56ae_1453451457.pdf

Table 30.8: Total income and expenses of local regional budgets in 2013 (in mln. somoni)

	Sogd	Khatlon	Gorno-Badakhshan Autonomous Region
Total revenue of local budget	884	483.6	29.2
Total expense of local budget	832.4	863.1	160.6
Revenue from real property tax	42.9	45.4	1.0

However, taking into account the social and economic situation of the population of Tajikistan, even currently existing tax rates for certain segments of the population are very onerous. One way to improve the situation seems to be to raise the living standards of the population through economic reforms.

2 Evolution of real estate markets

In researching the development of the real property market in the Republic of Tajikistan, it should be noted that prior to independence, the rights to real property were limited and, as a result a real property market as understood today, did not exist.

2.1 Emerging of proprietary rights and real property

The Civil Code of the Tajik Soviet Socialist Republic of 1963 (amended on 28 February 1987), recognized the right of ownership, use and disposal of property rights, and at the same time divided property into two types: socialist and personal property.[45] "Socialist property" comprised the government (public) property; collective farms and co-operative property; the property of trade unions and other social organisations. Under the "personal property", were citizens' property required to meet their needs.

At that time, the majority of the real property in the Republic was owned by the State as "State property", including land and forests and were in exclusive ownership of the State. In addition the State owned a major part of the urban housing facilities[46].

The Civil Code of Tajik SSR specified that the personal property of citizens resulted from the income of their labour[47]. Thus, in personal ownership could be a house,[48] and the citizens had the right to own only one house. This provision also extended to cohabiting spouses and their under-age children, i.e., the whole family could own only one residential

[45] Arts. 92 and 93. Civil Code of Tajik SSR from 1963.
[46] Art. 95. Civil Code of the Tajik SSR from 1963. (as amended on 28 February 1987)
[47] Art. 105. Civil Code of Tajik SSR from 1963 (as amended on 28 February 1987)
[48] Art. 106 and 93. Civil Code of Tajik SSR from 1963.

house, which, on the basis of the personal property right, belonged to one of the members of family or was held under the status of common property.[49]

The main regulatory normative act, after independence, which regulated the right of citizens to own property in Tajikistan, was the Law of the Republic of Tajikistan "On Property in the Republic of Tajikistan" dated 14 December 1996, which recognised various kinds of property, including private property. However, three years later, with the adoption of the Civil Code of the Republic of Tajikistan, this law lost effect.[50]

The 1996 Law also included as "private property", real property or real estate, such as residential houses, apartments, villas, garden houses, garages. The Law also distinguished the right to the possession and use of land plots. Citizens were entitled to have a lifetime inheritable possession and use of such land plots for certain purposes.[51]

According to the opinion of many scholars, the merit of the Law "On Property in the Republic of Tajikistan" is that it provided the impetus in the development of real property rights, the trade in real property and emergence of a real property market in the country.

2.2 The privatisation process of real property in the Republic of Tajikistan

In the process of the formation and development of the institutions of property in the Republic of Tajikistan, is possible to identify the following elements:

- Privatisation of property through the privatisation process in the country, continuing up to the present day; and
- The establishment of freedom, rights and equality of all forms of property and, above all, private property.[52]

The privatisation of property in the Republic of Tajikistan was implemented based on two laws, the Law of the Republic of Tajikistan on Privatization of the Housing Fund in the Republic of Tajikistan dated 4 November 1995, and the Law of Republic of Tajikistan On Privatization of State property in the Republic of Tajikistan dated 16 May 1997.

Subject to the provisions of these laws, the privatisation of housing was carried out by the free transfer or sale of residential premises to citizens on a voluntary basis,[53] and the privatisation of State property was carried out in the following by:

- Sale by auction; and

[49] Art. 107. Civil Code of Tajik SSR from 1963.
[50] Legal review of property rights in Tajikistan. Available at: http://www.namsb.tj/phocadownload/beilibrary/analysis_property_rights.pdf.
[51] Art. 16 of Law of RT On Property in the Republic of Tajikistan from 14 December of 1996. (Newsletter of Majlisi Oli of RT, 1996, No24, Art. 412).
[52] Legal review of property rights in Tajikistan. Available at: http://www.namsb.tj/phocadownload/beilibrary/analysis_property_rights.pdf.
[53] Art. 1 of Law of RT On Privatization of the Housing Fund of the Republic of Tajikistan from 4 November 1995. (Newsletter of Majlisi Oli of RT, 1995, No 21, Art. 253).

- Based on the project of individual privatisation (special project similar to business plan indicating how property will be used, developed etc.), on a competitive basis.[54]

At same time as the process of privatising real property was underway, the legislation of the Republic accepted the impossibility of returning lands to those previous owners, prior to the nationalisation of all real property.[55]

The government assured equal access to the process of the privatisation of real property by including provisions in respect of the rights of citizens to acquire real property in respect of those who occupied residential accommodation in State housing under a lease or rental contract. The administration of the housing privatisation process, transfer, sale and registration of property rights were assigned to the executive authorities (*hukumats*) of the communities and to the management agency of State property. The Law of Republic of Tajikistan "On Privatization of the Housing Fund of the Republic of Tajikistan" established the opportunity of purchasing housing on a twenty-year instalment plan.[56]

In addition, the Law on the privatisation of State property provided for the following objects to be subject to privatisation:

- The property of State enterprises;
- The right of use in respect of the land on which State-owned enterprises are situated;
- The exclusive rights of State-owned enterprises;
- State-owned enterprises as a property complex; and
- Shares in enterprises and organisations belonging to the State, etc.

With the adoption in 1999 of the Civil Code of the Republic of Tajikistan, real property has become the object of civil transactions and the subject of civil rights. So, article 140 of the Civil Code of Republic of Tajikistan indicates that the subjects of civil rights may be owned, as well as personal benefits and rights: the proprietary benefits and rights (property) include such assets as goods, money, securities, and work.

Thus, "property" has been divided into movable and immovable, or real and portable property (chattels), where immovable property or real property include buildings (residential, non-residential), facilities and construction in progress, i.e., objects, the movement of which is impossible without disproportionate damage to their purpose.[57] Also, it should be noted that the Civil Code of the Republic of Tajikistan assigns aircrafts

[54] Art. 11 of Law of RT On Privatisation of State Property in the Republic of Tajikistan dated May 16, 1997. (Newsletter of Majlisi Oli of RT, 1997, No 10, Art. 160).
[55] Art. 2 Land Code of the Republic of Tajikistan 13 December 1996. (Newsletter of Majlisi Oli of RT, 1996, No 23, Art. 381).
[56] Law of RT On Privatization of the Housing Fund of the Republic of Tajikistan from 4 November 1995. (Newsletter of Majlisi Oli of RT, 1995, No 21, art. 253).
[57] Art. 142 of Civil Code of RT from 20. 6. 1999. Available at: ww.mmk.tj.

and sea vessels, inland waterway vessels, and space objects to the category of real property; however majority of such property has not been privatised.

2.3 Right of use of land

As to the issues of land use and land tenure, these are governed by a separate regulatory legal act - the Land Code of the Republic of Tajikistan - adopted on 13 December 1996.

First of all, according to the Constitution and the Land Code of the Republic of Tajikistan, the land within the Republic of Tajikistan is the exclusive property of the State.

However, the alienation of the right of use of land plots by individuals and legal entities of the Republic is not prohibited. For foreign individuals and legal entities, land plots are available but without the right of alienation of the rights of use.

The right of use of land plots together with the right of alienation is a special topic within civil relations, and the right of use of land may be the subject of sale, gift, exchange, lease, mortgage and other transactions. Similarly, such rights can be passed on to another person by way of inheritance or universal succession in case of legal entities.[58] However, the purpose to which any land plot is put cannot be changed as a result of alienation. Land users in the Republic of Tajikistan are both natural and legal persons, and are divided into primary, being those who are able to use land in unlimited, limited or lifetime inheritable tenure; and secondary, those who use land plots based on land leases.

There are several types of recogised holdings of land, as already mentioned. There are unlimited rights to use the land, for example, without time limit fixed in advance, which is mainly granted to individuals and to legal entities of the Republic.

Also, a lifetime's inheritable tenure is recognised, under which a land plot may be granted for the purpose of an organisation of private (individual) farms, traditional crafts or for the purpose of subsistence farming.

Land holdings by individuals and legal entities can be limited to a certain period, for example, short-term (up to three years), and long-term (from three to twenty years).

In addition, the use of land based on the grant of a lease is possible. Thus, land users may transfer land under a lease[59]: however the use of the land cannot not change, and the lease may be made for a period of up to 20 years.

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[58] Art. 2 (2) Land code of the republic of Tajikistan 13 December 1996. (Newsletter of Majsili Oli of RT, 196, No 23, art. 381).

[59] Art. 14 Land code of the republic of Tajikistan 13 December 1996. (Newsletter of Majsili Oli of RT, 196, No 23, art. 381).

For the use of land by foreign citizens and foreign legal entities special conditions are established. First of all, the land within specially protected areas and used for agricultural purposes cannot be held by foreign citizens and foreign legal entities. Secondly, rights to land plots for such persons may be provided for limited use for up to 50 years.[60]

Separate attention should be paid to the fact that, two years ago, the legislative body of the Republic of Tajikistan allowed the pledging of the right to use the land. However only primary (or first level) land users have right to pledge the right to use the land.

2.4 Nature of the real property market

The real property market in the Republic of Tajikistan began to take shape at the beginning of the privatisation process and the enhancing of the business environment in the late 1990s. In parallel, the commercial real property market emerged. However, initially, the majority of deals were concluded in respect of residential property.

The market for industrial real estate in Tajikistan is in its infancy, although in recent years, in respect of majority of privatisation objects, a determination of the owner is in the final stage. Thus, at the conclusion of the transaction in relation to industrial real estate in Tajikistan, it is necessary to conduct a comprehensive analysis of the title documents to ensure the absolute right of the seller to the proposed facility, the possibility of its legitimate right of alienation and the right of the new owner to use the facility for the intended purpose.

In the sector of residential real estate, more transactions are made for purchase and sale than for leases; and in the commercial real property sector the dominant form of deals are lease transactions.

The development of the real estate market is being supported by a upturn in the construction of various types of real estate, the vast majority of which is residential accommodation.

Tajik legislation allows for the free purchase and sale of real property, the grant of leases, rent payments and other transactions in respect of such property.

The majority of deals in respect of real property are paid for in cash. The purchase of real property and the execution of transactions on the basis of finance from credit institutions, and banks is possible in Tajikistan, but is not common nor it is popular among the population, because of the high interest rates.

In Tajikistan the Law "On Mortgages" was adopted and is in effect, regulating specific rules for the mortgage of real property. Until the adoption of this law, real estate was

[60] Art. 25 Land code of the republic of Tajikistan 13 December 1996. (Newsletter of Majlisi Oli of RT, 1996, No 23, art. 381) .

pledged under the general provisions of the Civil Code regarding pledges. In addition, some banks provide financing services for the purchase of real property under their mortgage schemes. Nowadays, some developers of real property provide options for financing the construction through the purchase of real property in a building under construction, with the payment of costs on an instalment plan.

However, because of the high interest rate of such loans, the instability of the currency market, the costs of real property especially in terms of new buildings, the access of the population to such facilities and loans is limited.

In general, the real estate market in Tajikistan is in its formative stage; therefore conditions and prerequisites are necessary for its further development.

3 Property Data

3.1 Data on real property and cadastres

In the Republic of Tajikistan, a unified State register of real property is kept, which contains, in systematised form, the information and documents in respect of real property.

Currently there is a specialised agency for the registration of transactions involving real property and the rights to it, which apparently also develops and maintains a unified State register of real property. This specialised agency is the State Unitary Enterprise "Registration of real property". The administration of the State land cadastre is entrusted to the Committee of Land-Utilization and Geodesy under the Government of the Republic of Tajikistan and its local structures.

So, within the unified State register, a cadastral map exists that contains the graphic description of all territory of the registration district, the cadastral number of units of real property, a registration book in which entries are made on the registration activities, and other records in respect of real property.[61]

In addition to the unified State register of real property, there is also a State land cadastre, which constitutes the automated system of land cadastre information and the land cadastral process.

Legislation covers the purposes of establishing and maintaining a unified State register of real property, along with the protection of the State, public and private interests, the State control in this field, informational support for investors and other participants of the real property market, as well as government bodies.

[61] Art. 1 of Law of RT On State Registration of Real Property and Rights to it dated 20 March 2008. (Newsletter of Majlisi Oli of RT, 2008, No 3, Art. 194).

The State land cadastre is maintained in order to provide reliable information about the natural, legal and economic status of land. This cadastre is developed and kept by individual authorised State bodies regulating land relations, part of whose functions is to provide the information contained in the inventory to interested entities.

The Unified State Register of Real Property and its documents are maintained in paper form, and at same time the registration books, cadastral maps and application record books also are maintained in electronic form.[62] Despite this provision of the legislation, the complete electronic database of such information and documents are still not yet publicly available.

However, the general rule established by legislation is that the information in the Unified State Register of Real Property is publicly available in accordance with the legislation, except in certain cases, to protect the interests of the State (mainly information about the real property of the army, and of land used for defense purpose).

Also, the Civil Code establishes the obligation of the authority conducting the State registration of real property and associated transactions, to provide information on the registration of real property and registered rights to any person, on application[63].

3.2 Registration of real property

Tajik legislation requires the mandatory State registration of real property. Art. 143 of the Civil Code specifies that the right of ownership and other rights in *rem* to real property, their description, restrictions on these rights, their transfer and termination are subject to State registration in the unified State register.

Further, the registration of immovable property is governed by a separate legal act[64].

In addition, the Land Code of the Republic of Tajikistan states that the State registration of land plots residential and non-residential buildings and of construction in progress, and other types of real estate and of land rights is mandatory and executed by special State body[65] which, currently, is the State Unitary Enterprise "Registration of Real Property".

The State registration of real property is carried out regardless of the type of ownership. In addition, the registration of rights, and restrictions (encumbrances) to the right to such property, is also required.

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[62] Art. 22 of Law of RT On State Registration of Real Property and Rights to it dated 20 March 2008. (Newsletter of Majlisi Oli of RT, 2008, No 3, Art.1 94).
[63] Art. 143 of Civil Code of RT (Newsletter of Majlisi Oli of RT, 1999, No 6, Art. 153; Art.154)
[64] Law of RT "On State Registration of Real Property and Rights to it" dated 20 March 2008. (Newsletter of Majlisi Oli of RT, 2008, No 3, Art. 194)
[65] Art. 3 of Law of RT On State Registration of Real Property and Rights to it dated 20 March 2008. (Newsletter of Majlisi Oli of RT, 2008, No 3, Art. 194).

Similarly, the Law requires that the occurrence, transfer, termination of property rights, as well as the following rights and restrictions (encumbrances) of rights to real property are subject to State registration:

1. Lifetime inheritable use of the land;
2. Unlimited use of the land;
3. Limited timely use of the land;
4. Rent or lease of the land;
5. Economic control, the limited rights of State unitary enterprises to own, use and dispose the property provided to them by the State, according to their constituent documents and legislation;
6. Asset management;
7. Operational administration;
8. The lease, sublease, gratuitous use of residential and non-residential buildings, being isolated buildings for a term exceeding one year;
9. Easements;
10. Mortgages;
11. Arrest or distraint on real property;
12. The establishment of restrictions (encumbrances), in respect of real property in connection with its recognition as part of the nation's historical and cultural heritage; and
13. The establishment of restrictions (encumbrances), in respect of real property in connection with the servicing of power lines, pipelines and other engineering structures.

Conclusion

The real property tax in Tajikistan has undergone significant changes since the country became independent. In the early years of independence, this tax was recognised mainly as a national or State tax; later, real property taxes, in the form of the Land Tax, remained in the national budget, while the Real Property Tax became a local tax, and was paid into local budgets. However, at present, both the Land and the Real Property Taxes are paid into local budgets.

Apparently, a full transfer of the real property taxes to local taxes is associated with the intention of improving collection performance and profitability. Because, in relation to other taxes collected, the income derived from real property tax constitutes a relatively small amount, it may be said that role of real property tax is insignificant, and this is one of the reasons for the transfer of real property tax from State taxes to the local taxes. In addition, such a transfer may help to improve the process of the application and performance of this tax, because local governments and authorities have more information about the real property within their territory, which can be used by the tax inspectorate at the local level. In this regard, local governments should be able to better predict the final amount of the collected funds through real property tax, and also coordinate with the tax inspections, the process of collection of real property tax.

The simplification of the method of real property tax calculations by the tax authority at the local level may also contribute to the better performance of this tax.

One of the ways to improve the collection of real property taxes and an increase the yield from this source might be the extension of local government authorities in respect of the determination of the tax rate of the Real Property Tax. Currently, the tax rate applied to real property is fixed entirely by the Republican authorities. Republican authorities (Government of the Republic of Tajikistan and Majlisi Oli) could continue to define the main rules and regulations in respect of determination of the tax rate of real property tax, and give local authorities the power to determine the tax rate of real property tax within their territory based on such rules and regulations.

In any case, if the government decides to change the situation with regard to the Real Property Tax, some amendments should be made. However, first of all, in order to increase the collection rate of the real property taxes, the financial status of citizens, their living standards and the tax discipline of citizens in terms of a culture of tax payment should be improved.

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REAL PROPERTY TAXES AND PROPERTY MARKETS IN CEE COUNTRIES AND CENTRAL ASIA
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Property and Land Tax in the Kyrgyz Republic: Current State and Challenges

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Abstract Property and land taxes are the only local taxes stipulated in the Tax Code of the Kyrgyz Republic; however, other levies are also collected at the local levels. The Code identifies all the elements for each tax, and also provides an exhaustive list of exemptions. These exemptions reflect the financial situation of the taxpayer, the size of the property as well as the interests of the State in promoting a particular type of activity (e.g. private kindergartens are exempt from the property tax, as the State seeks to stimulate the development of this area of services). Nonetheless, some improvements could be introduced, for example, incentives for the early payment of the tax, and improved tax administration and efficiency . Tax reporting is also being criticized as being too time-consuming, particularly for taxpayers required to submit relevant documents. There is already draft legislation on the increase of the rate and coefficients for taxable vehicles (in particular, new cars with a high engine capacity), and an increase in the taxes for residential property (exceeding 200 square meters. Since the property tax has been administered and collected only during last 10 years (including two years of moratoriums), the Republic may not yet be ready for taxation based on the market value of property and / or land, considering the high visibility of the taxes and given the ongoing criticism of government. It may be significant that the Kyrgyz Republic has, during its short history of independence already experienced two revolutions (in 2005 and 2010).

Keywords: • Kyrgyz Republic, property tax, immovable property tax, valuation, tax reform

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Introduction

The primary purpose of this chapter is to provide an overview of the current state of the art in relation to the property and land taxes of the Kyrgyz Republic.

The land and property taxes in the Kyrgyz Republic can be traced from nomadic times to the modern era. The Kyrgyz Republic is a developing State that is constantly developing its fiscal policy. The current obligation to pay these taxes was established in the 2008 Tax Code, which was adopted to improve the tax system and decrease the tax burden. The 2008 Tax Code was also aimed at limiting the 'shadow' activity, decreasing the tax burden by reducing the tax rates and the number of taxes, and simplifying the procedures. This chapter describes the details of the property and land taxes, including the their calculation and collection. Comparing the revenue income from these two taxes, there is scope for increasing their potential yield. Nonetheless, further activities are necessary in order to address the challenges related to the land and property taxes. One such opportunity involving a change to the property tax (currently being discussed by the government) is the introduction of a tax on 'luxury' or expensive cars, and the reconsideration of some of the existing exemptions within both the property and the land taxes.

The chapter also considers the role of the local government authorities in the administration of local taxes, as well as a general background to the current market prices for residential property. In addition, the paper discusses suggestions for reforms in order to address the challenges related to the land and property taxes.

1 Property and Land Tax

1.1 History

The Kyrgyz Republic is a State located in Central Asia which borders Kazakhstan, China, Uzbekistan and Tajikistan. It is a unitary State that has seven main regions/oblasts, being the Chui region (in which the capital Bishkek is located), Talas, Issykkul, Naryn, Osh, Jalalabad and Batken regions. The two largest cities in the State are Bishkek and Osh (located within the Osh region).

Depending on the ruling authority, there were different fiscal regulations. Nevertheless, these regulations were also modified by the customs of the Kyrgyz population, based on their own unwritten rules.[1] These customs were accepted as law among Kyrgyz population in the XIX century.[2] The primary concern of all fiscal regulations was the land

[1] Sazykulov M.Sh. From History of Tax Relations in Kyrgyzstan (customary law) in Tax Relations: The experience of Kyrgyzstan and selected EU countries, Bishkek, 2003, pp.18-19.
[2] Id. at 18.

and it served as a basis for collecting the taxes.[3] Bearing in mind that the Kyrgyz population was nomadic, they were expected to pay taxes, making in-kind or monetary payments to the owners of the land on which they established their temporary settlements.[4]

During the administration by the Russian Empire (1855 - 1876) the nomadic population paid a tax on a 'per dwelling' basis, while the settled population was taxed on the lands used for agriculture.[5] However, by 1918 the Soviet rule was established in the territory of the current Kyrgyz Republic, and one of its policies was to transfer the nomadic population into the settled areas.[6] In terms of the tax payments the final tax amount was collected from each village, and each household was under a legal obligation to pay it. However, since the wealthy residents were also the administrators and the collectors of taxes, the final burden was place on the poorer households, and thus the tax acquired its suppressing character.[7] In 1924 a single agricultural tax was established, but overall, "*under socialism most taxes were transfers of revenue from State enterprises to the State budgetary account*."[8] The State budget largely comprised direct transfers of income from the State monopolies, and taxes collected from the population played a very minor role.[9]

After the collapse of Soviet Union in 1991, the Kyrgyz Republic declared its independence,[10] and in 1996 it adopted the Tax Code.[11] The 1996 Tax Code provided for the taxation of land at the national level, and for the local taxes based on property to be limited to the immovable property tax and tax on vehicles.[12] However, the 1996 Tax Code was replaced in 2008[13] The 2008 Tax Code limited the number of taxes imposed and reduced the tax rates for some of those remaining. For example, the 2008 Tax Code, aimed at improving the tax system of the Kyrgyz Republic, introduced an additional Sales Tax, and reduced the number of local taxes from eight to two, the two retained being the land and property taxes. In addition, the aim of the new Code was the simplification of the procedures by minimizing the direct interaction of the tax authority and the taxpayer by providing for the electronic submission of documents[14]. The new Code also intended

[3] Id. at 20-21. Also, Omurkozhoeva G.N., Tax Law of the Kyrgyz Republic, Bishkek 2010, pp.8-10.
[4] Id. at 21-29.
[5] History of Kyrgyz and Kyrgyzstan, Editor Ploskih V., Bishkek 2000, p.173.
[6] History of Kyrgyz and Kyrgyzstan, Editor Ploskih V., Bishkek 2000, p.218.
[7] History of Kyrgyz and Kyrgyzstan, Editor Ploskih V., Bishkek 2000, p.173.
[8] Dmitry Korolenko and Steven H. Klein, Russian Tax Collection Practices, 24 Int'l Tax J., 1998, p.49-50.
[9] Omurkozhoeva G.N., Tax Law of the Kyrgyz Republic, Bishkek 2010, pp. 15-16.
[10] History of Kyrgyz and Kyrgyzstan, Editor Ploskih V., Bishkek 2000, p.292
[11] Tax Code of the Kyrgyz Republic,26 June 1996, No.25.
[12] Tax Code of the Kyrgyz Republic, 26 June 1996, No.25. at Section VII on Land Tax and Section VIII, Chapter 32 (Arts.196-196-9 on immovable property tax) and Chapter 33 (on vehicles tax).
[13] Law on the Implementation of the Tax Code 17 oktyabrya 2008 No.231
[14] M.Sh. Rysalieva, The Main Steps for Development of the Tax System in the Kyrgyz Republic, Vestnik KRSU, Vol.18, No.8, 2014, pp. 142-143, available at https://www.krsu.edu.kg/vestnik/2014/v8/a35.pdf.

to reduce the activities of the shadow economy; however, official data up to 2015, indicates that the shadow economic activity is, instead, increasing. [15]

1.2 Position of Property and Land Taxes

The obligation to pay taxes is enshrined in the Constitution of the Kyrgyz Republic, which provides that "*citizens are obliged to pay taxes in situations and procedures provided by law*."[16] The Constitution also stipulates that a single unified tax system operates throughout the whole territory of the State, and that the power and the right to establish new taxes lies with the Parliament of the Kyrgyz Republic, *Jogorku Kenesh*.[17] The role of local government is to impose and administer the local taxes as well as to provide full or partial exemptions from the latter.[18] The bodies of the local government for tax purposes are:

(a) the local *kenesh* being the representative bodies of local government, and
(b) *aiyl okmotu*, mayors' offices being village and city administrations that are executive bodies of local government.[19]

The local *kenesh* has the authority to issue legal acts (resolutions) in the area of taxes.

The primary legal document addressing taxes, including those imposed on property and the land, is the Tax Code of the Kyrgyz Republic (hereinafter, Tax Code),[20] and taxes can only be introduced into the territory of the Kyrgyz Republic though the Tax Code[21]. The Tax Code stipulates the main elements of the taxes, such as taxpayer, taxable object, tax rate, tax base, tax period, the procedures for the payment and calculation of the tax, and the period of payment.[22] The Tax Code also distinguishes State[23] and local taxes, whereby the latter comprises only the property tax and the land tax.[24] The property tax is collected on both movable and immovable property.

The local tax is imposed on taxable property located in the jurisdiction of the municipal units, and is administered by and paid to the respective municipal units. The local taxes are established through the Tax Code and introduced by the normative legal acts

[15] National Statistics Committee, Analytical Notes on the Parameters of the non-observed economy in the Kyrgyz Republic, available at http://stat.kg/ru/ekonomicheskie-zapiski/.
[16] Art. 55 of the Constitution of the Kyrgyz Republic
[17] Ar. 13 of the Constitution of the Kyrgyz Republic
[18] Art. 112(3)(3) of the Constitution of the Kyrgyz Republic
[19] Art. 111 of the Constitution of the Kyrgyz Republic.
[20] Tax Code of the Kyrgyz Republic (with the last amendments on 27 April, 2017 #66)
[21] Art.5(4) of the Tax Code of the Kyrgyz Republic
[22] Art.32 of the Tax Code of the Kyrgyz Republic.
[23] The State Tax is Personal Income Tax, Corporate Income Tax, Value Added Tax, Excise Tax, Subsoil Tax, Sales Tax. The State also provides for the special tax regimes that taxpayers can apply … Mandatory and Voluntary Patent, Simplified Tax System (Single Tax), Tax Contract, Tax Free Economic Zones, and Tax Free High Technologies Park.
[24] Art.31(4) of the Tax Code of the Kyrgyz Republic

(regulations) of the local *kenesh.*[25] The payment of local taxes is made at the corresponding local administrative offices.[26]

In the Kyrgyz Republic, the State Tax Inspectorate Service under the Government of the Kyrgyz Republic (hereinafter, State Tax Inspectorate (STI)) is the primary body for the administration of all taxes (including local taxes); nonetheless, some of its functions and obligations in respect of local taxes may be delegated to the local municipalities. In such cases, municipalities have a responsibility to collect the property and land taxes, conduct tax control or to require the elimination of elicited violations of the law.[27] Thus, representatives of local government are empowered to conduct unannounced tax inspections, requiring taxpayers to comply with the tax legislation, apply to the court in the case of non-compliance and, in remote parts of the country, accept payment of the taxes. In all such cases of delegated responsibility, these local authorities are under the control of the STI.[28] In addition, the Code requires cooperation among these two; nonetheless, STI acts more as a supervising authority because it receives the resolutions/decrees of local governments addressing the application of local taxes, resolutions/decrees on such matters as the provision of land plots for economic or construction activity, information on lease agreements, resolutions/decrees on coefficients and decrees on exemptions provided.[29]

In addition to these delegated powers, the local *kenesh* have the right to provide full or partial exemptions from local taxes, and, when provided for by the legislation, they have a right to set the rates for local taxes[30], rates for non-tax fees (for example, rates for the garbage fee), or the right to increase the land tax rate for the use or non-use of agricultural lands (within the range of rates laid down by central government.[31]

The local *kenesh* can provide full or partial exemption from the payment of property tax and the land tax for agricultural land for a period of up to three years. This exemption is provided, if the taxpayer has suffered losses as a result of a *force majeure*.[32] Moreover,

[25] Art. 112 of the Constitution of the Kyrgyz Republic. There are two types of local *kenesh: Aiyl keneshes* are representative of rural areas; and municipal or urban *keneshes* are representative of urban areas.
[26] Art. 31(3) of the Tax Code of the Kyrgyz Republic.
[27] Art. 52-1 of the Tax Code of the Kyrgyz Republic.
[28] Art. 50(1)(15) of the Tax Code of the Kyrgyz Republic.
[29] Art.131 of the Tax Code of the Kyrgyz Republic. See also, Resolution of the Government of the Kyrgyz Republic on Establishing the Temporary method of calculation of funds to be provided for the local government for the implementation of the delegated powers, 19 December 2014, No.715 (with the last amendments on 15 March 2017, No.160).
[30] Art.31(2)(4) Law of the Kyrgyz Republic on Local Self-Governance, 15 July 2011, #101 (with the last amendments on 1 June 2017, #95).
[31] Art.31(2)(4) Law of the Kyrgyz Republic on Local Government, 15 July 2011, No.101 (with the last amendments on 28 July 2017, No.163).
[32] Art.330(4) of the Tax Code of the Kyrgyz Republic. Art. 29 of the Tax Code provides that irresistible force is force is the emergence of extraordinary and inevitable circumstances as a result of natural disasters, such as earthquakes, floods or other circumstances that can not be foreseen or prevented, or possibly envisaged, but impossible to prevent. These circumstances are established by the existence of well-known facts, publications in the media and in other ways that do not require special means of proof.

an exemption of up to five years can be provided from the property tax for newly-created organisations engaged in manufacturing/producing and/or the processing of production, on the condition that the minimum volume of production and/or processing is not less than thirty million Kyrgyz Soms (KGS[33]) (some 390,000 EUR) per year.[34] There is no specification as to the 'production' sector but rather its volume over a specified period of time.

Once per calendar year, the local *kenesh* also has the right to increase the land tax rate for agricultural lands based on the points awarded for soil quality[35] as well as for the non-usage of agricultural lands (except for the cases when non-usage occurs due to *force-majeure*).[36] The soil quality and its evaluation impacts on the normative price of the land, whereas the normative price is used for establishing the land tax rates.[37] The responsibility for the setting of the soil quality though lies with the Ministry of Agriculture and Melioration.[38]

In addition, the local *kenesh* sets a 'zoning' coefficient for the land tax once every three years, depending on the characteristics of the economical-planning zones,[39] but it cannot set the same coefficient for the property tax. Each local *kenesh* identifies the relevant economical-planning zones: for example, Bishkek city has 20 zones[40] whereas Osh city has five zones[41]. Depending on the zone the 'zoning coefficient' will vary, but it is argued that some values do not correspond to the economical situation of that zone.[42] In the latest Decree, all of the coefficients are of equal value, despite the fact that the city centre has higher prices compared to the suburbs of the city. It is argued that the Decrees lack any

[33] KGS is the Kyrgystani Som. (1 KGS is equivalent to 0.013 EUR)
[34] Art.330(4)(2) of the Tax Code of the Kyrgyz Republic. In rough estimates 30 mln KGS is equal to 440.000 USD.
[35] Defined based on the PROCEDURE for determining the value/valuation (normative price) of agricultural land adopted by the Regulation of the Government of the Kyrgyz Republic, 4 February 2002, No.47 (with the last amendments on 24 January 2013, No.33).
[36] Art.337(6) of the Tax Code of the Kyrgyz Republic.
[37] Art. 110 and Art. 111 of the Land Code of the Kyrgyz Republic, 2 June 1999, No.45 (with latest amendments on 24 January 2018, No.12).
[38] S. 4(5) of the Regulation on Ministry of Agriculture and Melioration of the Kyrgyz Republic, established by the Resolution of the Government dated on 20 February 2012, No. 140 (with the last amendments on 11 April 2016, No.187). Based on the Law of the Kyrgyz Republic on "On protection of soil fertility of agricultural lands" dated on 10 August 2012, No. 165, Art. 12 the authorized body is to set the procedures for identifying the soil quality.
[39] Art. 339(4) of the Tax Code of the Kyrgyz Republic.
[40] Decree of Bishkek City Kenesh, 30 April 2013, No.14, On the approval of the economic and planning zones of the city of Bishkek and the value of the zoning coefficient, available at http://www.gorkenesh.kg/the-rulings-of-the-bgk/26-sozyv/853-14-ob-utverzhdenii-ekonomiko-planirovochnykh-zon-goroda-bishkek-i-znacheniya-zonalnogo-koeffitsienta-kz.html.
[41] Decree of Osh City Kenesh, February 10, 2016 No.323, On approval of calculations for determining the rental payment for the use of municipal land (land allotments) and a map of economic and planning zones.
[42] Lukashova I.V. The Validity of the Zonal Coefficient Values at the model of the Taxable Value of Residential Real Estate in Bishkek, Vestnik KRSU, Vol.15, No.3, 2015, pp.50-51, available at https://www.krsu.edu.kg/vestnik/2015/v3/a12.pdf.

justification as to the change of coefficient[43]. Moreover, if the local *kenesh* sets the zoning coefficient in the mid of the year, the question is raised as to how it impacts on the calculations of the tax where Tax Code is silent on this[44].

The State Tax Inspectorate has the right to control the local governments in the implementation of their delegated powers.[45] In addition, the Code requires cooperation between the STI and the municipal authorities, so that the tax bodies are to receive the municipal decisions which deal with the application of local taxes, decisions on such matters as the provision of land plots for economic or construction activity, information on lease agreements, decisions on coefficients and exemptions.[46]

Currently the State Tax Inspectorate delegates the power of property and land taxes collection, requesting documentation related to the tax payment, and receiving relevant information on the property and land taxes from other State bodies.[47] Municipalities can also conduct unannounced tax inspections, require taxpayers to comply with the tax legislation, apply to the court in cases of non-compliance, and, in remote areas of the country, can accept the payment of the taxes.[48]

Apart from certain delegated administrative functions, the local self-governance has a limited role in influencing the amount of tax payable. It can introduce exemptions from the taxes, and has a minor role in the setting the coefficients used in the calculation of the land tax. Nonetheless, any increase is limited in its range by the requirements of the Tax Code. The local government is quite limited in their autonomy having 'central' authority playing more role rather than local government.[49] One of the proposals of the *Jogorku Kenesh* to the State is to give the local authorities the opportunity to introduce new tax coefficients or the opportunity of increasing the existing ones.

1.3 Structural Components

The land and property taxes are governed by the Tax Code. The property Tax covers the taxation of immovable as well as movable property, in particular vehicles. The Land Tax is applied to any type of the land. The Tax Code provides for separate procedures of payments of each of these taxes. Nonetheless, the tax period of both is a calendar year.

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[43] *Ibid*.
[44] Uskenbaeva G.T., Land Tax, Nalogi I Pravo, No.2, 2012, p.11-12, available at http://www.pnk.kg/pdf/2012/2.pdf.
[45] Art. 50(1)(15) of the Tax Code of the Kyrgyz Republic.
[46] Art.131 of the Tax Code of the Kyrgyz Republic.
[47] Resolution of the Government of the Kyrgyz Republic on Establishing the Temporary method of calculation of funds to be provided for the local self-governance bodies for the implementation of the delegated powers, 19 December 2014, #715 (with the last amendments on 15 March 2017, #160).
[48] Resolution of the Government of the Kyrgyz Republic on Establishing the Temporary method of calculation of funds to be provided for the local self-governance bodies for the implementation of the delegated powers, 19 December 2014, #715 (with the last amendments on 15 March 2017, #160).
[49] Richard M. Bird and Enid Slack, Land and Property Taxation: a Review (March 2002), p.11, available at http://www1.worldbank.org/publicsector/decentralization/June2003Seminar/LandPropertyTaxation.pdf.

1.3.1 Property Tax

Liability for the Property Tax occurs in cases when the property is under the ownership of:
(1) the State, that is under the operation of State entities;
(2) the municipality, that is under operation of municipal entities; and
(3) private persons.[50]

The Government of the Kyrgyz Republic has established a list of objects that are not subject to the property tax.[51] Nonetheless, the Code provides for the following four groups of taxable property:[52]

- 1st Group: houses/dwellings, apartments/flats, country houses that are intended for permanent or temporary residence and not used for business/entrepreneurial activity;
- 2nd Group: houses/dwellings, apartments/flats, country houses, recreation centres, guesthouses, health-resorts, other manufacturing, administrative, industrial buildings and other constructions that are intended and/or used for business/entrepreneurial activity;
- 3rd Group: temporary premises made of metal or other constructions such as kiosks, containers that are intended and/or used for the business/entrepreneurial activity; and
- 4th Group: vehicles for land and water transport (but not air travel), including self-propelled machines and mechanisms.

The tax base of the property tax within Groups 1 - 3 is 'the taxable value of the property' which is determined in accordance with the procedure set in the Tax Code. However, the tax base for Group 4 depends on combustion engine capacity and/or its book value. In the case of vehicles with engines, their cubic capacity is taken into consideration for the purposes of the tax calculation.

The taxable value of the property within Groups 1 to 3 is assessed based on the following formula:

TV = V x S x Cr x Cz x Ci
where TV = is the taxable value in KGS;
V = value per square metre of the object;

[50] Art. 324 of the Tax Code of the Kyrgyz Republic.
[51] Resolution of the Government, 19 October 2011 No.653 „On measures to implement the norms of the Tax Code of the Kyrgyz Republic" (with the last amendments on 30 March 2015 No. 169). Some of the objects that are not subject to property tax are objects of hydro electro stations, sport buildings as stadiums, the objects of national parks, objects of religious cults, city public transports, to name few.
[52] Art. 324 of the Tax Code of the Kyrgyz Republic.

S = the total size of the objects liable to tax (reduced by the size allowed as an exemption for objects within Group 1) or the total size of the Group 2 or 3 objects;
Cr = regional coefficient, based on its location in the country;
Cz = zonal coefficient, based on the zones established within the locality;
Ci = industry (functional) coefficient that is applied taxable properties within Groups 2 and 3.

The value per square metre is established depending on the construction materials of the walls and the date when the building was first used. The Tax Code provides the amounts per square metre (in KGS), depending on the materials and the length of usage of the building. The most expensive construction is made of brick, and the least expensive is of metal construction. The term of use also varies from less than five years to more than 45 years. For example, if the material of the walls is brick and the building is less than five years, then the established value of per square meters is 15,000 KGS, (which is equivalent to some 190 EUR).[53] The actual market price of the immovable object can be higher, especially in the capital city. For example, as at September 2018 the average price per square metre in the capital Bishkek for an apartment is 51,190 KGS[54] (which is around 647 EUR). The taxable value may change as a result of reconstruction. If the taxpayer is reconstructing an object from Group 2, and the object is not used during the period of reconstruction, no tax is payable.

The total size of the property is based on the documentation provided by the State Registry on the Immovable Property. Usually, the material of the walls is also specified in the documentation. All types of immovable property are required to provide particular documentation to the State Registry, but with some additional information for the properties used for businesses purposes.

The highest Regional coefficient (Cr) equal to 1.0 point is in the capital of the Kyrgyz Republic – Bishkek city, and, from there, it decreases to the lowest points (0.1) in various regions of the Republic.[55] The Zonal coefficient (Cz) is set uniformly at 1.0 point, with the exception of the cities of Bishkek, Osh and Dzhalalabad. For these largest cities in the State, the Government the Republic sets a Zonal coefficient within the range of 0.3 to 1.2 points once per taxable year, and not later than October 1. The Zoning coefficient for the mentioned cities would depend on the economical-planning zones (e.g. districts/streets).[56] The Industry (functional) coefficient (Ci) is set by the Government of and in various amounts depending on the function of the object.[57] For example, if the object is a hotel, pawnshop, currency exchange office, then the value of the Industry (functional)

[53] Art.327 of the Tax Code of the Kyrgyz Republic.
[54] State Registry Service under the Government of the Kyrgyz Republic, Department of cadaster and registration of rights on immovable property, Single Information System on immovable property of the Kyrgyz Republic, Price Index for September 2018, available at http://gosreg.kg/2014-2/252-septembr-2018.
[55] Art.327(7) of the Tax Code of the Kyrgyz Republic.
[56] Resolution of the Government of 13 May 2011, No.217, On the measures to implement the requirements of the norms of the Tax Code of the Kyrgyz Republic (with the last amendment on 1 August 2013, No.440).
[57] Art.327(9) of the Tax Code of the Kyrgyz Republic.

coefficient is 1.6; if the object is administrative, office buildings, business centers, banks, then the value of industry (functional) coefficient is 0.6. In cases where the coefficients are not specified, then their value is equal to 1.0.

The tax rate for the Property Tax is as follows:[58]

- for Group 1 objects, the rate is 0.35 per cent of the tax base;
- for Groups 2 and 3, the rate is 0.8 per cent of the tax base;
- for Group 4, the rates vary depending on the type of the vehicle, the terms of usage (including the year of production) and the capacity of the engine (per cm^3).

Exemptions from the property tax are provided for diplomatic representatives, consular offices of foreign countries and representatives of international organisations, based on the international agreements with the Kyrgyz Republic; and also in the case of Group 1 dwellings according to the sizes of the residential property, as indicated in Table 31.1 below.[59]

Table 31.1: Property Tax Exemptions to Group 1 objects

The size of the property within Group 1, which is not taxed depends also on the population of the cities/settlements in which the property is located.								
Thousand persons	**Less than 5**	**from 5 to 10**	**from 10 to 20**	**from 20 to 50**	**from 50 to 100**	**from 100 to 200**	**from 200 to 500**	**Exceeding 500**
House/dwelling, country house, per square metre (gross external)	360	330	300	270	240	210	180	150
Apartment/flat, per square metre (net internal)	290	260	230	200	170	140	110	80

Source: Art.330(1(1)) of the Tax Code of the Kyrgyz Republic.

The new Tax Code took effect from 1 January, 2009, and introduced the Property Tax into the whole territory of the State. Even though the Tax Code provided for a residential Property Tax from 1996, its implementation only started from 2009. To mitigate the public concern about the new tax, State representatives claimed that it would not make a substantially difference, because of the exemption for the Group 1 objects (i.e. residential apartments/houses for personal use etc.) provided, in respect of Group 1 objects where

[58] Art. 328 of the Tax Code of the Kyrgyz Republic.
[59] Art.330 of the Tax Code of the Kyrgyz Republic.

the size of it is less than the ones indicated in the Code.[60] For 2009 the President of the Kyrgyz Republic introduced a moratorium on this tax to address the growing concern and to ensure its smooth implementation.[61]

From 1 January 2010 until 1 January 2014, the calculation of the tax for Group 1 objects was based on following formula:

Tax Amount (TA) = Base Tax Amount for group x Regional coefficient x Zoning Coefficient.

The Base Tax Amount was set separately for Bishkek and Osh cities and for other localities, and depended on the size of the property.[62] From 2014 the formula was modified to the current one, where the Code allows the reduction of the non-taxable area of the house/apartment, e.g. if the size of apartment is 120, the non-taxable size is 80, therefore, the total size will be the difference between them, i.e. 40.

If objects in Group 2 are used for the purposes of education, health, science, culture, sports, social welfare and the protection of children or poor and elderly persons, then these objects are exempt from the property tax as well. However, these exemptions are provided to taxpayer organisations only. Individual entrepreneurs using the property for the purposes above, are not eligible for the exemption.

In addition, the code provides a list of persons who qualify for partial exemption from the property tax. These include, for example, the persons who have received recognition from the State for their military service (such as participants in World War II, persons with the title of "hero of Soviet Union", military persons who participated in the hostilities based on the interstate agreement in Afghanistan, and in other countries/regions), or disabled persons. Such individuals are eligible for a fifty percent reduction on Groups 1 and / or 4 objects. As was highlighted earlier, the local *kenesh* can provide full or partial exemption for the property tax.

The Tax Code also provides that the taxpayers have a right to reduce the property tax on the amount of land tax that is to be paid in respect of the land parcel located under their dwelling.[63] However, this reduction cannot be not more than the amount of the tax calculated for the property concerned. Nonetheless, in practice not all taxpayers are aware of this right, which results in the payment of the full sums of the land tax and the full sum

[60] Daniiar Karimov, 24.kg Informaion Agency, «Adylbek Kasymaliev: Based on the approximate estimates, more than 99 per cent of the residential property will not be paying property tax", Nov.12, 2009, https://24.kg/archive/ru/economics/65492-adylbek-kasymaliev-po-predvaritelnym-raschetam.html/.
[61] Azattyk Radio, Moratorium on property tax is introduced, Feb.25, 2009, https://rus.azattyk.org/a/2686096.html
[62] Art.3(5) of the Law on implementation of the Tax Code of the Kyrgyz Republic, 17 October 2008, No.231 (with the latest amendments on Nov.27, 2017 No.194).
[63] Art.330(6) of the Tax Code of the Kyrgyz Republic.

of the property tax, amounting to the double taxation for one and same parcel of land (e.g. assuming that the residential house/dwelling is only one storey building).

If the property is in joint private ownership, then each owner is responsible for the tax proportionate to the ownership share. Even if the ownership share of the property qualifies for the exemption based on the size of the property (see Table 31.1 above), the overall size of the property will be taken into account. Thus, if one person's ownership share is 75 m^2 and the second owner's share is 79 m^2, then total area of 154 m^2 is taken into account for the purposes of tax calculation.[64]

As mentioned earlier, to calculate the amount of property tax payable, the total size (S) of the property for the Group 1 objects (residential property) is reduced by the area that is not taxed (see, Table 31.1). Therefore, the difference is to be taken into account in the tax calculation. Interesting is the wording of the Tax Code and its interpretation by the State Tax Inspectorate. The Tax Code specifies that the taxable area is ,,the total size of the Group 1 objects."[65] However, the State Tax Inspectorate in its correspondence with its citizens indicated that this reduction is allowed for only one unit of property. Thus, if a taxpayer has owns several apartments, then the reduction can be applied to only one property.[66] The ambiguous wording and the absence of explicit clarification in the Tax Code on the application of the reductions, has allowed the State Tax Authorities to used this in their favour, which is logical considering their primary role of collecting revenue for the State.

1.3.2 Land Tax

The object of the land tax is a property right, specifically, the right to possess and use agricultural lands and the lands that are taxed under the Tax Code. The land tax is paid on the agricultural lands and lands:
(1) within cities/settlements;
(2) used for industry transport, communications, and other specified purposes, including defense;
(3) designated as environment, recreational, historic and cultural lands;
(4) forests;
(5) waters; and
(6) reserves (not provided for ownership or use).[67]

[64] Art.323(5) of the Tax Code of the Kyrgyz Republic.

[65] Art. 327(1) of the Tax Code of the Kyrgyz Republic.

[66] State Tax Inspection Service, Information for the Taxpayers: Property Tax, available at http://www.sti.gov.kg/information-for-taxpayers/indiv-entrep/вопросы-и-ответы/налог-на-имущество (accessed at 26 June 2017).

[67] Art.335 of the Tax Code of the Kyrgyz Republic.

The classification of taxable "land" is laid down by the Land Code of the Kyrgyz Republic in which the Land Code also includes lands of State's natural resource lands of reserve, and the lands of specially protected natural territories (environment, historic and other lands), but these lands are exempt from taxation.[68]

The tax base is the area of the land plot. The area of the plot is defined based on the documentation of each plot, as shown in the cadastre, and, in the case of agricultural land (other than pasture) owned by the State, the tax base is defined based on the legal acts of the corresponding local government bodies.[69]

The tax rate depends on the location and the type of the land, whether it is agricultural or land attached to houses, or gardens, or whether the land is used for entrepreneurial activities.[70] The location of the land is classified depending on the relevant region or district or city. The agricultural lands are divided into irrigated land, arable land, hayfields, perennial plants, pastures, where the irrigated lands have the highest rate of tax and the pastures the lowest. The rates of the land tax for the lands applied to houses and gardens (KGS per square metre) depend on their location. If the land plot is used for business purposes, then the tax rate is higher. The tax rate applied to land within the settlements and cities and to non-agricultural lands is set depending on the population of the settlement and the region itself. If the agricultural land is located at high altitudes and in remote areas (as determined by Parliament), a reduction of 50% of the tax rate is granted.

The tax rate for land within settlements and cities and non-agricultural lands are also differentiated by the coefficients applied, specifically the zoning coefficient (Cz, for the economic planning zones) and the commercial coefficient (Cc, commercial use of the land plots). The zoning coefficients (Cz) are established by the local *kenesh* once every three years and not later than October 1. The amount of the Cz ranges from 0.6 to 3 in Bishkek city, from 0.3 to 3 in Osh city, and from 0.3 to 1.2 in other settlements. The commercial usage coefficient (Cc) depends on the type of commercial activity engaged on the land plot concerned. For example, Cc is set at 1.0 for those lands attached to houses, gardens, where the portion of the lands have been leased for living purposes by the owner/taxpayer. The Cc for the lands that are in the ownership or in the temporary possession of organisations and individual entrepreneurs, as well as physical persons who are using the land for business purposes, differs depending on the purpose for which the land is used. For example, the Cc for lands used for markets is 7.5; whereas for oil depots, it is set at 1.5; and for geological explorations and research works at 0.005.

The calculation of the land tax payable depends on the type of the land, hence, various formulas are provided.[71] The land specifications are indicated in the deed for the land.

[68] Art. 10 of the Land Code, 2 June 1999, No.45 (with the last amendments on 25 July 2017, No.139).
[69] Art. 336 of the Tax Code of the Kyrgyz Republic.
[70] Arts. 337, 338, 339 of the Tax Code of the Kyrgyz Republic.
[71] Art. 341 of the Tax Code of the Kyrgyz Republic.

The general formula reflects the tax rate, the size of the land (hectares or square metres), and the previously mentioned Cz and Cc. However, in addition, an inflation coefficient (Ci) is applied,[72] based on an annual statement by the Government of the Kyrgyz Republic. It is argued by some that these coefficients lead to an increase in the land tax burden.[73]

The State also provides exemptions from the land tax and the list of these lands is lengthy. In particular, the exemption is provided for the lands of national parks, lands of objects of historic and cultural value, cattle farms and land routes for cattle drives (to markets), lands for health resorts, degraded lands that require re-cultivation for the term provided by local *kenesh*, lands of pre-school educational organisations (private kindergartens), and certain lands of religious organisations which are registered in the required manner.[74] In addition, a tax exemption for the lands attached to houses, and gardens is provided to disabled people, pensioners, and persons who have four or more underage children.[75]

1.4 Administration

The primary administrative body dealing with the collection of taxes is the State Tax Inspection Service which operates under the Government of the Kyrgyz Republic (hereinafter, STIS). If the taxpayer fails to pay taxes, then STIS reminds them about the obligation.

Based on the tax legislation if a person or entity is in possession of taxable property or land, there is an obligation to submit a Single Tax Declaration (STD) 1 by March for organisations, and 1 April for physical persons. The Single Tax Declaration is a tax report with the primary purpose of providing relevant financial and other information related to the economic activity of an entity.[76] The STD is submitted on a yearly basis and currently it has to be submitted by each adult citizen of the Kyrgyz Republic, regardless of whether that individual conducts any economic activity or has any taxable property. For citizens who do not have any taxable property or land, then a simplified STD is returned. If the STD is not submitted by the deadline, then the penalties apply.[77]

Even though the obligation is to submit STD at the beginning of the year, different dates apply for the payment of the taxes itself. For the Property Tax, the owners of Groups 1 and 4 objects, who are physical person or legal entity and individual entrepreneurs, tax is to be paid by September 1 (a one-time payment for the current year). However,

[72] Art. 341 of the Tax Code of the Kyrgyz Republic
[73] https://24.kg/archive/en/economics/183815-news24.html/. This statement was also later refuted by the Ministry of Economy of the Kyrgyz Republic, www.mineconom.gov.kg.
[74] Art. 343 of the Tax Code of the Kyrgyz Republic.
[75] Art. 344 of the Tax Code of the Kyrgyz Republic.
[76] Art. 92 of the Tax Code of the Kyrgyz Republic.
[77] Art. 351 of the Administrative Code of the Kyrgyz Republic, 4 August 1998, #114 (with the last amendments on 8 June 2017 #100).

organisations and individual entrepreneurs pay tax for Groups 2 and 3 objects on a quarterly basis in equal amounts.[78]

The Land Tax has different deadlines. For agricultural land, the tax is paid in instalments: 20% is paid not later than 25 April; 25 % is paid not later than 25 August; and 55 % is paid not later than 25 November of the current year.[79] Organisations and individual entrepreneurs pay the tax for non-agricultural lands on a quarterly basis not later than 20th day of the first month of the current quarter.[80] Physical persons, who are taxpayers for lands attached to houses and garden lands in cities and settlements pay the tax by 1 September.[81]

Based on the documentation provided by taxpayers, the STIS conducts analyses, tax control and addresses the issues of non-payment. If the tax obligation is not fulfilled, tax sanctions, fines and percentages of unpaid taxes are applied.[82] The analysis is done through the automated data system that provides for a faster report generation, and a strong audit case selection.[83] The STIS sends a formal notice informing taxpayers about their outstanding obligation to pay and requests them to provide an explanation to the STIS. If neither the amounts due are paid nor if any explanations are forthcoming, then the STIS may apply to the court with a claim to collect the tax arrears (including penalties, fines and percentages). The law provides options for the STI which may organize the sale of seized property; send the decision of the STI (with the attachment of the court decision) to the third parties (including debtors, employers, banks or other organisation) to stop their payments to the delinquent taxpayer.[84]

Generally, the Tax Code provides the opportunity to appeal the decisions of the tax authorities to impose tax penalties. Such decisions can be appealed to a higher tax bodies or to the court. All of the court proceedings are decided by the courts of general jurisdictions, with the potential for further appeal to higher court.

In the case of the tax on vehicles, the highway patrol service together with the tax service may have unannounced highway inspections in order to check on the payment of the vehicle tax. They are permitted to stop vehicles and request from the driver the proof of payment of the taxes, which is required to be kept within the vehicle. In the case of the tax on vehicles, and based on the Resolution of the Government on Establishing the Traffic Rules[85], drivers are under an obligation to show the document demonstrating the

[78] Art.332 of the Tax Code of the Kyrgyz Republic.
[79] Art. 342 of the Tax Code of the Kyrgyz Republic.
[80] Art.342 of the Tax Code of the Kyrgyz Republic.
[81] Art. 342 of the Tax Code of the Kyrgyz Republic.
[82] Art. 61 of the Tax Code of the Kyrgyz Republic.
[83]Ruben Barreto and Rajib Sinha, Implementing Tax Administration System in the Kyrgyz Republic, ADB Briefs, No.29 Dec, 2014, pp. 1-7.
[84] Art.75 of the Tax Code of the Kyrgyz Republic. See also, Regulation on collection of tax arrears dated on 7 April 2011, No.144 (with the last amendments 28 March 2018, No.158).
[85] Resolution of the Government on establishment of the Traffic Rules dated on 4 August 1999, No.421.

payment of the Group 4 property tax (on vehicles). One of the evidences of payment is the sticker received from the tax inspectorate on the car for the respective year. If there is no such proof is provided (for example, the driver is not the owner or has forgotten the proof of payment), then the car/vehicle is impounded at the penalty parking (special parking area) belonging to the highway patrol service, and if no evidence is presented later, then this may lead to collecting tax arrears via court.

Enforcement can take various forms. In certain cases the STIS has the ability to cooperate with other governmental bodies to collect information and to ensure compliance for the tax obligations. Nonetheless, in cases of non-payment, the taxpayer is obliged to pay to cover not merely the outstanding debt, but also fines, percentages and sanctions imposed for each day of non-payment.

1.5 Revenue Performance

The revenue performance in terms of local taxes varies throughout the Republic with the highest in the capital city, Bishkek. Table 31.2 below illustrates the revenues for the period of 2011 - 2017 for the whole territory of the Kyrgyz Republic.[86]

Table 31.2: Tax Revenues for the Period 2011 - 2017 for the Kyrgyz Republic (in thousand KGS)

Year	2011	2012	2013	2014	2015	2016	2017
All revenue at national level	86,796,502	96,741,248	107,723,072	108,905,353	100,669,172	69,666,172	73,811,068
Tax revenues at national level	53,017,363	63,911,400	72,842,388	82,639,132	67,358,173	46,363,661	47,052,476
All revenues at regional and local level	22,237,599	23,939,078	21,573,895	15,253,654	16,982,861	17,190,143	9,549,150

[86] All budget related data was taken from https://budget.okmot.kg/ru/

Year	2011	2012	2013	2014	2015	2016	2017
All tax revenues at regional and local level	6,892,164	7,664,277	10,428,017	11,693,701	12,325,667	12,324,361	5,717,071
Property and land tax revenue	1,682,294	1,724,208	2,689,478	2,209,712	2,286,068	2,494,846	1,231,886
Property and land tax revenue as % of all state revenues	1.938	1.782	2.497	2.029	2.271	3.581	1.669
Property and Land tax revenues as % of all regional and local revenues	7.565	7.202	12.466	14.486	13.461	14.513	12.900
Property and Land tax revenues as % of tax revenues at regional and local revenues	24.409	22.497	25.791	18.897	18.547	20.243	21.548

Table 31.3: Tax Revenues for 2011 - 2017 for Bishkek – case study (in thousand KGS)

Year	2011	2012	2013	2014	2015	2016	2017
All revenue	46,558,430	54,076,371	61,933,388	66,322,529	53,976,867	36,614,261	37,642,070

Tax revenues	38,837,799	45,413,749	51,789,898	61,779,650	47,250,739	29,937,121	27,598,186
Property and land tax revenue	649,744	580,301	751,183	787,764	807,808	902,35	446,253
Property and land tax revenue as % of all revenues	1.396	1.073	1.213	1.188	1.497	2.464	1.186
Property and Land tax revenues as % of tax revenues	1.673	1.278	1.450	1.275	1.710	3.014	1.617

1.6 Possible Reform

One possible reform would be to transfer from the State to local government the responsibilities for determining and deciding the nature and / or the rate of property and land taxes, thus providing more autonomy for the local government.

Taking into account that land and property taxes are very visible taxes[87], one possible proposal in order to increase its payment could be the introduction of incentives for prompt payment by the taxpayers. The incentive could be in the form of deductions of the total amount paid, e.g. if the tax is paid six months prior the 'deadline', then a 10 % reduction of the tax obligation could be available. In addition, the tax authorities may consider introducing the opportunity for payment in instalments for natural persons if the annual amount of tax exceeds 10,000 KGS (around 126 EUR). Currently it is paid in one instalment and the tax burden for some causes hardship.

The current property tax for physical persons does not provide any exemptions for older people. If the size of the residential property of the elderly exceeds the non-taxable area, they are required to pay the tax, despite the fact that their pension may not allow them to cover the costs of this obligation. Nonetheless, one of the proposals in the Draft Project on the Fiscal Policy Concept for 2015 - 2020, is the reduction in the number of the exemptions for the land tax, an increase in the tax rates for buildings and vehicles, and the introduction of a tax on 'luxury' goods.[88] The tax on "luxury" goods at this point is

[87] Richard M .Bird and Enid Slack, Land and Property Taxation: a Review (March 2002), p.10, available at http://www1.worldbank.org/publicsector/decentralization/June2003Seminar/LandPropertyTaxation.pdf

[88] Ministry of Economy of the Kyrgyz Republic, Draft Project on the Fiscal Policy Concept for 2015 - 2020 years, available at https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=7&cad=rja&uact=8&ved=0ahUKEwiklb22z_bUAhWCBZoKHcKQCYQQFghTMAY&url=http%3A%2F%2Fmineconom.gov.kg%2FDocs%2F1

aimed at owners of vehicles that have a combustion engine capacity greater than 3,000 cm^3, where higher rates are to be applied.[89] The current change is considered logical considering that the Kyrgyz Republic is reputed to be one of the States in Central Asia with the highest numbers of vehicles in relation to its population.

In addition, the tax authorities should be required to inform taxpayers about the opportunity to have a tax deduction based on the double taxation of the land tax and the property tax paid for the houses/dwellings and the land on which they stand (rather than expecting taxpayers to understand that this deduction is available to them).

There are also issues in the application of the commercial coefficients (Cc), given that the general obligation to calculate the tax lies with the taxpayer. The minor exception relates to the calculation of the tax on land attached to houses or gardens belonging to physical persons, where the obligation to calculate the land tax lies with the State Tax Inspectorate. Subsequent application by the tax authorities of a higher coefficient could result in tax arrears, putting an additional burden taxpayers. In these cases usually the parties refer the dispute to the court. In practice, however, the courts of the Kyrgyz Republic tend to take the side of the tax authority considering the need to fill the State budget, ignoring any evidence of good faith on behalf of the taxpayer.

Other questionable issues include the ambiguities and lack of clarity in the Tax Code itself. For example, one of the issues which has been raised is the interpretation of the Code relating to the Group 1 objects and the exemptions applied to them.

Another example affects mortgaged property. The tax legislation specifically indicates that the owner (who has the property right) of the property is under the obligation to pay the tax. The mortgagee taxpayers argue that, although that they have the rights to use and possess, they do not have the right to dispose, and therefore, they have no (taxable) property right. The Tax Code currently provides that mortgaged property that is under the ownership of the bank is exempt from the property tax, from the moment the mortgagor bank accepts the property as security for the debt, until the date the mortgage on the property is redeemed or the date of sale.[90] There remains scope for argument, and therefore, it is important to amend the legislation to clarify the tax obligations for mortgaged property.

Additional concern are raised with the administration of taxes. The government's proposal is to help reduce the tax burden on taxpayers and reduce the paperwork connected with the fulfillment of the tax obligations. Recently, the opportunity to pay the land and property taxes using electronic methods has been introduce; nonetheless, reporting

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[89] Ministry of Economy of the Kyrgyz Republic, mineconom.gov.kg.

[90] Art. 330(5) of the Tax Code of the Kyrgyz Republic.

submissions are still required to be made manually and in person, and there are further improvements possible here.

2 Evolution of real estate markets

2.1 Privatisation

After gaining independence in 1991, the Kyrgyz Republic initiated a privatisation process. "The privatization process in the Kyrgyz Republic of 1992 - 93, although very rapid, has not been conducive to the development of effective private ownership and profit-oriented management."[91] Later, the State used other methods of privatisation aiming at achieving quality rather than the quantity of privatized objects.[92] Currently, the main law addressing the matter of privatisation is the Law on privatization of the State property in the Kyrgyz Republic.[93] The methods of privatisation used are sale through auction, sale through commercial competition, lease with a view to subsequent purchase, the transfer of management with a view to subsequent purchase, State contributions to the charter capital of the commercial legal entities, sale of the shares through the stock markets, and direct sale.[94]

Table 31.4 below illustrates the volume of privatised units depending on the method of privatisation in 2016 based from the data of the National Statistical Committee of the Kyrgyz Republic.

[91] Władysław W. Jermakowicz, Julian Pańków and George Soros, Privatization in the Kyrgyz Republic, Russian & East European Finance and Trade, Vol. 31, No. 6, Economic and Financial Transformation in Kyrgyzstan (Nov. - Dec., 1995), pp. 43, available at http://www.jstor.org/stable/27749090.
[92] Władysław W. Jermakowicz, Julian Pańków and George Soros, Privatization in the Kyrgyz Republic, Russian & East European Finance and Trade, Vol. 31, No. 6, Economic and Financial Transformation in Kyrgyzstan (Nov. - Dec., 1995), pp. 43-68, available at http://www.jstor.org/stable/27749090.
[93] Law of the Kyrgyz Republic on Privatization of the State Property in the Kyrgyz Republic, 2 March 2002, #31 (with last amendments on 18 July 2014).
[94] Art. 14 of the Law of the Kyrgyz Republic on Privatization of the State Property in the Kyrgyz Republic, 2 March 2002, #31 (with last amendments on 18 July 2014).

Table 31.4: Number of Privatised Units by Economic Sectors and Type of Privatisation

Items	2016
Rented with subsequent purchase	185
Sale through commercial competition	1,296
Sale to private parties	1,633
Auctioned	664
Unrequited transfer (free-of-charge transfer)	11

Source: National Statistical Committee of the Kyrgyz Republic, Number of Privatized Units by Economic Sectors and Type of Privatization, available at http://www.stat.kg/ru/search/?news=1&pages=1&publications=1&statistics=1&vacancy=0&opendata=1&query=приватизация (last accessed June 20, 2018).

2.2 Limitation on land/property ownership

The Land Code of the Kyrgyz Republic provides limitations to the property rights of foreign entities.[95] Foreign entities, as defined by the Land Code, are entitled to land in settlements for their temporary use, but they cannot own agricultural lands. If a foreign entity becomes an owner as a result of a legal succession, it has to dispose of the property to a national of the Kyrgyz Republic within the timeframe stipulated in the Code.[96] For the use of the subsoil or mining, the lands are also provided for temporary use only. On the land close to the borders with other territories, the foreign entities are unable to even make temporary use of the land.[97]

In contrast, foreign persons and entities can enjoy the private ownership of residential premises (houses, flats) including for temporary use.[98] Nonetheless, there is also an additional stipulation in the Housing Code of the Kyrgyz Republic indicating that an authorised State body is required to give permission for the foreign persons to acquire ownership rights over residential premises.[99] In the light of this requirement, there was a proposal to amend the Housing Code[100] to eliminate this requirement in order to simplify the procedure of acquisition of property rights for foreign persons and also to improve the inward investment climate.

[95] Art. 5 of the Land Code of the Kyrgyz Republic, 2 June 1999, #45 (with the latest amendments on June 1, 2017).
[96] Art. 37 of the Land Code of the Kyrgyz Republic.
[97] Art. 5 of the Land Code.
[98] Art.7 of the Housing Code of the Kyrgyz Republic, 9 July 2013, #117.
[99] Art. 14 of the Housing Code of the Kyrgyz Republic.
[100] Government of the Kyrgyz Republic, Justification Letter for the Amendments to the Housing Code of the Kyrgyz Republic, www.gov.kg/wp-content/uploads/2015/12/SPRAVKA.docx

In addition, the proposal also suggests limiting the ownership rights for houses that have a direct connection with agricultural land, where the Land Code imposes the limitations mentioned earlier. The latter seems to be unnecessary because, under the Land Code, foreign persons cannot have ownership of agricultural land, but instead have it only for temporary use. This might be an impediment for foreign investors who are interested in agricultural development, requiring them to seek local partners.

2.3 Nature of the property market

Looking at the capital Bishkek city, there is an increasing number of residential buildings, specifically those under the construction. The growing number of constructions influence the market price of the residential premises. However, the official statistics of prices declared by the parties in the transaction are different from the market price, because the State Department on Cadastre and Registration of Rights on Immovable Property reflects the price actually used by the parties to the transaction. This is the result of poor control over the work of the relevant authorities. The following Table (31.5) was provided for May 2017:[101]

Table 31.5: The average market prices for the residential and non-residential property in Bishkek City

Region	Type	Average (KGS/m^2)	Average in USD[102]
	May 2017		
	Residential building	422,403	6,230.44
Bishkek city	Administrative	30,545	450.54
	Apartment/flat	48,928	721.69
	House/dwelling	48,803	719.84
	Commercial	101,791	1,501.42
	Industrial	1,404	20.71

For January-February 2017, the average price for per square metre of flats in Bishkek city amounted to 670 - 675 USD, whereas in Osh city it was only 430 USD.[103] Depending on the location of the construction, the stage of completion of the residential unit and the

[101] State Department on Cadastre and Registration of Rights on Immovable Property, http://www.gosreg.kg/index.php?option=com_content&view=article&id=206&Itemid=211shk

[102] The average exchange rate for May 2017 is 67.7966 (based on the average for the period of May 1-31, 2017, taken from the web-page of the National Bank of the Kyrgyz Republic, www.nbkr.kg).

[103] State Department on Cadastre and Registration of Rights on Immovable Property, http://www.gosreg.kg/index.php?option=com_content&view=article&id=204&Itemid=210.

reputation of the construction company itself the market prices may vary substantially. There is limited development in relation to commercial and industrial real estate at present, with the focus on residential property construction.

3 Property data

3.1 Cadastres

The registration of land (controlled by the State Land Registration (Land Cadastre)) is an important activity for the State. The primary purpose of land registration is to provide information to the parties involved in the land administration (including taxation) process on the quality and quantity of the lands located (particularly in small settlements) within the Republic.[104] The data for land cadastres are compiled based on information provided by village and city administrations which report accordingly and include details of the lands and land plots, settlements, villages, districts, cities, regions and the territory of the State. The reports with the information on the types and categories of lands, land owners/users is then provided to the State body for the cadastre and the registration of rights for immovable property.[105] In addition, the special land zones of protected natural parks and historical-cultural objects and the State reserve of natural resources are recorded separately. All the information collected on the quality and quantity of the lands may impact on the rates of land tax.

The publicly available results on land registration is available as of 1 January 2012[106] are shown below in Table 31.6.

[104] Section 1(1) of the Regulation on State Land Registration (Land Cadastre) approved by the Government of the Kyrgyz Republic on 17 March 2014, #137 (with the amendments on 8 July 2015, #464).
[105] Section 3(19-21) of the Regulation on State Land Registration (Land Cadastre) approved by the Government of the Kyrgyz Republic on 17 March 2014, #137 (with the amendments on 8 July 2015, #464).
[106] Resolution of the Government, 10 October 2012, #701, on the Results of State Land Registration in the Kyrgyz Republic as of 1 January 2012, *see also,* State Department on Cadastre and Registration of Rights on Immovable Property, http://www.gosreg.kg/index.php?option=com_content&view=article&id=441&Itemid=242.

Table 31.6: Publicly available results on land registration as at 1 January 2012

#	The category of the land within the State of Kyrgyz	Size (thousand hectares)
1	Agricultural lands, total:	5,674,828
2	Lands of settlements (village, cities, and urban-type settlements), total:	272,883
3	Lands of industry, transport, communication, defense and other designation, total:	224,292
4	Lands of protected natural territories, total:	707,347
5	Lands of Forests (state property)	2,617,772
6	Lands of Water fund, total:	767,296
7	Lands of reserve (state property)	9,730,510
8	Total area (1+2+3+4+5+6+7)	19,994,928
9	Lands used beyond the administrative territories of district, region	14
10	Lands used by land users of other districts, regions	175
11	Total area of lands in administrative territory of the State (8-9+10)	19,995,089

3.2 Title registration

As was noted earlier, the primary taxpayer of the land and property taxes is the owner of the movable and immovable property. Therefore, it is very important to ensure that the title is officially changed when the parties concluded an agreement or contract for the sale or transfer of property.

Under the law, the registration of the agreement for sale / transfer between the parties is a mandatory pre-condition for the validity of this agreement.[107] Without the registration, such transactions are void. Only upon the registration of the agreement with the authorised State bodies, will the parties have corresponding rights and obligations towards the property involved. The primary legislation for immovable property is the Law on the State Registration of rights and limitations of rights for immovable property and transactions of them and the Rules on State Registration adopted by the Resolution of the Government.[108] The State body maintains the single system of State registration, where there is an entry for the creation, change, transfer or cessation of the rights toward immovable property.[109] In the case of a transfer of property without registration, the tax

[107] Art. 180 of the Civil Code of the Kyrgyz Republic, 8 May 1996, #15, with the last amendments on 8 June 2017 #100.
[108] 15 February 2011, #49, with the last amendments on June 2, 2017, #340.
[109] Art.1(4)-(6) of the Law State Registration of rights and limitations of rights for immovable property and transactions with them, 22 December 1998, #153, with the last amendments on 10 February 2017 #23.

obligation will be on the entity, who has the title for the property based on the State registration data.

The vehicles are to be registered with the State Registration Service under the Government of the Kyrgyz Republic. The agreement or other document certifying the change of the title is to be provided for the purposes of registration.[110]

Conclusion

Property and land taxes are the only local taxes stipulated in the Tax Code of the Kyrgyz Republic; however, other levies are also collected at the local levels. The Code identifies all the elements for each tax, and also provides an exhaustive list of exemptions. These exemptions reflect the financial situation of the taxpayer, the size of the property as well as the interests of the State in promoting a particular type of activity (e.g. private kindergartens are exempt from the property tax, as the State seeks to stimulate the development of this area of services).

Nonetheless, some improvements could be introduced, for example, incentives for the early payment of the tax, and improved tax administration and efficiency . Tax reporting is also being criticized as being too time-consuming, particularly for taxpayers required to submit relevant documents.

The recent opportunity for many taxpayers to use electronic banking systems to pay the tax obligations is a positive shift; nonetheless, further development allowing, for example, electronic submissions of the documentation, especially for private individuals could be of great help. In addition, it is necessary that the tax bodies take responsibility to inform taxpayers about their rights to reduce their tax obligation , especially, if when they are enshrined in the law. . The primary concern still is to address the lack of clarity of the Tax Code and avoid the courts' interpretation of the Code in a manner advantageous for the State.

There is already draft legislation on the increase of the rate and coefficients for taxable vehicles (in particular, new cars with a high engine capacity), and an increase in the taxes for residential property (exceeding 200 square meters), but these changes have not yet taken place. Since the property tax has been administered and collected only during last 10 years (including two years of moratoriums), the Republic may not yet be ready for taxation based on the market value of property and / or land, considering the high visibility of the taxes and given the ongoing criticism of government. It may be significant that the Kyrgyz Republic has, during its short history of independence already experienced two revolutions (in 2005 and 2010).

[110] Rules on Registration of auto-motor vehicles and their trailers at State Registration Service under the Government of the Kyrgyz Republic, approved by the Resolution of the Government, 15 February, 2003, #65.

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Comparative Tables

Table A-1: Country Statistics

Country	Size (km^2)	Capital City	Population (millions) (Jul 2017 est.)	Urbanized Population % (2017 est.)	Per capita GDP (2016 est. Current US$)	Income Level (June 2017)
Albania	28,748	Tirana	3,047,987	59.3	4,146.9	Upper middle income
Armenia	29,743	Yerevan	3,045,191	62.5	3,606.2	Lower middle income
Azerbaijan	86,600	Baku	9,961,396	55.2	3,876.9	Upper middle income
Belarus	207,600	Minsk	9,549,747	77.4	4,989.3	Upper middle income
Bosnia-Herzegovina	51,197	Sarajevo	3,856,181	40.1	4,708.7	Upper middle income
Bulgaria	110,879	Sofia	7,101,510	74.6	7,350.8	Upper middle income
Croatia	56,594	Zagreb	4,292,095	59.6	12,090.7	Upper middle income
Czech Republic	78,867	Prague	10,674,723	73.0	18,266.5	High income
Estonia	45,228	Tallinn	1,251,581	67.4	17,574.7	High income
Georgia	69,700	Tiblisi	4,926,330	54.0	3,853.6	Lower middle income
Hungary	93,028	Budapest	9,850,845	72.1	12,664.8	High income
Kazakhstan	2,724,900	Astana	18,556,698	53.2	7,510.1	Upper middle income
Kosovo	10,887	Pristina	1,895,250	n/d[1]	3,661.4	Lower middle income
Kyrgyz Republic	199,951	Bishkek	5,789,122	36.0	1,077.0	Lower middle income
Latvia	64,589	Riga	1,944,643	67.4	14,118.1	High income
Lithuania	65,300	Vilnius	2,823,859	66.5	14,879.7	High income
North Macedonia	25,713	Skopje	2,103,721	57.3	5,237.1	Upper middle income
Moldova	33,851	Chisinau	3,474,121	45.2	1,900.2	Lower middle income
Montenegro	13,812	Podgorica	642,550	64.4	6,701.0	Upper middle income
Poland	312,685	Warsaw	38,476,269	60.5	12,372.4	High income
Romania	238,391	Bucharest	21,529,967	54.9	9,474.1	Upper middle income
Russian Federation	17,098,242	Moscow	142,257,519	74.2	8,748.4	Upper middle income
Serbia	77,474[2]	Belgrade	7,111,024	55.8[3]	5,348.3	Upper middle income

Country	Size (km^2)	Capital City	Population (millions) (Jul 2017 est.)	Urbanized Population % (2017 est.)	Per capita GDP (2016 est. Current US$)	Income Level (June 2017)
Slovakia	49,035	Bratislava	5,445,829	53.4	16,496.0	High income
Slovenia	20,273	Ljubljana	1,972,126	49.6	21,304.6	High income
Tajikistan	144,100	Dushanbe	8,468,555	27.0	795.8	Lower middle income
Turkey	783,562	Ankara	80,845,215	74.4	10,787.6	Upper middle income
Turkmenistan	488,100	Ashgabat	5,351,277	50.8	6,389.3	Upper middle income
Ukraine	603,550	Kiev	44,033,874	70.1	2,185.7	Lower middle income
Uzbekistan	447,400	Tashkent	29,748,859	36.6	2,110.6	Lower middle income

Source: *World Factbook*, 2017, *https://www.cia.gov/library/publications/the-world-factbook/*; *United Nations, Department of Economic and Social Affairs, Population Division. 2015. World Population Prospects: The 2015 Revision, https://esa.un.org/unpd/wpp/Publications/Files/World_Population_2015_Wallchart.pdf*; United Nations. 2014. World Urbanization Prospects. h*ttps://esa.un.org/unpd/wup/Publications/Files/WUP2014-Report.pdf*;
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Notes:
1. Does not include the population of Kosovo
2. Data include Kosovo
3. Urbanized Population % of Kosovo is included in that of Serbia

Table A-2: Revenue Importance of Property Tax(es)

Countries	Percentage of GDP			Percentage of Total Revenue			Percentage of Local Revenue
	Year	All Property Taxes	Recurrent Property Tax	Year	All Property Taxes	Recurrent Property Tax	Recurrent Property Tax
Albania	2017	0.3%	0.05%	2017	2.6 %	1.4%	4.9 %
Armenia	2017	0.4 %			1.7 %		17.2 %
Azerbaijan	2017	0.83 %	0.34 %		2.46 %	1.4 %	2.68 %
Belarus	2017	1.53 %	1.53%	2017	7.2 %	7.2 %	Minsk 4.4 %
Bosnia-Hertzegovina	2017	0.0081	No data	2017	0.034	No data	
Bulgaria		No data	No data		No data	No data	No data
Croatia	2015	0.18	n/a	2015	0.49	n/a	n/a
Czech Republic	2017	0.46 %	0.21 %	2017	2.97 %	1,37 %	5,21 %
Estonia	2016	No data	0.35%	2016	0.80%	0.80%	7%
Georgia	2017	1.04%	1.04%	2017	3.62%	3.62%	33.72%
Hungary	2016	2.27%	0.43 %	2016	9.91%	1.91 %	19.27%
Kazakhstan	2017	0.61%	0.61%	2017	4.64%	4.64%	16%
Kosovo							
Kyrgyz Republic	2017	0.85%	0.42%	2017	2.78	1.39%	none
Latvia	2016	No data	0.88%	2016	No data	2.36%	10%
Lithuania	2016	0.33%	0.33%	2016	1.68%	1.66%	8.2%
North Macedonia							
Moldova	2017	0.36%	0.33%	2017	1.67	1.53	14.6
Montenegro	2016	2%	1%	2016	25%	20%	48%
Poland	2017	0.82%	0.76%	2017	2,09 % (of total state revenue) 29,6 % (of total local government revenue) 14,33 % (of total commune's/municipalities revenue)	1,95 % (of total state revenue) 6,58% (of total local government revenue) 13,6% (of total commune's/municipalities revenue)	13.6 %
Romania							
Russian Federation	2017	1.3	1.3	2017	8.0	8.0	100
Serbia	2017	No data	No data	2017	No data	No data	No data
Slovakia	2016	0.587%	0.414%	2016	4.23%	2.98%	7.66%
Slovenia	2015	0.7 %	0.6 %	2015	1.5 %	1.3 %	8.8 %
Srpska	2015	0.25%	0.25%	2015	0.95%	0.95%	3.93%
Tajikistan	2016	0.4	0.4	2016	1.4	1.4	4.42
Turkey	2016	1.58	1.23	2016	4.8	1.43	54.96
Turkmenistan	not publicly available						
Ukraine	2017	0.97	0.96	2017	2.86	2.83	5.74

Countries	Percentage of GDP			Percentage of Total Revenue			Percentage of Local Revenue
	Year	All Property Taxes	Recurrent Property Tax	Year	All Property Taxes	Recurrent Property Tax	Recurrent Property Tax
Uzbekistan	2017	No data	No data	2017	No data	No data	No data

Source: Authors' own compilation.

Table A-3: Tax Bases for the Recurrent Property Tax(es)

Countries	Tax	Tax base(s)	Scope and coverage
Albania	Immovable Property Tax	-taxes on buildings -the tax on agricultural land -the tax on land plots	
Armenia	Property Tax	Cadastral value of real estate. For the lands of agricultural significance, the tax base is the net income, calculated on the basis of the cadastral assessment procedure	All immovable property unless exempt
Azerbaijan	1 .İndividual Land Tax 2. Individual Property tax	1 Land - size, zones & uses 2. Personal buildings and their parts, as well as water and air transport facilities	All personal lands unless exempt All immovable property unless exempt
Belarus	Immovable Property Tax	Assessed value of real estate property (in relation to individuals). "Residual value" of buildings in the possession of the taxpayer organization and cost of capital structures where construction is in progress. Contract price in some cases of rent or financial leasing.	Permanent construction, their parts situated on the territory of the Republic owned or inherited (including unfinished) unless exempt. Private houses or flats situated on the territory of the Republic leased on the basis of financial leasing contract with the right of buyout.
	Land Tax	Percentage of the cadastral value of land or a fixed payment per hectare.	All types of land except: Forest land Ground of water resources Reserve lands
Bosnia-Hertzegovina	Immovable Property Tax	Surface (m^2) Type of immovable property Purpose of immovable property	Holiday and recreational houses, apartment, buildings, Leased buildings and flats, Leased Garages, Leased Parking places, Leased business properties
Bulgaria	Annual Property Tax	Tax assessment specified for individual properties by municipal authorities	All properties located withed the building boundaries of settlements
Croatia	Tax on Holiday Houses	A Square Metre of Useable Area	Local Authority's Decision
Czech Republic	Immovable Property Tax	Generally area; for agricultural land, commercial forests and ponds taxable value ith regard to area	All immovable property unless exempt

Countries	Tax	Tax base(s)	Scope and coverage
Estonia	Land Tax	Area, zones & uses	All Land unless exempt
Georgia	Property Tax	Area for the land; market value for other taxable properties of individuals; average annual balance value for othe taxable properties of business entities	All immovable property unless exempt; land owned by State used by a taxpayer; fixed assets owned by individual enterpreneurs; fixed assets owned by business entities; yacts, helicopters and airplanes owned by individuals.
Hungary	Building tax	Useful basic area in m^2 or the building's adjusted market value	Residential and non-residential buildings that is, all buildings and parts of buildings, regardless of their function and utilization, unless exempt.
	Land Tax	Area or its adjusted market value.	Land is not built on whether with buildings or with structures, regardless of if they are located in urban or peri-urban areas, unless exempt.
	Communal tax of individuals	Itemised, the tax base is defined as one real property.	All properties - buildings, part of buildings, lands - being in the possession of natural persons or burdened with intangible asset rights of a natural person.
Kazakhstan	Land Tax	Area in square meters or hectares (for agricultural land); value not determined with reference to market price, instead different tax rates set with reference to indexes of quality of land.	Residential and agricultural land
	Immovable Property Tax	For legal entities and enterpreneurs - average annual balance sheet value; For individuals – approximate value, determined based on formula	Residential and commercial buidings and structures
	Transportation vehicle tax	Generally, the size of engine (passenger cars), or loading capacity (trucks), seat numbers (buses) or engine capacity (boats and aircraft)	Transportation vehicles
Kosovo			
Kyrgyz Republic	a. Land Tax b. Property Tax	a. Lands and agricultural lands.	All immovable and movable property unless exempt.

Countries	Tax	Tax base(s)	Scope and coverage
		b. **First group:** residential houses, flats, country houses intended for permanent or temporary residence not used for business activities. **Second group:** residential houses, flats, country houses, boarding houses, rest houses, sanatoriums, resorts, manafactural, administrative, industrial, as well as other capital structures for business purposes. **Third group:** temporary premises made of metal and other structures, such as booth, containers for business activities. **Fourth group:** vehicles, including self-propelled machines and mechanisms	
Latvia	Real Estate Tax	Cadastral Value	All Land unless exempt
Lithuania	Land Tax and Immovable Property Tax	Land – average market value Immovable Property – average market value	All Land unless exempt All immovable property unless exempt.
North Macedonia	Real Estate Tax	Land and Buildings	All Land and Buildings unless exempt
Moldova	*Ad valorem tax system*: immovable property tax *Old tax system:* - Immovable property tax (on constructions); Land tax	Appraised (market) value Book value; Standard rate-based value of constructions; Area	All residential property in municipalities; garages; summer houses; commercial and industrial property, unless exempt Residential property in villages, agricultural land, gardens, special destination property,unless exempt
Montenegro	Real estate tax	Market value on Jan 1 of the year for which the tax is calculated	Municipal territory -physical persons and legal entities

Countries	Tax	Tax base(s)	Scope and coverage
Poland	Real estate tax	Approx.1 EUR – 5.3 EUR /m2 , 2% of the value of the structures	
	Agricultural tax	Approx. 1.56 – 121.85 EUR per hectare	
	Forest tax	Approx. 5-10 EUR per hectare	
Romania			
Russian Federation	Tax on the property of organisations	Cadastral value / average annual value	1. Organisations / both movable and immovable property included on the balance sheet as capital assets 2. Foreign organisations that do not have a permanent establishment / real property
	Tax on property of individuals	Cadastral value	Individuals / A dwelling house; Apartment, room; A garage and a car parking space; A single real estate complex; Objects under construction; Other buildings, structures, constructions, premises
	Land Tax	Cadastral value / inventory value	Individuals and organisations / Land parcels with some exception
Serbia	Annual Property Tax	Depends of whether the taxpayers keep accounts prescribed by central government	Real estate located within the territory of local government
Slovakia	Land tax	Area x Statutory Value	• arable land, hop gardens, vineyards, orchards and permanent grassland, • gardens, • built-up areas and courtyards, • building plots, • forest lands with economic woods, • ponds with fish farming and other economic used water areas, • other areas
	Tax on structures	Area	• Residentials and small buildings with complementary functions • Constructions for agricultural production (including warehouses and administration buildings), greenhouses, structures for water management

Countries	Tax	Tax base(s)	Scope and coverage
			• Cottages and buildings for individual recreation • Freestanding garages, collective garages • Underground collective garages • Industrial buildings, buildings for energy and construction industry (including warehouses and administrative buildings) • Buildings for other business/employment activities (including warehouses and administrative buildings) • Other buildings
	Tax on flats and non-residential premises	Area	Flats and non-residential premises
Slovenia	Charge for the use of building land	Number of points x value of point (determined by local government)	Buildings and unbilt building land (taxpayer: user of the property, individual and legal person)
	Property Tax	Number of points (determined by law) x value of point (determined by local government)	Residential and business buildings (taxpayer: owner of the property, individual person)
Srpska	Immovable Property Tax	Land and all that is permanently attached to it or built on, above or below land surface	All immovable property
Tajikistan	Land tax and Real Property Tax	Land - Area of land plot Real property - area of real property	All Land unless exempt All Real Property unless exempt
Turkey	Property Tax	The tax base is the tax value of the building and land. Property taxes are calculated annually by realted municipality based on the tax values of buildings and lands at rates varying from 0.1% to 0.3%.	Buildings and Lands. A building or land located within the boundaries of Turkish Republic, which belongs to a Turkish citizen or a foreigner, is the subject of the property tax.
Turkmenistan	Property Tax	Annual average net book values	Property, plant and equipment (fixed assets), circulating and current assets (inventories)
Ukraine	The tax on immovable property other than the land plot	The total area of the residential and non-residential real estate, including the area of its shares	Local authorities' decision (residential and non-residential property in private ownership)
	Payment for land	The normative monetary evaluation of land plots; the area of land plots,	Local authorities' decision

Countries	Tax	Tax base(s)	Scope and coverage
		normative monetary evaluation of which is not carried out	
Uzbekistan	Corporate Property Tax	Average annual value	Immovable property Assets under construction Equipment not put into operation within a set time. Legal entity - non-resident / immovable property
	Individual Property Tax	Cadastre value	Dwelling houses, apartments, country-side constructions, garages and other constructions, premises and facilities.
	Corporate Land Tax	Total area of the land plot	Land plots with some exception
	Individual Land Tax	Land area	Land plots

Source: Authors' own compilation.

Table A-4: Property Tax Assessment, Administration, and Revenue

	Assessment responsibility	Billing, collection and enforcement	Revenue
Albania	Local – municipality where the property is situated	Local – municipality where the property is situated	Local – municipality where the property is situated
Armenia	The Real Estate Cadastre Authorized Body	Local government tax administration	Local – municipality where the property is situated
Azerbaijan	Ministry of Taxes	Municipalities	Local
Belarus	Local self-government bodies as local legislative bodies (individuals). Companies by themselves.	Local inspection of taxes and duties.	Republican budget
Bosnia-Hertzegovina	Taxpayer	Federal Tax Authority	Cantons and Local Government Units
Bulgaria	Municipal Authorities	Municipal Authorities	Municipal Budget
Croatia	Local Authorities	Local Authorities	Local
Czech Republic	Central tax administration	Central tax administration	Local – municipality where the property is situated
Estonia	Estonian Land Board	Estonian Tax & Customs Board	Local
Georgia	Central tax administration	Central tax administration	Local - munipality where the property is situated
Hungary	The municipality, where the property is situated	Local tax administration	Local – municipality where the property is situated
Kazakhstan	Legal entities and enterpreneurs – self assessment, but oversight by State Revenue Committee Individuals – State Revenue Committee carries out assessment directly	State Revenue Committee at the place where the property is situated	Local – municipality where the property is situated
Kosovo			
Kyrgyz Republic	State Tax Service under the Government of the Kyrgyz Republic	State Tax Service under the Government of the Kyrgyz Republic, Local *Keneshes*	Kyrgyz Republic
Latvia	State Land Service (SLS)	Municipalities	Local
Lithuania	State Enterprise Centre of Registers	Territorial State Tax Inspectorates	Local and State
North Macedonia	Municipal Assessors	Municipalities	Local
Moldova	Agency for Land Relations and Cadastre; Public Services Agency (Department of Cadastre)	Central tax administration Local tax divisions within local authorities	Local – municipality where the property is situated
Montenegro	Local governments	Local governments / local tax authority / department	Local budget

	Assessment responsibility	Billing, collection and enforcement	Revenue
Poland: Real estate tax, agricultural tax Forest tax,	If a taxpayer is a private individual: the tax authority of the first instance (a village mayor, a town mayor or president of a city)	The tax authority of the first instance (a village mayor, a town mayor or president of a city); agricultural tax and forest tax can be also collected by a tax collector	Commune
	If a taxpayer is a legal person or an organisational entity without legal personality	taxpayer	
Romania			
Russian Federation	tax on the property of organizations	Billing – organization, Collection and enforcement – tax authorities	Regional budgets
	tax on property of individuals	Billing, collection and enforcement – tax authorities	Local budgets
	land tax	For orgaiization: billing – organization, collection and enforcement – tax authorities For individuals: billing, collection and enforcement – tax authorities	Local budgets
Serbia	Local government	Local government	Local government
Slovakia	Municipality	Responsibility of municipality	Fully municipal revenue
Slovenia - Property Tax and Charge	FURS	FURS	local communities
Srpska	Local self-government units	Tax Administration of the Republic of Srpska	Local self-government units where the property is situated
Tajikistan	Ministry of Finances and Tax Comitte under the Government of the Republic of Tajikistan	Tax Comitee under the Government of the Republic of Tajikistan and local Tax Inspections subordinate to Tax Comitee under the Government of the Republic of Tajikistan	Local

	Assessment responsibility	Billing, collection and enforcement	Revenue
Turkey	The related municipality which is accepted as the affiliated tax office	The related municipality which is accepted as the affiliated tax office	The related municipality which is accepted as the affiliated tax office
Turkmenistan	The Tax Services	Khyakimlik (the body of local administration) of velayats(regions) and Ashgabat, Khyakimlik of etraps(cities)	State budget of Turkmenistan, then the revenue is distributed between the central budget and local budgets
Ukraine	State Fiscal Service of Ukraine; Taxpayers - Legal persons	State Fiscal Service of Ukraine	Local
Uzbekistan	corporate property tax	Billing – Legal entities, Collection and enforcement – tax authorities	Local (region) budgets
	individual property tax	Billing, collection and enforcement – tax authorities	Local (district) budgets
	corporate land tax	Billing – Legal entities, Collection and enforcement – tax authorities	Local (region) budgets
	individual land tax	Billing, collection and enforcement – tax authorities	Local (district) budgets

Source: Authors' compilation.

Table A-5A: Preferrential Treatment

	Residential (Owner-occupied)	Residential (General)	Commercial & Industrial	Agriculture	Government	Vacant land
Albania	- Residential buildings of family heads treated with economic aid, -Residential buildings of heads of households who receive retirement or social pension where the family consists only of pensioners;	none	Hotel / Resort accommodation with four and five stars, special status, according to the definition in the legislation of the field of tourism and that are holders of a trademark of internationally registered and "brand name";	*lands* which are planted with fruit trees and / or vines are excluded from the tax on agricultural land for the first five years of planting	Buildings in State ownership, State properties which are used for non-profit-making purposes;	none
Armenia	No special preferences for lands. General exemptions depends on municipality. The Municipality Council may grant privileges (rebates) on certain real estate taxpayers	There are some privileges. For example lands for scientific, educational and research purposes. Generally, besides above mentioned exemptions, depends on municipality.	There are some privileges. For example vineyards and orchard gardens, scientific, educational and research purpose lands	Exemption	None	Exemption
	No special preferences for buildings. General exemptions depends on municipality. The Municipality Council may grant privileges (rebates) on certain real	There are some privileges. For example roads, linear engineering facilities, reservoirs.	No special preferences for buildings.	There are some privileges. For example roads, linear engineering facilities, reservoirs.	No special preferences for buildings.	No special preferences for buildings. General exemptions depends on municipality. The Municipality Council

	Residential (Owner-occupied)	Residential (General)	Commercial & Industrial	Agriculture	Government	Vacant land
	estate taxpayers					may grant privileges (rebates) on certain real estate taxpayers
Azerbaijan	Refugees	None	None	Income Tax	None	None
Belarus	Exemptions, lower rates	Exemptions, lower rates	Real estate tax – several exemptions Land tax – several exemptions	Some types of lands (e.g. radioactive contaminated)	As a general rule State-financed organisations are not recognised as liable to the land and real estate tax.	none
Bosnia-Hertzegovina	/	/	/	/	/	/
Bulgaria	Yes	Yes	No	Yes	Yes	No
Croatia	No data	No data	No data	No data	No data	No data
Czech Republic	none	none	Depends on municipality, as an investment incentive in special industrial zones, for up to five years	Depends on municipality, or after cultivation	Exempt	none
Estonia	Conditions apply	Conditions apply	None	Lower Rate Range	Limited to Local Authority own property in own municipality	None
Georgia	Land under residential block of flats	none	Exemptions for special industrial zones, for medical business, for educational business, biological assets	Uncultivated lands for 5 years; land up to 5 ha owned by individuals as of 1st March 2014, property of agricultular cooperative	Exempt, unless property is used in economic activity	none
Hungary - Building tax	none	none	none	Exepmt: buildings used for agricultural production.	Exempt	n/a

	Residential (Owner-occupied)	**Residential (General)**	**Commercial & Industrial**	**Agriculture**	**Government**	**Vacant land**
- Land tax	none	none	none	Exepmt	Exempt	None
- Communal tax of individuals	none	none	n/a	n/a	n/a	n/a
Kazakhstan	heroes holding a special order or title, and orphans under the age of 18	heroes holding a special order or title, and orphans under the age of 18	not-for-profit organisation, management companies of special economic zones and technological parks, entities organising and holding specialised international conferences	None	Exempt	None
Kosovo						
Kyrgyz Republic	Depends on subject of taxation.	Depends on subject of taxation.	Depends on subject of taxation and local *Kenesh*	Depends on municipality, or after cultivation	Exempt	Exempt
Latvia	1.5% -Land 0.2-0.6% Buildings	1.5% -Land 0.2-0.6% Flats	1.5% -Land and buildings	1.5% - Land	-	1.5% - Land
Lithuania	Exempt unless valued at over 220,000 EUR	Exempt unless valued at over 220,000 EUR	Municipal Councils may set preferential tax rates within the limits established by the Law	Exempt from immovable property tax are legal entities if over 50 % income over tax period consists of income derived from agricultural activities	Exempt	None
North Macedonia						
Moldova	None, exempting certain owner categories (pensioners, handicapped	None	None	Orchards and vineyards until fruit-bearing age	Exempt	None

	Residential (Owner-occupied)	Residential (General)	Commercial & Industrial	Agriculture	Government	Vacant land
	persons entitled to partial tax exemption)					
Montenegro	Taxed	Taxed	Taxed	Taxed	No tax	Taxed
Poland	No data	No data	No data	No data	No data	No data
Romania						
Russian Federation	Reduced land tax rate	Reduced land tax rate		Reduced land tax rate	Tax exemption	
Serbia	Yes	No	No	No	Yes	No
Slovakia	No special relief, but usually lower tax rates	Usually lower tax rates, municipality can relieve or rebate residential buildings and flats owned by elder persons over 62 or severely disabled persons	No	Usually lower tax rates, municipality can relieve or rebate lands and buildings used for agricultural production	No relief, Relieved only state owned properties used by schools, Slovak Academy of sciences, hospitals, and similar	No, but municipality can relieve or rebate certain lands whose economic exploitation is limited due to stipulated reasons (e.g. water resources protection area)
Slovenia - Charge	Social relief	Tax holiday for new buildings (5 years)			Army exempt	
Slovenia - Property Tax	160 m^2 of primary residence exempt, big family discount (10% for fourth and every other family member)	Tax holiday for new buildings (10 years)	Exempt if used by the owner personally	Exempt		
Srpska	Reduction of the tax base for the owner of the real estate, for a value of up to 50 m2 for the	None	The lower tax rate for real estate used directly for carrying out production activities (up	Exempted and cultivated agricultural land and real estate used for the	Exempt	None

	Residential (Owner-occupied)	Residential (General)	Commercial & Industrial	Agriculture	Government	Vacant land
	taxpayer and 10 m2 for each member of his household		to 0.10%, and general tax rate is up to 0.20%)	agricultural production		
Tajikistan	Exempt if belonged or occupied by person with specific status: hero of the Soviet Union, hero of Socialistic Labor, hero of Tajikistan, participants of the Great Patriotic War of 1941 - 1945, soldiers internationalist, the liquidators of the Chernobyl nuclear power plant disaster, disabled persons of groups I and II, persons with equivalent status	Exmept if belonged or occupied by person with specific status: hero of the Soviet Union, hero of Socialistic Labor, hero of Tajikistan, participants of the Great Patriotic War of 1941 - 1945, soldiers internationalist, the liquidators of the Chernobyl nuclear power plant disaster, disabled persons of groups I and II, persons with equivalent status	Exempt if at least 50% of employees are persons with disabilities	Lands transferred for use which require remediation, lands in agricultural development stage - within 5 years after launch of development, lands used for scientific research, development and testing of crops	Exempt	None
Turkey	No data	No data	No data	No data	No data	No data
Turkmenistan	none	Exempt property used exclusively in science, education, rehabilitation, environmental protection, fire safety and civil defense; children's camps and rest homes, tourist reception	Exempt Investment pensions funds, non-governmental organisation of persons with disabilities, religious associations, gas pipelines, railway lines and public highways,	Exempt Agricultural undertakingsand property used for the production and storage of agricultural and forestry products	Exempt	None

	Residential (Owner-occupied)	Residential (General)	Commercial & Industrial	Agriculture	Government	Vacant land
		facilities, correctional institutions				
Ukraine	Yes	Yes	Yes	Yes	Yes	Yes
Uzbekistan	Reduced land tax rate	Reduced land tax rate		Reduced land tax rate	Tax exemption	

Source: Authors' compilation.

Table A-5A: Preferrential Treatment

Property Use Category	Type of Relief	Countries
Primary residence	Residential buildings of family heads treated with economic aid, Residential buildings of heads of households who receive retirement or social pension where the family consists only of pensioners;	Albania
All residential property		
Agricultural land	Lands which are planted with fruit trees and / or vines are excluded from the tax on agricultural land for the first five years of planting.	Albania
Government-owned property	Excluded from the tax on buildings:State properties and the properties of local government, which are used for non-profit-making purposes	Albania
Government entities	Excluded from the tax on buildings:State properties and the properties of local government,	Albania

Table A-5A: Preferrential Treatment

Property Use Category	Type of Relief	Countries
Primary residience	There is no difference for relief	Azerbaijan
All residential property	There is no difference for relief	Azerbaijan
Agricultural land	If the land used for State purpose	Azerbaijan
Forest land	For any type of relief the forest lands are preferrential	Azerbaijan
Government-owned property	Land exempt if located within the Municipality area and used by that Municipality	Azerbaijan
Government entities	There is no difference for relief	Azerbaijan

Table A-5A: Preferrential Treatment

Property Use Category	Type of Relief	Countries
Primary residence	Exemption	Belarus
All residential property	Second and more – in accordance with real estate tax legislation.	Belarus
Agricultural land	Some types of lands (e.g. radioactively contaminated)	Belarus
Forest land	Forest land are not subject to the land tax.	Belarus
Government-owned property	As a general rule state-financed organizations are not recognized as liable to the land and real estate tax.	Belarus

Property Use Category	Type of Relief	Countries
Government entities	As a general rule state-financed organizations are not recognized as liable to the land and real estate tax.	Belarus

Table A-5A: Preferrential Treatment

Property Use Category	Type of Relief	Countries
Primary residence	50%discount for properties, used as primary residence. 75% if inhabitants fall in certain categories, such as disabled persons.	Bulgaria
All residential property	No tax due for properties with a tax assessment up to 1,680 BGN.	
Agricultural land	No tax due for land outside building bounderies.	
Forest land	No tax due for land outside building bounderies.	
Government-owned property	No tax due for public State or municipal property	
Government entities	No tax due for facilities for public use.	

Table A-5A: Preferrential Treatment

Property Use Category	Type of Relief	Countries
Primary residence		
All residential property		
Agricultural land	Exemption for arable land, hop-gardens, vineyards, orchards and land under permanent grass, depend on municipality	Czech Republic
	Exempton for five years when returned to agriculture cultivation	Czech Republic
Forest land	Exemption for 25 years when returned to forestry use	Czech Republic
Government-owned property	Exemption	Czech Republic

Government entities	Exempt if owned by municipality or region and situated at the territory of this municipality or region	Czech Republic

Table A-5A: Preferrential Treatment

Property Use Category	Type of Relief	Countries
Primary residence	Land exempt up to 1,500 m^2 in urban areas and 2 ha in rural areas	Estonia
All residential property		Estonia
Agricultural land		Estonia
Forest land		Estonia
Government-owned property	Land exempt if located within the municipality area and used by that municipality	Estonia
Government entities		Estonia

Table A-5A: Preferrential Treatment

Property Use Category	Type of Relief	Countries
All residential property	Exemtpion for land under residential block of flats	Georgia
Property owned by individuals	Exemtpion for the property other than the land owned by individuals having annual income up to 40000 GEL	Georgia
Agricultural land	Exemption for uncultivated lands for 5 years after transferring ownership Exemption for land up to 5 ha owned by individuals as of 1st March 2014	Georgia
Non-agricultural land	Exemption for special industrial zones Exemption for the properties used in medical and educational business	Georgia
Fixed assets	Exemption for special industrial zones. Exemption for non-business entities.	Georgia

	Exemption for property used in medical and educational business. Exemption for property owned by agricultular cooperative.	
Government-owned property	Exemption, unless the land is actually used by other taxpayer	Georgia
Government entities	Exemption, unless property is used in economic activity	Georgia

Table A-5A: Preferrential Treatment

Property Use Category	Type of Relief	Countries
Primary residence		
All residential property		
Agricultural land	Exemption if land is in urban area (provided it is under actual agricultural usage) and land located in peri-urban areas.	Hungary
Forest land	Exemption from land tax.	Hungary
Government-owned property	Exemption.	Hungary
Government entities	Exempt if owned by municipality or region and situated at the territory of this municipality or region.	Hungary

Table A-5A: Preferrential Treatment

Property Use Category	Type of Relief	Countries
Primary residence	Exemption for heroes holding a special order or title, and orphans under the age of 18.	Kazakhstan
All residential property	Exemption for heroes holding a special order or title, and orphans under the age of 18.	Kazakhstan
Commercial & Industrial	Reduced rate for non-for-profit organisation, management companies of special economic zones and technological parks, entities organising and holding specialised	Kazakhstan

	international conferences.	
Government-owned property	Exempt.	Kazakhstan

Table A-5A: Preferrential Treatment

<table>
<tr><th>Property Use Category</th><th>Type of Relief</th><th>Countries</th></tr>
<tr><td>Residential buildings and movable property.</td><td>
Property of first group, not subject of property taxation, depending on the population in settlements, sq. m.
<table>
<tr><td>Thousand people, sq. m</td><td>until 5</td><td>5-10</td><td>10-20</td><td>20-50</td><td>50-100</td><td>100-200</td><td>200-500</td><td>500 more</td></tr>
<tr><td>Residential houses, country houses, sq. m</td><td>360</td><td>330</td><td>300</td><td>270</td><td>240</td><td>210</td><td>180</td><td>150</td></tr>
<tr><td>Flats, sq. m</td><td>290</td><td>260</td><td>230</td><td>200</td><td>170</td><td>140</td><td>110</td><td>80</td></tr>
</table>

Property of societies of people with disabilities I and II groups, organizations of the Kyrgyz society of the blind and deaf, in which people with disabilities are blind and deaf are at least 50 percent of the total number of employees, and their salary is at least 50 percent of the total wage fund, and institutions and enterprises of the penitentiary system and the Main Directorate of the State Specialized Security Service of the Ministry of Internal Affairs of the Kyrgyz Republic. The list of enterprises is established by the Government of the Kyrgyz Republic.
Persons awarded the highest degree of distinction of the Kyrgyz Republic "Kyrgyz Republican Baatyr", Heroes of the Soviet Union and Socialist Labor, mother-heroines, persons awarded the Order of Glory and Labor Glory of three degrees, participants and invalids of the Great Patriotic War, military personnel who participated in interstate agreements in the war in Afghanistan and in other countries, or disabled persons from among the military personnel who became disabled as a result of a wound, contusion or mutilation received during the defense of the USSR, Kyrgyz Republic or the attached services, or after the disease, related to being at the front, other persons with disabilities, which are equated to the specified categories of military personnel, widows of invalids of the Great Patriotic War, as well as persons with disabilities of groups I and II - for one property first and / or fourth groups, which are objects of taxation, or a part of a property that comes in accordance with the legislation of the Kyrgyz Republic on the share of property exempted from the property tax of a person.
The persons specified in this part shall be exempt from paying property tax of group first and / or fourth in the amount of 50 percent of the amount of property tax payable on the relevant taxable property.
Disabled people with motorized wheelchairs and manual cars - according to motor vehicles.

Benefits provided by above are provided:
1) if the right to a benefit arises before August 1 of the reporting tax period - for the reporting tax period;
</td><td>Kyrgyz Republic</td></tr>
</table>

Property Use Category	Type of Relief	Countries
	2) when the right to a benefit after the August 1 of the reporting tax period arises - for tax periods following the reporting one. • Local *Keneshes* have the right to: 1) provide full or partial exemption from property tax for up to 3 years in cases when the taxpayer has suffered material losses due to force majeure;	
Buildings for commercial porpose	• Local *Keneshes* have the right to: 2) provide exemption from property tax for a period of up to 5 years for a newly established organization carrying out production and / or processing activities subject to ensuring the volume of production and / or processing of products not less than 30.0 million soms per year. 3) to provide full exemption from property tax for enterprises whose activities relate to preferential industrial activities subject to preferential taxation • Buildings, premises and facilities owned or temporarily used by an agricultural cooperative and an agricultural trade and logistics center used for the purposes of their main activity are exempt from paying 50 percent of property tax. • Property objects are **second group** of organizations operating in the fields of science, education, health care, culture, sports, social welfare and the protection of children or low-income citizens of old age.	Kyrgyz Republic
Lands and agricultural land	• Local *Keneshes* have the right to grant full or partial exemption from land tax on agricultural land for up to 3 years in cases where the land user suffered material losses due to force majeure. • Local *Keneshes* have the right to provide exemption from the payment of land tax on the land of settlements and non-agricultural land for enterprises whose activities are classified as preferential industrial activities. • lands of organizations of persons with disabilities, participants of the war and persons equal to them and lands of organizations of the Kyrgyz society of blind and deaf, individual entrepreneurs who have disabled, blind and deaf people make up at least 50 percent of the total number of employed and their wages amount to at least 50 percent total wage fund. The list of these companies, organizations and individual entrepreneurs is determined by the Government of the Kyrgyz Republic. • Lands of religious objects of religious organizations registered in accordance with the legislation of the Kyrgyz Republic. • Lands of preschool educational organizations (kindergartens created on the basis of private ownership). • Lands of sanatoriums, rest homes, boarding houses of trade unions belonging to sanitary-security zones. • Disturbed agricultural lands (degraded, with violations of soil cover and other qualitative indicators of land), requiring recultivation, obtained for agricultural needs by local governments, organizations, and individuals for the period established by local *keneshes*.	Kyrgyz Republic

Property Use Category	Type of Relief	Countries
	• Lands of reserves, reservers, natural, national and dendrological parks, botanical and zoological gardens, nature reserves, nature monuments, historical and cultural objects, **unallocated reserve lands**, lands occupied by a tracking line along the state border, lands of common use of settlements occupied by protective afforestation water and **forestry funds**, land of communication lines, product pipelines, communication lines and electricity transmission lines, land strips along roads and structures introduced to maintain I am in operational condition of the specified facilities, except for those provided for agricultural use, as well as for business activities. • Graveyard lands. • Cattle passes and staging sites.	
Government-owned property	Exemption	Kyrgyz Republic
Government entities	Exemption	Kyrgyz Republic

Table A-5A: Preferrential Treatment

Property Use Category	Type of Relief	Countries
Primary residence	Exempt up to a value of 22,000 EUR	Lithuania
All residential property	Exempt up to a value of 220,000 EUR	Lithuania
Agricultural land	Exempt if used for planting forest; land acquired by a farmer for establishing a farm (limited to 3 tax periods and applied only once to the same person)	Lithuania
Forest land	Exempt	Lithuania
Government-owned property	Exempt	Lithuania
Government entities	Exempt except for State companies/ enterprises that pay tax for using State property in fiduciary relationship in lieu of Immovable Property Tax	Lithuania

Table A-5A: Preferential Treatment

Property Use Category	Type of Relief	Countries
Primary residence	Pensioners, handicapped persons entitled to partial tax exemption	Moldova
All residential property	Pensioners, handicapped persons entitled to partial tax exemption	Moldova
Agricultural land	Orchards and vineyards until fruit-bearing age; Exemption for five years where returned to agricultural cultivation	Moldova
Forest land	All forest land not used for industrial activities	Moldova
Government-owned property	Exempt	Moldova
Government entities	Exempt	Moldova

Table A-5A: Preferential Treatment

Property Use Category	Type of Relief	Countries
Primary residence		Montenegro
All residential property	Chuches, NGOs, consular and diplomatic missions (under reciprocity agreement) international organizations (as per mutual agreement);	Montenegro
	Properties considered as cultural monuments unless used as residential properties	Montenegro
Agricultural land		
Forest land	Protected and protective forests and national parks	Montenegro
Government-owned property	Tax relief for properties used for public function. Public roads, streets, squares and parks, ports, railways and airports	Montenegro
Government entities	Tax relief for properties used for public function	Montenegro
Central Bank of Montenegro	Tax relief on properties used for their function	Montenegro

Table A-5A: Preferential Treatment

Property Use Category	**Type of Relief**	**Countries**
Primary residence		Poland
All residential property	The commune council may determine, by way of a resolution (not popular; only few communes in Poland)	Poland
Agricultural land	Land designated for the creation of a new agricultural holding or enlarging the existing one (not exceeding 100 ha); Lands of farms created from the use of wasteland - for period of 5 years; e.g. inferior quality soils, ecological land, land occupied by water reservoirs for supplying water to people; e.g. land owned by entities of the education and science system; land owned by research institutes.	Poland
Forest land	Forests up to 40 years old; forests entered individually into the register of monuments; ecological land; e.g. forests owned by entities of the education and science system; laforests and owned by research institutes	Poland
Government-owned property	State Terasury, commune: No agricultural tax No forest tax	
Government entities		
Property Use Category	**Type of Relief**	**Countries**
Primary residence	Reduced land tax rate	Russian Federation
All residential property	Reduced land tax rate	Russian Federation
Agricultural land	Reduced land tax rate	Russian Federation
Forest land	Not an object of land tax	Russian Federation
Government-owned property	Tax exemption	Russian Federation
Government entities	Tax exemption	Russian Federation

Table A-5A: Preferrential Treatment

Property Use Category	**Type of Relief**	**Countries**
Primary residence	Tax credit; Tax is reduced by 50% up to the maximum of 20,000 dinars (around 166 €).	Serbia
All residential property	No	
Agricultural land	Tax exemption; Only for agricultural land which is being used for its original use – five year exemption	
Forest land	Tax exemption; Only for forest land which is being used for its original use – five year exemption	
Government-owned property	Tax exemption if it is used by direct and indirect budget users	
Government entities	Tax exemption if it is used by direct and indirect budget users	

Table A-5A: Preferrential Treatment

Property Use Category	Type of Relief	Countries
Primary residence		
All residential property		
Agricultural land		
Forest land	Municipality can relieve or rebate forest lands the next year after the creation of clearings until the planned start of mining operation and land in national parks and other protected landscape areas	Slovakia
Government-owned property		
Government entities		

Table A-5A: Preferrential Treatment

Property Use Category	Type of Relief	Countries
Agricultural land	The cultivated agricultural land exempted from payment of taxes on real estate	Srpska
Real estate owned by the state	Real estate owned by state is exempted from payment of taxes on real estate unless is not used for generating economic gain	Srpska
State entities	Real estate owned by state entities is exempted from payment of taxes on real estate unless is not used for generating economic gain	Srpska
Public goods	Public goods, with the exception of the facilities on them used for generating economic gain	Srpska
Real estate of diplomatic and consular missions of foreign states	Exemption under the principle of reciprocity	Srpska
Real estate of religious communities	Exempt if used in the performance of religious rites	Srpska
Cultural and historical monuments	Exemption from payment of taxes on real estate if declared as such by the competent authority	Srpska
Real estate used for humanitarian purposes	Real estate used for humanitarian purposes is exempted from payment of taxes on real estate	Srpska
Shelters for protection of people and goods from war	Exempt if used for protection of people and goods from war	Srpska
Buildings or parts of buildings used for performance of public works	Exemption from payment of taxes on real estate if used according to the law for performance of public works	Srpska
Real estate located in mine fields	Exempt if located in mine fields and to which the access and normal use are not allowed	Srpska
Real estate under construction or built by a taxpayer	Exempt if entered in the business books of the taxpayer as assets solely intended for further sale, in accordance with the regulations governing accounting and auditing	Srpska
Real estate used for own agricultural production	Exempt if used for own agricultural production	Srpska
Real estate used for performance of deficient production and craft activities	Exempt if used for performance of deficient production and craft activities by decision of the assemblies of municipality i.e city	Srpska

Property Use Category	Type of Relief	Countries
Real estate where a material damage occurred	Exempt if material damage to the real estate occurres as a result of natural disaster or natural catastrophe, by decision of the assemblies of municipality i.e city	

Table A-5A: Preferrential Treatment

Property Use Category	Type of Relief	Countries
Primary residence	Exempt if occupied or owned by person with specific status.	Tajikistan
All residential property	Exempt if occupied or owned by person with specific status.	Tajikistan
Agricultural land	Lands transferred for use which require remediation, lands in agricultural development stage - within 5 years after launch of development, lands used for scientific research, development and testing of crops.	Tajikistan
Forest land	Exempt	Tajikistan
Government-owned property	Exempt, if used for governmental purposes.	Tajikistan
Government entities	Exempt in regard of property used for implementation of giverntment entities; purposes.	Tajikistan

Table A-5A: Preferrential Treatment

Property Use Category	Type of Relief	Countries
Primary residience		
All residential property	Exemption property used exclusively in science, education, rehabilitation, environmental protection, fire safety and civil defense; property of children's camps and rest homes, property of tourist reception facilities and their infrastructure in national tourist areas, property of correctional institutions	
Agricultural land	Exemption property used for the production and storage of agricultural products	Turkmenistan
Forest land	Exemption property used for the production and storage of forestry products	Turkmenistan
Government-owned property	Exemption	Turkmenistan
Government entities	Exemption	Turkmenistan

Table A-5A: Preferrential Treatment

Property Use Category	Type of Relief	Countries
Primary residence	Exemptions from the definition of the object of property taxation include: a) residential property located in the exclusion zones (i.e. 30 km. exclusion area around the Chornobyl nuclear power station) and obligatory resettlement areas (i.e. unconditioned evacuation zone around the Chornobyl nuclear power station) determined by law, including shares in such property; b) family-type orphanages; c) hostels; d) residential property designated unfit for human habitation, including those in a "declared state of emergency" area, recognised as such by the decision of a village, town, city council or council of a united territorial community (i.e. new subject of Ukrainian administrative-territorial system, emerged owing to the power decentralisation reform) which is incorporated in accordance to the law and prospective plan for the formation of the territories of united communities; e) residential real estate, including such property where their shares belong to children-orphans, the children deprived of parental care, and the disabled children who are raised by single parents, but not more than one object per child; f) residential property owned by public organisations for the disabled and their enterprises; g) real property owned by religious organisations whose regulations are registered in accordance with the ,the law and which are used to support the activity cited within those regulations, including those premises which are used for the activities of charitable institutions founded by such religious organisations (boarding schools, orphanages, hospitals, etc.), except for objects of real property which are used for production or for economic activities; h) residential property owned by large families or foster families with five or more children. In addition, the tax base of the object/objects of residential real estate, including their shares, owned by individuals is reduced for: a) flat/flats (regardless of their number) by 60 m^2; b) residential house/houses (regardless of their number) by 120 m^2; c) various types of residential real estate, including their shares (where the apartment/apartments and residential house/houses, including their shares are simultaneously owned by a taxpayer) by 180 m^2. This reduction is given once per every year.	Ukraine

Property Use Category	Type of Relief	Countries
	Village, town, city councils or councils of united territorial communities that are constituted in accordance with the law and the prospective plan of the formation of community territories, establish tax reliefs on the taxes that are paid on the corresponding territory on objects of residential real estate owned by individuals or legal persons, public associations, charitable organisations, religious organisations of Ukraine statutes (provisions) of which are registered in accordance with the procedure established by law, and are used to provide the activity determined by such statutes (provisions).	
All residential property	In Ukraine there is no distinction between the preferential regime for the primary residence and all residential property.	Ukraine
Agricultural land	The owners of land plots, land shares and the land-users are exempt from land tax payment for the period of duration of single tax for the fourth group (e.g. agricultural producers) in the simplified system of taxation, accounting and reporting, who provided the transfer of land plots and land shares for rent to a single tax payer of the fourth group. The land tax is not payable on the following objects: a) agricultural lands in zones of radioactively contaminated territories declared as the areas which were radioactively contaminated as a result of Chornobyl disaster (exclusion zones, areas of unconditional (obligatory) resettlement, zones of guaranteed voluntary resettlement and enhanced radio-ecological control), and the chemically contaminated agricultural lands where restrictions on the management of agricultural production are set; b) agricultural lands being under temporary conservation (i.e. lands that are not used in agricultural production due to their exhaustion) or at the stage of agricultural development; c) land plots for State plant testing stations and sections used for testing the varieties of agricultural crops; d) land plots of agricultural enterprises in all forms of ownership, farm enterprises and peasant farms occupied by young orchards, berry-fields and vineyards before the beginning of the fruitage, as well as by hybrid plantations, gene pool collections and perennial fruit nurseries;	Ukraine
Forest land	Special preferential treatment is not provided for the forest land. The tax on forest land is levied as a part of the rent payment determined by tax law.	Ukraine
Government-owned property	Exemption from the definition of the object of the tax on immovable property other than the land plot includes residential property owned by organisations of the State or local self-government including organisations created by them in the established procedure, which are fully funded from the corresponding State or local budget (or that are under joint ownership), and which are used for non-profit making purposes.	Ukraine

Property Use Category	Type of Relief	Countries
Government entities	In Ukraine there is no distinction between the preferential regime for the government entities and government-owned property.	Ukraine

Table A-5A: Preferrential Treatment

Property Use Category	Type of Relief	Countries
Primary residence	Reduced land tax rate	Uzbekistan
All residential property	Reduced land tax rate	Uzbekistan
Agricultural land	Reduced land tax rate	Uzbekistan
Forest land	Not an object of land tax	
Government-owned property	Tax exemption	Uzbekistan
Government entities	Tax exemption	Uzbekistan

Table A-6: Property-related Taxes

Country	Recurrent Tax	Transfer Tax and/or Stamp Duty	Capital Gains Tax	Gift and/or Death Taxes
Albania	Immovable Property Tax	Tax on Acquisition of Immovable Property		
Armenia	Property Tax (includes Taxes on Buildings and Land)	None	None For natural persons in cases of commercial and industrial property VAT may arise, when exceeding the threshold of 58.3 mln. drams (0.103729 mln euro)	None
Azerbaijan	Land Tax	State Fee and Service Fee	If the owner sells the property within 5 years the owner should pay simplified tax (2%). There are also differences between the zones of country (Baku,Ganja etc.)	None
Belarus	Immovable property tax, land tax	Registration of the contract		

Country	Recurrent Tax	Transfer Tax and/or Stamp Duty	Capital Gains Tax	Gift and/or Death Taxes
Bosnia-Hertzegovina	Immovable Property Tax	Immovable Property Sale Tax	/	Gift and Death Taxes
Bulgaria	Yes	Yes	No	Yes
Croatia	Tax on Holiday Houses	Yes	Yes	Yes
Czech Republic	Immovable Property Tax	Tax on Acquisition of Immovable Property		
Estonia	Land Tax	State Fee	Included in Income Tax	None
Georgia		-		-
Georgia	Property Tax		CIT is applied to capital gain at statutory rate	
Hungary	Building tax Land Tax Communal tax of individuals	Duty on onerous transfer of property		Inheritance duty Duty on gift
Kazakhstan	Land Tax, Immovable Property Tax, Transport Vehicle Tax	n/a	Yes, included into tax base of Personal and Corporate Income Tax	n/a
Kosovo				
Kyrgyz Republic	Land Tax Property Tax	none	none	none
Latvia	Real Estate Tax	Stamp Duty State Fee		
Lithuania	Land Tax Immovable Property Tax	No, although a notary fee may apply to certain transactions	Gains from the sale of immovable property located in EEA are exempt if the property was owned for 10 years before the sale. Gains from the sale of residential property are exempt if the individual lived in the premises for at least 2 years. Otherwise a 15% tax rate is applied.	Inheritance Tax. The taxable base is 70% of the value of inherited assets.The tax rate is 5% if the inheritance is valued at 150,000 EUR or less, and 10% if the inheritance value is more than 150,000 EUR. The taxable value not exceeding 3,000 EUR is exempt. Assets inherited by family members are exempt.

Country	Recurrent Tax	Transfer Tax and/or Stamp Duty	Capital Gains Tax	Gift and/or Death Taxes
North Macedonia	Real Estate Tax	Local Authority		
Moldova	Immovable property tax according to the *ad valorem* tax system; Immovable property tax according to the old tax system; Land tax (old system)	Stamp Duty	Tax on the transaction gain	Gift tax is a universal tax. Exempted are the gift/donation transactions between first degree family members(immediate family) or spouses. There is no death tax.
Montenegro	Real estate tax	Transfer tax	Capital gains tax	Gift and Inheritance tax
Poland	Real estate tax, agricultural tax Forest tax,	Stamp duty, tax on civil law transactions	PIT	Inheritance and donation tax
Romania				
Russian Federation	Tax on the property of organisations, Tax on property of individuals Land tax	VAT	Individual income tax, Corporative income tax	Individual income tax, Corporative income tax
Serbia	Yes	Yes	Yes	Yes
Slovakia	Yes	no	within income tax	no
Slovenia	Charge for the use of Building Land, Property Tax	Transfer Tax	Personal income Tax on capital gain	Tax on inheritance and gift
Srpska	Immovable Property Tax	None	Capital gains tax 10% is determined as the difference between the sale and purchase value of the real estate	None
Tajikistan	Land and real property tax	Notary fee	As Income Tax equal to 13% of income, if there is	Assets inherited or received as gift are

Country	Recurrent Tax	Transfer Tax and/or Stamp Duty	Capital Gains Tax	Gift and/or Death Taxes
			a profit from sale of real properpty	exempt from income tax.
Turkey	Property Tax consists of Building Tax and Land Tax	Value Added Tax Stamp Tax Titile Deed Fees Notery Fees	Personel Income Tax Corporate Income Tax	Inheritance and Gift Tax
Turkmenistan	Property Tax	none		
Ukraine	Yes	Yes	No	Yes
Uzbekistan	Corporate Property Tax, Individual Property Tax, Corporate Land Tax, Individual Land Tax	VAT	Individual Income Tax, Corporative Income Tax	Individual Income Tax, Corporative Income Tax

Source: Authors' compilation.

Table A-7: Taxes on the Transfer of Real Property

Country	Transfer Tax or Stamp duty	Tax Rate (%)
Albania[1]	Tax on Acquisition of Immovable Property	15 %
Armenia	State Duties	Depends on the size of the base fee (1,000 dram, 1.78 euro) multiplied by the coefficient for different transactions, requiring notary verification and registration in The Real Estate Cadastre Authorized Body
Azerbaijan	State Fee and Service Fee	If the property is transferred to a relative, the State Fee is 20 AZN and Service Fee is 3AZN. If the property is transferred to non-relative for Baku city the State Fee is 200 AZN and the Service Fee is 30AZN; for other regions the State Fee is 80 AZN and the Service Fee is 12AZN.
Belarus	Value-added tax (imposed on legal entities)	20%
	Income tax (in case of compensated alienation more than once in five years in a row, applied on the difference of purchase and sale price)	13% (for individuals)
Bosnia-Hertzegovina	Immovable Property Sale Tax	5% This is not general tax rate in Federation, but Immovable Property

[1] See: Section 1: Instruction no. 29, dated 30.07.2018 On the Taxation of the Transition of the Right of Immovable Property",
http://www.qbz.gov.al/Botime/Akteindividuale/Janar%202018/Fletore%20125/UDHEZIM%20I%20PERBASHKET%20nr.%2029,%20date%2030.7.2018.pdf

Country	Transfer Tax or Stamp duty	Tax Rate (%)
		Sale Tax Rate at the level of Cantons (all 10 cantons have this rate)
Bulgaria	Yes	Gifts: 3.3 - 6.6%; Other transfers: 0.1-3%
Croatia	Real Estate Transfer Tax	4%
Czech Republic	Tax on Acquisition of Immovable Property	4 %
Estonia	State Fee	Around 11% of value transferred
Georgia	none	
Hungary	Duty on onerous transfer of property	4% up to 1 billion HUF per property, 2% on the part of the fair value above this, but not exceeding 200 million HUF per property.
Kazakhstan	n/a Capital Gainsare included into the tax base for Personal and Corporate Income Tax Purposes)	
Kosovo		
Kyrgyz Republic	None	none
Latvia	State Fee	
Lithuania	None	
North Macedonia	Transfer Tax	
Moldova	Stamp duty: - on the transactions to transfer property to first or second degree family membersor to the spouse -on the transactions to transfer property to other parties	0.1% of the transaction value stated in the contract, but not less than on the property value for tax assessment 0.5% of the transaction value stated in the contract, but not less than on the property value for tax assessment
Montenegro	Transfer tax	3%
Poland	Tax on civil law transactions	0.1-2% A mortgage to secure claims of an undetermined height – approx. 4.52 euro – PLN 19)
	Stamp duty	4.62 euro (11PLN) – 3,333 euro (14,000 PLN)
Romania		
Russian Federation	VAT	18 (Supply of land is not taxable)
Serbia	Yes	2.5%
Slovakia		
Slovenia	Transfer Tax	2%
Srpska	There is no transfer tax	
Tajikistan	Notary Fee	7-40% of special index depending on kin relationship of transferor and transferee
Turkey	Value Added Tax Stamp Tax	VAT: 1%, 8%, or 18% (By the type of the property)
Turkmenistan	none	

Country	Transfer Tax or Stamp duty	Tax Rate (%)
Ukraine	Transfer Duty	1
Uzbekistan	VAT	20

Sources: World Bank 2017; authors' own compilation.

Table A-8: Comparative Indices - 2017 unless otherwise indicated

	Ease of Doing Business (190 jurisdictions)	Registering Property (190 jurisdictions)	International Property Rights Index (127 countries)	Corruption Perception Index (176 jurisdictions)
Albania	58	106	118	83
Armenia	38	13	107	113
Azerbaijan	65	22	115	123
Belarus	37	5	n/a	79
Bosnia-Herzegovina	81	99	116	83
Bulgaria	39	60	85	75
Croatia	43	62	86	55
Czech Republic	27	31	30	47
Estonia	12	6	25	22
Georgia	16	3	88	44
Hungary	41	28	48	57
Kazakhstan	35	18	102	131
Kosovo	60	33	n/a	95
Kyrgyz Republic	75	8	n/a	136
Latvia	14	23	63	44
Lithuania	21	2	50	38
North Macedonia	10	48	91	90
Moldova	44	21	124	123
Montenegro	51	78	105	64
Poland	24	38	41	29
Romania	36	57	73	57
Russian Federation	40	9	111	131
Serbia	47	56	110	72
Slovakia	33	7	37	54
Slovenia	30	34	47	31
Tajikistan	128	97	n/a	151
Turkey	69	54	78	75
Turkmenistan	n/a	n/a	n/a	154
Ukraine	80	63	123	131
Uzbekistan	87	75	n/a	156

Source: Doing Business & Registering Property: World Bank (2017) http://www.doingbusiness.org/custom-query#hReprtpreview (accessed October 9, 2017); Corruption Perception Index: Transparency International (2017) https://www.transparency.org/news/feature/corruption_perceptions_index_2016; International Property Rights Index: Property Rights Alliance (2017) http://internationalpropertyrightsindex.org/countries?f=country&o=asc&r (accessed October 9, 2017).

Table A-9: Currencies and Exchange Rates

Country	Currency	Currency Acronym	USD Exchange Rate (9 October 2017)
Albania	Lek	ALL	113.945
Armenia	Dram	AMD	478.728
Azerbaijan	Manat	AZN	1.69181
Belarus	Ruble	BYN	1.96082
Bosnia-Hertzegovina	Convertible Marka	BAM	1.66622
Bulgaria	Lev	BGN	2.19265
Croatia	Kuna	HRK	6.39174
Czech Republic	Koruna	CZK	22.0544
Estonia	Euro	EUR	0.85184
Georgia	Lari	GEL	2.47398
Hungary	Forint	HUF	266.032
Kazakhstan	Tenge	KZT	341.409
Kosovo	Euro	EUR	0.85184
Kyrgyz Republic	Som	KGS	68.3735
Latvia	Euro	EUR	0.85184
Lithuania	Euro	EUR	0.85184
North Macedonia	Denar	MKD	52.3549
Moldova	Leu	MDL	17.4686
Montenegro	Euro	EUR	0.85184
Poland	Zloti	PLN	3.66914
Romania	Leu	RON	3.89739
Russian Federation	Ruble	RUB	58.3847
Serbia	Dinar	RSD	101.756
Slovakia	Euro	EUR	0.85184
Slovenia	Euro	EUR	0.85184
Tajikistan	Somoni	TJS	8.78716
Turkey	Lira	TRY	3.71773
Turkmenistan	Manat	TMT	3.45000
Ukraine	Hryvnia	UAH	26.5010
Uzbekistan	SOM	UKS	8054.89

Sources: For all countries: http://www.xe.com/currencyconverter/ (accessed 09/10/2017).

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