



## **Magdalena Jarczok-Guzy**

Department of Public Finance  
Faculty of Finance and Insurance  
University of Economics in Katowice, Poland  
magdalena.guzy@ue.katowice.pl

## **The principles of tax law equality in the context of direct taxation**

DOI: 10.22367/jem.2017.30.04

Accepted by Editor Ewa Ziemia | Received: April 30, 2017 | Revised: September 14, 2017; October 14, 2017; October 25, 2017; October 27, 2017; October 30, 2017 | Accepted: October 31, 2017.

### **Abstract**

**Aim/purpose** – The purpose of this article is a presentation of the principles of tax law equality with the aim of establishing the significance of these rules for the system of direct taxation in Poland. Only forms of taxation have been selected to conduct this analysis because they offer the most transparent and variegated picture of the real tax burden.

**Design/methodology/approach** – The article follows the method of economic comparative analysis and offers a review of available literature on the subject.

**Findings** – This analysis proves that the choice of different types of income taxation for natural persons conducting business activity has influence on tax burden.

**Research implications/limitations** – The system of direct taxation in Poland has problems with equality rules because of different tax rates and tax returns which are available in Polish law.

**Originality/value/contribution** – This article presents the problem of tax law equality in the context of economic theories developed by selected economists.

**Keywords:** principles of taxation, tax fairness, income tax.

**JEL Classification:** H25, G18.

### **1. Introduction**

The problem of effective collection of tax revenues remains today one of the most significant challenges for individual states, as public levies are the primary source of budget revenues. At the same time, almost every state is obliged

to a greater or lesser degree, to pursue their overriding fiscal goal through reducing the excessive general budget deficit in a manner that does not hamper the prospects of growth for the state, and simultaneously supports business activities [Raczkowski 2015, p. 58]. Tax law equity has been the subject for discussion among the greatest economic thinkers for years [Gomułowicz & Mączyński 2016]. It would seem a simple matter of fact that entities achieving the same level of income should carry the same level of tax burden. Nevertheless, this idea breeds immediate doubts as to the right definition of income, particularly in the case of entities conducting their business activities at substantial costs, which not in all cases can be treated as tax deductible revenues. Another problem with the proper calculation of income concerns the numerous credits, exemptions and reliefs admitted by tax law. Further, the issue of the tax rate has also been a matter of contention. Arguably, progressive tax rates garner considerable support, but there are also voices in favour of flat tax rates. These problems have given rise to this paper. This article then discusses these economic theories which have exerted a considerable influence on the shape of the system of taxation currently in force.

The purpose of this article is a presentation of the principles of tax law equality according to selected economic theories with the aim of establishing the significance of these principles in the current Polish system of direct taxation. The type of direct tax, which in my opinion best illustrates the principle of tax law equality, is the income tax. The taxpayer who conducts non-agricultural business activity is entitled to choose from certain available options within this type of taxation. Each of these options results in a different amount of payable tax. That is the research gap. The existence of these differences then is the reason why such options of income tax are the subject of our analysis. This article applies the methods of economic analysis and surveys the available literature on the topic.

The research paper consists of four parts. The first paragraph offers a survey of the literature on tax law equality. Secondly, the research method is presented. In the next part of the text data on the income tax levied on natural persons conducting business activity under different taxation variants and at different periods of time are presented and analyzed. The paper closes with conclusions.

## **2. Literature review**

According to The tax ordinance act, tax is “a public, gratuitous, compulsory and non-refundable pecuniary performance in favour of the State Treasury, voivodship, county or commune budget resulting from statutory tax law” [Ustawa z dnia 29 sierpnia 1997 r. Ordynacja podatkowa, article 6]. Building a tax policy

of a state is a complicated endeavour, which must take into account several aspects, depending on its objectives: the consolidation of the public finances, the achievement and maintenance of the macroeconomic balance, the support of the economic development, etc. [Cojocaru & Moisescu 2016, p. 231].

Both the structure and construction of a tax system are important for all countries. Clear and transparent regulations contribute to the increase in foreign investments, making the economy of a given state attractive in this respect. That is why, taking into account the development of economy, it is important to abide by some tax principles in the formulation of the system of taxation [Cuzovic 2009, p. 45]. These principles have been divided into several groups.

The universality of taxation may be understood to mean that taxes should have their origin directly at their economic source, that is, they should be levied on subjects earning income or possessing property. Tax is therefore a burden borne by all subjects producing the object subjected to taxation [Orłowski 2013, p. 83]. In accordance with Article 84 of the Constitution of the Republic of Poland, “[...] everyone shall comply with his responsibilities and public duties, including the payment of taxes, as specified by statute”. A taxpayer is defined by statute as “a natural person, a legal entity or an organizational entity without legal personality subject to tax liability by virtue of the tax acts” [Ustawa z dnia 29 sierpnia 1997 r. Ordynacja podatkowa, article 7]. Article 217 of the Constitution establishes legal provisions for taxation as follows: “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 by means of statute” [The Constitution of the Republic of Poland 1997].

Adam Smith is widely known as one of the most important authors of principles of a sound taxation. As early as in the 18<sup>th</sup> century, Smith formulated four such principles or canons: equality, certainty, convenience, and the economy of taxation. These principles were grounded in liberal economic thought, still relevant today, whose representatives were also D. Ricardo, J.-B. Say and J.S. Mill. In the second half of the 19<sup>th</sup> century in Europe, which had witnessed a rapid economic development, a new strand of thought on sound taxation appeared, represented primarily by A. Wagner and L. von Stein, who formulated their principles of taxations in a considerably different way. This is also the time when the doctrine of taxation was enriched by various ideas concerning the role of taxes in the functioning of society and industry, which meant that taxation acquired extra-fiscal roles, that is a social one and an economic one. Meeting the new demands of the theory of taxes, A. Wagner modified the existing principles and divided them into four groups: fiscal ones, economic ones, the ones concern-

ing equity and technical ones [Sosnowski 2012, p. 60]. This article is concerned mainly with the principle of equity.

The principle of equality of taxation is one of the most important principles formulated by A. Smith. He replaced the concept of equity with the concept of equality. With the view of practical implementation of this principle, A. Smith merged two separate factors into one: that of “benefit” and that of “the ability-to-pay”. He made the taxable income the measure of these two factors. “A. Smith claimed that the subjects of every state ought to contribute towards the support of the government, as nearly as possible, in proportion to their respective abilities, that is, in proportion to the revenue each of the subjects earns under the protection of the state” [Gomułowicz & Mączyński 2016, p. 53]. The taxpayer should primarily be paying for “the guarantees of both internal and external security and for the administration of justice” [Gomułowicz & Mączyński 2016, p. 53].

In the area of “the ability-to-pay”, considered by A. Smith as a maxim of taxation equity, he formulated three clear thesis [Gomułowicz & Mączyński 2016, p. 54]:

1. “It is not very unreasonable that the rich should contribute to the public expense, not only in proportion to their revenue, but something more than in that proportion”,
2. “[...] no man should pay more in taxes than he can afford to pay”,
3. “[...] the minimum rate of income necessary for biological survival should fall outside of taxation”.

Smith clearly had in mind here this particular part of revenue which should be exempted from taxation because it is considered as the minimal necessary means of subsistence for the taxpayer. This statement is supported by yet another point made by Smith: “The necessities of life occasion the great expense of the poor. They find it difficult to get food, and the greater part of their little revenue is spent in getting it. The luxuries and vanities of life occasion the principal expense of the rich” [Arendt 2005, p. 262].

Exemptions in income taxes constitute an integral element in the process of the design of a tax system. They allow the tax system to have non-fiscal functions. The scope and amount of such exemptions reflect the state’s priorities in fiscal policy. What needs to be stressed is the fact that such exemptions are primarily given to taxpayers for social and economic reasons. Apart from that, they may be aiming at greater equity in tax distribution, at the growth of businesses as well as at influencing economical decisions made by taxpayers. Independently from these aims, however, tax exemptions always result in the lowering of tax burden and a decrease in public revenues. For these reasons, they are often con-

sidered as an alternative to budget expenditure, and thus the state should be actively interested in monitoring their fiscal consequences [Hybka 2014, p. 209].

David Ricardo formulated the so-called Edinburgh rule, which stated concerning the taxpayers: “leave them as you find them”. This rule may be understood to mean that “[...] taxation should leave everyone in a relatively similar financial and proprietary situation in which they were before taxation” [Gomułowicz & Mączyński 2016, p. 66]. This rule illustrates the principle of inviolability of the taxpayer’s property. “The sources of tax income constitute the basis for business activity. If overtaxation violates or outright destroys this basis, then this will disadvantage production and obstruct the increase of general prosperity” [Gomułowicz & Mączyński 2016, p. 66]. Ricardo stresses here the protection of private property [Gomułowicz & Mączyński 2016, p. 66].

John Stuart Mill was another economist who discussed the principle of tax law equality. According to him, the principle of equal treatment of taxpayers means “an equal financial sacrifice or an equal loss in property” [Gomułowicz & Mączyński 2016, p. 70]. “The loss in property equals in worth the loss in revenues caused by the taxes levied. The level of welfare is always correlated with revenues. For this reason, taxpayers whose revenues are equal should pay equal taxes. What logically follows is that inequality in revenues will mean inequality in taxes levied” [Gomułowicz & Mączyński 2016, p. 70]. Equal financial sacrifice of taxpayers should result in the equal diminishment of financial advantage. Persons with the same level of revenues receive the same advantage, and this means that they should bear equal sacrifice if they pay the same tax. Mill’s concept of equal sacrifice binds the principle of tax equity with the principle of the ability to pay [Gomułowicz & Mączyński 2016, p. 70].

Francis Ysidro Edgeworth was a continuator of Mill’s thought. He linked the rate of taxation with the utility curve. In his view, tax burden “[...] should be distributed in such a manner that the marginal disutility incurred by each taxpayer should be the same” [Gomułowicz & Mączyński 2016, p. 71]. When taxes sustain inequality in property distribution, then the tax burden is incorrectly distributed. “Then it is necessary to increase taxation on high revenues with the aim to create a perfect equality in welfare distribution” [Gomułowicz & Mączyński 2016, p. 71].

As early as in 1880, Adolph Wagner, a representative of the socio-political school and the outstanding German scientist, put forward the thesis that proportional taxes negatively affect the lives of the taxpayers, “[...] because the same tax rate places unequal tax burdens on different payers. Therefore, the only fair taxation is progressive taxation” [Povarova 2016, p. 197]. A. Wagner advocated the universality of taxation, with a simultaneous elimination of excessive welfare

inequalities in a given society as well as the elimination of acute poverty and destitution, from which numerous social groups suffered, and which could not be alleviated by the market distribution of commodities and revenues. He saw the solution of these problems in his principles of tax law equity, that is, equality, universality and the ability to pay. Just like J.-B. Say, Wagner supported progressive tax rates in the tax system, which meant bestowing on taxation a welfare function. Apart from the fiscal and welfare function of taxation, Wagner saw in taxes the tools with which the state can intervene in economy and politics. This meant a rejection of economic liberalism and market automatism. These additional tasks of the state together with the realization of the ideals of welfare and social equality demanded increased state expenditure. The means for this expenditure should be provided by the universal tax and the reasonable, progressive tax rates for high revenues, with a simultaneous protection of the source of tax and a retention of the motivation to profit [Sosnowski 2012, p. 61]. Table 1 depicts all of Wagner's tax law principles.

**Table 1.** The classification of tax law principles according to A. Wagner

Category	Principles
Fiscal	Stability Efficiency Flexibility
Economic	The inviolability of the taxpayer's property The creation of motivation The rule of one-off taxation
Social justice	Universality Equality
Technical	Low-costs of taxation Convenience Certainty Accuracy and transparency of tax law

Source: Based on Piontek [2003, p. 106].

The principle of tax law equity contains the principles of "vertical equity" and "horizontal equity". Horizontal equity means that "similarly situated taxpayers should be treated equally" [Owsiak 2013, p. 190]. Developed by R.A. Musgrave, this principle thus has clearly a normative character. According to the principle of equity, tax burden should be equally distributed over persons in equal financial situation. Analogically, the principle of vertical equity demands that "dissimilarly situated taxpayers should be treated unequally" [Owsiak 2013, p. 190].

### 3. Research methods and procedure

In the sphere of direct taxation, the member states of the European Union enjoy a considerable degree of formal independence. Nevertheless, in a considerable number of instances it transpires that the ruling of the Court of Justice of the European Union intervenes in tax regulations of its member states. When these regulations impede the freedom of internal market, the ruling of the Court obliges the state member in question to adjust its legislature to the EU model.

The principle of free movement (except for the free movement of capital) does not straightforwardly concern the issues of direct taxation. However, despite a considerable autonomy of the EU member states in developing tax regulations, the Court of Justice of the European Union with consequence rules according to EU law, whereby the said autonomy may be limited to some degree. Therefore, the member states should exercise their autonomy respecting the EU legislature, and in particular for the free internal market [Lipniewicz 2015, p. 97].

Since the times of “greater equity” promoted by A. Smith, D. Ricard, J.S. Mill, A. Wagner, direct taxes are treated as the proper means for its achievement. The measures of the ability to pay are property and revenues. At the same time, progressive taxation has been shown to constitute one of the conditions for the fair distribution of revenues. The problem of how to calculate the proper tax rate, which depends on property and revenues, and which should take into consideration the taxpayers’ ability to pay, has been the subject for debate among the greatest economists. In the first place, what needs to be established is a careful definition of income and the application of a specific tariff to a given tax base [Gomułowicz 2013, p. 53].

In the Polish tax system, a taxpayer conducting non-agricultural business activity possesses a choice between common tax rules and simplified tax rules. The common tax rules include the tax on revenues according to the tax scale and the flat rate tax. The simplified forms of taxation include the lump sum tax from registered income and the tax card. The right to choose the form of taxation allows entrepreneurs to plan their tax strategy and to optimize the taxation burden [Ciupek 2013, p. 76].

The taxation of income according to the progressive tax scale consists in correlating tax burden with the level of income. Tables 2 and 3 represent the income thresholds and tax rates applicable until the end of 2016 and from the beginning of 2017.

**Table 2.** The tax scale applicable until the end of 2016

Taxable base in PLN		Tax
more than	up to	
	85,528	18% minus tax reducing amount of 556.02 PLN
85,528		14,839.02 PLN + 32% of the surplus over 85,528 PLN

Source: Based on [Ustawa z dnia 26 lipca 1991 r. o podatku dochodowym od osób fizycznych].

**Table 3.** The tax scale applicable from the beginning of 2017

Taxable base in PLN		Tax	
more than	up to		
	85,528	18%	Minus tax-reducing amount
85,528		15,395.04 PLN + 32% surplus over 85,528 PLN	

Source: Based on [Ustawa z dnia 26 lipca 1991 r. o podatku dochodowym od osób fizycznych].

The changes, being in force from 1 January 2017 in The personal income tax act, have introduced a new way of calculating the tax reducing amount. The uniform amount of 556.02 PLN, valid for the progressive tax rate, has been replaced by a movable tax reducing amount correlated with the amount of income earned. The detailed rules for calculating this reducing amount are given in article 27 (1a) of The personal income tax act.

Within the tax scale presented above, and additionally to the tax reducing amount, the taxpayer may further reduce the tax burden by taking advantage of a number of tax credits. The Polish legislator offers two possibilities of applying tax credits to personal income tax: they may be deductible from the amount of tax or from the amount of income. The use of these various options yields different results in the reduction of tax burden. Tax credits deductible from income result in a lower tax base, and the tax credits deductible from the amount of tax directly decrease the amount of tax paid, as it is deducted from the amount of tax levied. The following tax credits may be deducted from the amount of income: the mandatory social security contributions, the credits for charitable donations, the expenses for rehabilitation of disabled persons, the Internet tax credit, the research and development credit, the recovery of sums paid but not due, tax credit for an individual retirement security account (IKZE) and housing expenditure credit due on the basis of acquired rights [Palczewska 2014, p. 50].

The flat rate tax is a method of tax calculation according to which the amount of tax due is directly proportional to the amount of tax base. This type of tax has also been referred to as a uniform tax or proportional tax. The amount of this tax is calculated based on a single tax rate, which means that all taxpayers to whom this rate applies sacrifice the same proportion of their income in the form of the tax paid. A single rate makes the tax flat because it is not correlated with



any tax-free amount of income or tax credits. The appearance of a tax-free amount of income causes progression to appear in taxation. In 2004 the Polish legislator allowed for a choice of 19 per cent flat tax levied on non-agricultural business activity income. The taxpayer is the subject who chooses the manner of taxation. Persons applying the flat tax to their income may not take advantage of almost all the available tax credits and reductions. Such taxpayers may not deduct a tax-free amount of income nor use the joint assessment of income tax with a spouse, nor calculate their tax as a single-parent. Yet, they are not deprived of the tax abolition relief, and of the right to deduct pension contributions as well as health insurance contributions [Stanek 2016, p. 694].

Taking into account current laws and regulations of the personal income tax, what follows is a comparative analysis of the amounts of taxes paid by two taxpayers conducting business activity in the sphere of construction services. For the sake of transparency of analysis, it has been assumed that those taxpayers earned the same level of income in 2016 and 2017. Their respective revenues and the deductible costs vary, but the final amount of income – the taxable base – is the same. The tax due by each taxpayer is calculated according to the proper tax scale and the flat rate in force in each of the tax years analyzed. It is assumed that the taxpayer A calculates his taxes with the use of the flat rate, and that the taxpayer B with the use of the progressive tax scale. The tax simulation is conducted with the assumption that the amount of income, for example's sake, is the same. It is worth noticing at this point that both taxpayers may take the advantage of deducting their mandatory social security contributions from their income and of deducting their health insurance contributions from the amount of tax due. The following simulation takes these deductions into consideration. According to the information made available by the Polish Social Insurance Fund [ZUS 2017], the taxpayer regularly paying pension contributions as well as voluntary health insurance contributions may deduct from income 9,257.23 PLN in 2016 and, as it has been anticipated, 9,711.67 PLN in 2017. In turn, the deductible amount of health insurance contribution (7.7%) is, respectively, 2,977.62 in 2016 and the anticipated 3,064.71 PLN in 2017. The tax rates according to the tax scale and flat tax have been already discussed in section 1 of this article. To simplify matters, it has been assumed that none of the taxpayers takes advantage from other tax reliefs and credits.

## 4. Research findings and discussion

### 4.1. The principle of tax law equality on the example of progressive tax and flat tax in 2016 and 2017

The first comparative analysis concerns income in 2016 and the assumed revenues and costs are represented in the table 4.

**Table 4.** Revenues and costs of revenues for taxpayers A and B in 2016

Taxpayer	Revenues	Costs of revenues	Income
A	210,000 PLN	110,000 PLN	100,000 PLN
B	190,000 PLN	90,000 PLN	100,000 PLN

The Table 5 gives the results of calculations of the tax base and tax due for both analyzed income scenarios.

**Table 5.** The calculation of the tax due for the taxpayer A and B in 2016

Taxpayer	Number	A – flat rate tax	B – tax scale
Income	1	100,000 PLN	100,000 PLN
Social security contribution	2	9,257.23 PLN	9,257.23 PLN
Tax base (1-2)	3	90,742.77 PLN	90,742.77 PLN
Tax rate	4	19%	18% and 32%
Tax before the deduction of health insurance	5	17,241.17 PLN	16,507.82 PLN
Health insurance contribution 7,75%	6	2,977.62 PLN	2,977.62 PLN
<b>Tax due (5-6)</b>	<b>7</b>	<b>14,264 PLN</b>	<b>13,530 PLN</b>

In order to calculate the amount of tax before deduction of health insurance, the following formulas should be applied:  $90,743 \text{ PLN} \times 19\% = 17,241.17 \text{ PLN}$  for A and  $14,839.02 \text{ PLN} + 32\% (90,743 - 85,528) = 16,507.82 \text{ PLN}$  for B. In the analysis of the results of the calculations above, it is possible to unequivocally state that the tax burden of the two taxpayers with the same tax base is not equal. Taxpayer A, using flat rate taxation, will pay a higher tax by 734 PLN than the taxpayer using the tax scale. The same analysis has been applied for the anticipated tax year of 2017. Taxpayer A, using flat rate taxation, will calculate his tax in the same way as in 2016 because tax regulations have not been amended for the flat rate tax. However, taxpayer B, calculating his tax according to the tax scale, which has been amended, will have to recalculate his tax due. In 2017 social security contributions have also been altered. Table 6 illustrates the simulated sums for the tax year of 2017.

**Table 6.** The calculation of the tax due for the taxpayer A and B in 2017

Taxpayer	Number	A – flat rate	B – tax scale
Income	1	100,000 PLN	100,000 PLN
Social security contribution	2	9,711.67 PLN	9,711.67 PLN
Tax base (1-2)	3	90,288.33 PLN	90,288.33 PLN
Tax rate	4	19%	18% and 32%
Tax before deduction of health insurance	5	17,154.72 PLN	16,426.04 PLN
Health insurance contribution 7,75%	6	3,064.71 PLN	3,064.71 PLN
<b>Tax due (5-6)</b>	<b>7</b>	<b>14,090 PLN</b>	<b>13,361 PLN</b>

Since 2017, as the Polish legislator has established, the amount deductible from income (the so-called tax free amount) will vary according to the amount of income earned and will be calculated for each individual taxpayer. In the discussed example, the tax base is 90,288 PLN. This amount falls within the range of 85,528-27,000 PLN. This range requires proper calculations of the tax-free amount. These calculations have been carried out on the basis of the formula specified by The personal income tax act in article 27 (1a) subparagraph 4 [Ustawa z dnia 26 lipca 1991 r.].

$$\begin{aligned} & *556.02 \text{ PLN} - (556.02 \text{ PLN} \times (90,288 - 85,528) : 41,472 \text{ PLN}) = \\ & = 556.02 \text{ PLN} - 63.82 \text{ PLN} = 492.20 \text{ PLN} \end{aligned}$$

In order to calculate the amount of tax before deduction of health insurance, the following formulas should be applied:  $90,288 \text{ PLN} \times 19\% = 17,154.72 \text{ PLN}$  for A and  $15,395.04 \text{ PLN} + 32\% (90,288 - 85,528) - \text{reducing amount of } 492.20 \text{ PLN} = 16,426.04 \text{ PLN}$  for B. Table 6 shows that, despite the legal changes in the manner of calculations of the tax reducing amount, the taxpayer following the flat rate tax will still pay more by 729 PLN than the taxpayer who follows the tax scale. This is not a substantial difference when compared to the tax year of 2016. The table below represents the percentage of tax burden in the income earned by the taxpayers, calculated according to the following formula:  $(\text{tax due for a given year} / \text{income in a given year}) \times 100$ .

Table 7 shows that in comparison to the tax year of 2016, the percentage of tax in the total income remained virtually unchanged, which is also confirmed in the calculations presented in the previous tables. However, more substantial differences arise if we compare the percentage of tax due in the different forms of taxation, the progressive scale tax and the flat rate tax – in 2016 it is 0.8% and in 2017, 0.7%. Assuming the same income after the change of tax law, the difference decreased by 0.1%. Similarly interesting results could certainly be yielded for an income in the amount of 200,000 PLN.

**Table 7.** The percentage of the tax due in the taxpayers' income

Taxpayer/Year	A – flat tax rate	B – progressive scale
2016	14.3%	13.5%
2017	14.1%	13.4%

There exists yet another form of taxation of income for natural persons conducting business activity. It is a lump-sum taxation for some sources of revenues earned by natural persons. Having chosen this type of taxation and having met a number of limitations and restrictions, the taxpayer is entitled to choose between a fixed lump sum on registered revenues or the tax card. The latter is applied by the Tax Office, and the income of the taxpayer has no influence on its amount. A fixed lump sum tax on registered revenues is calculated from the revenue considered as the tax base. This tax calculation will again be applied to our example of taxpayer A and taxpayer B, with the assumption that their business activity is construction services, which in turn requires the application of 5.5 % tax rate [Ustawa z dnia 20 listopada 1998 r. o zryczałtowanym podatku dochodowym...]. Table 8 illustrates the results.

**Table 8.** Lump sum income tax on registered revenues in 2016

Taxpayer	Number	A	B
Revenues	1	210,000 PLN	190,000 PLN
Social security contribution	2	9,257.23 PLN	9,257.23 PLN
Tax base (1-2)	3	200,742.77 PLN	180,742.77 PLN
Tax rate	4	5.5%	5.5%
Tax before deduction of health insurance	5	11,040.87 PLN	9,940.87 PLN
Health insurance contribution 7.75%	6	2,977.62 PLN	2,977.62 PLN
<b>Tax due (5-6)</b>	<b>7</b>	<b>8,063 PLN</b>	<b>6,963 PLN</b>

In order to calculate tax in this case before deduction of health insurance the following formulas should be used:  $200,743 \text{ PLN} \times 5.5\% = 11,040.87 \text{ PLN}$  for A and  $180,743 \times 5.5\% = 9,940.87 \text{ PLN}$  for B. Taxpayer A under the lump sum income tax would pay 6,201 PLN less tax than under the flat rate tax. Taxpayer B, in turn, would reduce his tax by 6,567 PLN to that he would pay under the tax scale. This last point of our analysis is key for the argument of this article. The differences in tax paid under the flat tax rate and under the tax scale seem insignificant in comparison to the amount paid under the lump sum tax on registered income. It is this discrepancy between taxes paid with accordance to common principles and the lump sum tax that raises doubt as to the degree of application of tax law equality in the Polish taxation of income earned by natural persons.

## 5. Conclusions

This article presents the problem of tax law equality in the context of economic theories developed by selected economists. This issue has always been a topic of contention. If we make the assumption that tax law equity appears when identically situated taxpayers pay the same amount of tax, we can draw a tentative conclusion that the Polish tax system is not at all times equitable. As far as the scale tax and the flat tax yield similar results in the amount of tax due, the choice of the lump sum tax has disturbed this equality. Each of the taxation models presented is characterized by a different tax burden, but also by different tax exemptions and reliefs, which are heavily limited in the case of the lump sum tax. The tax itself is much lower when the number of exemptions and reliefs is most varied. In the examples presented above, the tax due has been calculated with the assumption that taxpayer A and B did not use any of them. The introduction of exemptions and reliefs would drastically complicate our analysis, as the very criteria for selection would present a problem. The following conclusion thus suggests itself: it is the problem of exemptions and reliefs which hinders the comprehensive and conclusive analysis of the issue of tax law equality. In the cases analyzed, only the social security contributions and health contributions have been included, as they are deductible in the yearly tax return submitted to The Tax Office. The question of which exemptions and reliefs the taxpayer will choose to apply beside these two depends on individual choices.

Through empirical research on various forms of income tax in Poland, this article has sought to contribute to the literature on tax law equality. The conclusions of this analysis may be further used by researchers and practitioners who are concerned with the constant need of perfecting the system of taxation in its realization of the principle of tax equality. The results of this study may be found universally applicable in any country. Further research should be aimed at similar assessments of income tax in other countries.

## References

- Arendt Ł. (2005): *Podatek dochodowy od osób fizycznych a sprawiedliwość podatkowa (Income tax from physical persons and tax equity)*. „Annales. Etyka w Życiu Gospodarczym”, t. 8, nr 1, pp. 259-269.
- Cojocar C., Moisescu R.E. (2016): *The tax policy within the European Union: Concepts, institutions, trends and challenges*. “Annals of the Constantin Brâncuși University of Târgu Jiu”, Economy series Issue 3, pp. 230-235.
- Ciupek B. (2013): Rozdział III: *Strategie podatkowe przedsiębiorstw w zakresie podatku dochodowego od osób fizycznych (Corporate tax strategies in the area of personal income tax)*. W: *Strategie podatkowe przedsiębiorstw*. Eds. B. Ciupek, T. Famulska. Wydawnictwo Uniwersytetu Ekonomicznego, Katowice, pp.75-105.

- Cuzovic D. (2009): *Tax system performance in the Republic of Serbia*. "Perspectives of Innovations, Economics & Business", Vol. 3, pp. 45-47, [https://academicpublishingplatforms.com/downloads/pdfs/pieb/volume3/201202040053\\_13\\_V3\\_SERBIA\\_PIEB\\_Djordje\\_Cuzovic\\_AGR.pdf](https://academicpublishingplatforms.com/downloads/pdfs/pieb/volume3/201202040053_13_V3_SERBIA_PIEB_Djordje_Cuzovic_AGR.pdf) (access: 30.04.2017).
- Gomułowicz A. (2013): *Podatki a etyka (Taxes and ethics)*. Lex, Warszawa.
- Gomułowicz A., Mączyński D. (2016): *Podatki i prawo podatkowe (Taxes and tax law)*. Wolters Kluwer, Warszawa.
- Hybka M. (2014): *Konsekwencje fiskalne ulg w podatku dochodowym od osób fizycznych w Niemczech (Fiscal consequences of personal income tax exemptions in Germany)*. „Studia Oeconomica Posnaniensia”, t. 2, nr 6(267), pp. 208-222.
- Lipniewicz R. (2015): *Zasada proporcjonalności a podatkowe ograniczenia swobód rynku wewnętrznego Unii Europejskiej (The principle of proportionality and tax related limitations of European Union internal market)*. „Ruch Prawniczy, Ekonomiczny i Socjologiczny”, R. LXXVII, nr 4, pp. 93-103.
- Orłowski J. (2013): *Konstytucyjna zasada powszechności opodatkowania – wybrane zagadnienia (Some chosen aspects of the constitutional principle of the universality of taxation)*. „Studia Prawnoustrojowe”, nr 22, pp. 81-100.
- Owsiak S. (2013): *Finanse publiczne. Teoria i praktyka (Public finance. Theory and practice)*. Wydawnictwo Naukowe PWN, Warszawa.
- Palczewska O. (2014): *Ulg w podatku dochodowym od osób fizycznych a wartość utraczonych dochodów podatkowych (Personal income tax exemptions and the value of losses in tax revenue)*. „Przegląd Prawniczy Ekonomiczny i Społeczny”, nr 2, pp. 49-58.
- Piontek W. (2003): *Zarys finansów publicznych (An outline of public finance)*. Wyższa Szkoła Zarządzania i Nauk Społecznych, Tychy.
- Povarova A.I. (2016): *Reforming individual income tax is the crucial factor in stabilizing the budgetary system*. "Economic and Social Changes: Facts, Trends, Forecast", Vol. 6, No. 48, pp. 193-213, DOI: 10.15838/esc/2016.6.48.11.
- Raczkowski K. (2015): *Measuring the tax gap in the European economy*. "Journal of Economics and Management", Vol. 21(3), pp. 58-72.
- Sosnowski M. (2012): *Znaczenie zasad podatkowych dla systemu podatkowego (The significance of tax principles for the system of taxation)*. "Zeszyty Naukowe Uniwersytetu Szczecińskiego. Finanse. Rynki Finansowe. Ubezpieczenia", nr 52(708), pp. 59-71.
- Stanek B. (2016): *Zasady podatkowe A. Smitha jako kryterium oceny podatku liniowego (A. Smith's taxation principles as criteria for assessment of flat-rate tax)*. „Annales Universitatis Mariae Curie-Skłodowska Lublin. Oeconomia Sectio H”, Vol. L, No. 1, pp. 691-699.
- Ustawa z dnia 20 listopada 1998 r. o zryczałtowanym podatku dochodowym od niektórych przychodów osiąganych przez osoby fizyczne. Dz.U. nr 144, poz. 930 z późn. zm., art. 1, art. 4, ust. 1, pkt 1 oraz art. 12, ust. 1, pkt 4a (The act of 20 November 1998 on lump sum income tax on certain incomes earned by natural persons, Journal of Laws No. 144, item 930 with amended article 1, article 4(1), subparagraph 1 and article 12(1), subparagraph 4a).

Ustawa z dnia 29 sierpnia 1997 r. ordynacja podatkowa. Dz.U. 2017, poz. 201, art. 6, 7 (The tax ordinance act of 29 August 1997, Journal of Laws 2017, item 201, articles 6 and 7).

Ustawa z dnia 26 lipca 1991 r. o podatku dochodowym od osób fizycznych. Dz.U. 2016, poz. 2032 i 2048 (The personal income tax act of 26 July 1991, Journal of Laws 2016 items 2032 and 2048, article 27(1)).

The Constitution of the Republic of Poland of 2nd April, 1997, as published in Dziennik Ustaw No. 78, item 483.

ZUS (2017): [www.zus.pl](http://www.zus.pl) (access: 13.02.2017).