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Acta Scientiarum Polonorum. Administratio Locorum 9/2, 29-45

2010

Artykuł został opracowany do udostępnienia w internecie przez Muzeum Historii Polski w ramach prac podejmowanych na rzecz zapewnienia otwartego, powszechnego i trwałego dostępu do polskiego dorobku naukowego i kulturalnego. Artykuł jest umieszczony w kolekcji cyfrowej bazhum.muzhp.pl, gromadzącej zawartość polskich czasopism humanistycznych i społecznych.

Tekst jest udostępniony do wykorzystania w ramach
dozwolonego użytku.

POLISH SYSTEM OF REAL PROPERTY CHARGES

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Abstract. This paper discusses real property charges and the relevant theoretical problems, including the concept of the system of real property charges, its functions and the desirable attributes of that system to ensure that its functions are effectively fulfilled. The study presents various systems of classifying real property charges in view of their legal nature, the manner of payment, the collecting entity, the territorial coverage and the formal grounds of real property charges.

Key words: real property charges, system of real property charges, functions of the system of real property charges, desirable attributes of the system of real property charges, classification of real property charges.

INTRODUCTION

In the contemporary world, real property plays a number of important roles, including a functional role, the role of an object in legal transactions, investments, credit transactions, as well as a **market commodity** and a part of the **fiscal system**. In a market economy, property rights are traded on the market, ranging from principal rights (rights in property, e.g. ownership, perpetual usufruct – deposit market) to secondary rights (obligations, e.g. the right of rental and tenancy – lease market). Real property charges occupy an important place on the market as they relate to the possession of property rights, the management of public property resources, property development, property transactions and property administration. The role and significance of real property charges grows as the property market reaches new phases of development. All professionals in the area of property management, valuation, administration and sale must have a working knowledge of the applicable charges. For property appraisers, real property charges are one of the goals of the valuation process, for property administrators – they reflect the

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revenues and the costs related to the property and they are an important factor in the process of property management, while for property agents – they affect the type of the transaction and transaction costs. A sound knowledge of real property charges facilitates and increases the effectiveness of the decision-making process, and it enhances the quality of services provided by property market professionals.

CONCEPT OF THE SYSTEM OF REAL PROPERTY CHARGES

The Polish legal system comprises various civil law and public law fees applicable to real property that relate to ownership rights and property transactions. Both types of fees share the following characteristics:

- firstly, they arise from the legal regulations in force,
- secondly, they relate to legal events that directly involve real property.

The overall set of fees that arise from the legal regulations in force and relate to legal events directly applicable to real property form the **system of real property charges**. It is an open system, i.e. it is part of the real property system covering subjective and objective elements of the property market as well as their mutual relations. The subjective elements of the property system are the investors, developers, lenders, support service providers (notaries public, property appraisers, property administrators, agents, etc.) as well as the institutional and legal environment (land and mortgage registers, real estate cadastres, etc.). The objective element of the real property systems comprises the general set of laws applicable to real property: ownership rights and obligations.

In view of the nature and the function of property fees, the system of real property charges can be divided into four main groups (Tab. 1).

Table 1. System of real property charges
Tabela 1. System opłat od nieruchomości

Group I – Grupa I	Group II – Grupa II
Charges levied on real property owners for making the property available to a third party Opłaty z tytułu udostępnienia przez właściciela praw do korzystania z nieruchomości	Charges relating to the possession of real property Opłaty związane z posiadaniem nieruchomości
Group III – Grupa III	Group IV – Grupa IV
Charges levied on legal transactions relating to real property Opłaty towarzyszące dokonywaniu czynności prawnych dotyczących	Charges levied on operations that lead to the "betterment" of real property Opłaty z tytułu przeprowadzenia działań powodujących „rozwój nieruchomości”

Source: own data

Źródło: opracowanie własne

The system of real property charges may also be expressed in the form of an equation containing the four identified groups of charges:

$$Op_N = O_{wt} + O_{pm} + O_{czp} + O_{roz}$$

where:

- Op_N – real property charges,
- O_{wt} – charges levied on real property owners in virtue of making the property available to a third party,
- O_{pm} – charges relating to real property ownership,
- O_{czp} – charges levied on legal transactions involving real property,
- O_{roz} – charges levied on actions that lead to the “betterment” of real property.

Except for group I fees, the above charges have a **public character**, i.e. they are payable to the State Treasury, a territorial self-government or other entities performing public tasks. The value of the said charges is determined in accordance with the provisions of public law. The charges levied on real property owners in virtue of making the property available to a third party fall subject to civil law – they result from **civil law** relations and they are governed mainly by the provisions of private law and, as regards publicly owned property, the provisions of public law regulating the terms on which such property is managed by public entities. The charges applicable to each property group are presented in the Table 2.

Charges levied on real property owners in virtue of making the property available to a third party – cover the revenues generated by entities (private and public) in virtue of managing the owned property. Those charges result from civil law relations and they are governed – as regards privately owned property – by the provisions of private law, mostly the civil code (ownership and obligations). As regards property owned by public entities, i.e. the State Treasury, territorial self-governments and other entities that fall subject to the public law, such as the Agricultural Property Agency and the Military Housing Agency, the regulations contain public law provisions stipulating the terms on which property may be managed by the above entities (e.g. the Real Property Management Law, the Act on managing agricultural property owned by the State Treasury). This group of charges includes: the selling price, perpetual usufruct charges, lease rents, tenancy rents, lease installments, usufruct charges, servitude charges, shares (participation units) in companies with a legal personality or contributions in a cooperative acquired in exchange for the contribution of property to a company or a cooperative.

Charges relating to real property ownership – this group accounts for standard property taxes, i.e. public taxes stipulated by the provisions of the tax law, levied in virtue of the possession of real property. The payment of property taxes results from the “passive” possession of real property and it has a predominantly fiscal function – the benefits that arise from real property ownership are shared with the State Treasury. This group of charges covers three types of tax: real property tax, agricultural tax and forest tax.

Charges levied on legal transactions involving real property – this group involves public levies charged directly on legal transactions that involve real property, including the transfer of ownership rights to real property (e.g. contracts

Table 2. Real property charges
Tabela 2. Opłaty od nieruchomości

Charges levied on real property owners in virtue of making the property available to a third party Opłaty z tytułu udostępnienia przez właściciela praw do korzystania z nieruchomości	Charges relating to real property ownership Opłaty związane z posiadaniem nieruchomości	Charges levied on legal transactions involving real property Opłaty towarzyszące dokonywaniu czynności prawnych dotyczących nieruchomości	Charges levied on actions that lead to the „betterment” of real property Opłaty z tytułu przeprowadzenia działań powodujących „rozwój nieruchomości”
Selling price Cena sprzedaży	real property tax podatek od nieruchomości	tax on civil law transactions podatek od czynności cywilnoprawnych	planning fee opłata planistyczna
Perpetual usufruct charges Opłaty z tytułu użytkowania wieczystego	agricultural tax podatek rolny	VAT VAT	betterment levies opłaty adiacenckie
Permanent management charges Opłaty z tytułu trwałego zarządu	forest tax podatek leśny	inheritance and donations tax podatek od spadków i darowizn	fee for excluding farmland/forests from production opłaty za wyłączenie gruntów rolnych/leśnych z produkcji
Lease rents Czynsz z najmu		personal/corporate income tax podatek dochodowy od osób fizycznych/prawnych	
Tenancy rents Czynsz z dzierżawy		notarial fees taksa notarialna	
Usufruct charges Opłaty za użytkowanie		court fees opłaty sądowe	
Servitude charges Opłaty za służebność		stamp duty opłata skarbową	
Lease installments Raty leasingowe			
Nominal value of shares participation units in a company with a legal personality cooperative acquired in exchange for the contribution of real property Nominalna wartość udziałów akcji w spółce posiadającej osobowość prawną lub wkładów w spółdzielni objętych w zamian za aport nieruchomości			

Source: own data

Źródło: opracowanie własne

of sale, exchange, devise), the conclusion of contracts of obligatory nature (e.g. lease, tenancy), the establishment of limited property rights (e.g. servitude, mortgage), court proceedings (relating to land and mortgage registers, inheritance proceedings), legal and administrative proceedings (requesting decisions on the terms of construction or building permit requests). Based on the generic criterion, this group can be further sub-divided into: turnover tax, income tax, real property management charges, inheritance and donation tax. Turnover taxes are public levies on trading ownership rights to real property, both professional (business entities) and private. The turnover tax covers two types of tax: the goods and services tax (VAT) and the tax on civil law transactions. Income taxes pertain to the incomes generated by: disposal of real property, lease/tenancy, establishment of usufruct or servitude, disposal of shares (participation units) in a company or contributions in a cooperative acquired in exchange for non-cash contributions consisting in real property. The income tax covers two types of tax: personal income tax (PIT) and corporate income tax (CIT). Real property management charges are standard public levies that involve the mutual performance of a public entity (notary, court, public administration authority). These charges entail a specific action whose performance is expected by the entity paying the relevant fee or which is statutorily imposed on that entity under the given circumstances. This group of charges is inclusive of notarial fees, court fees and stamp duty. The inheritance and donation tax is charged

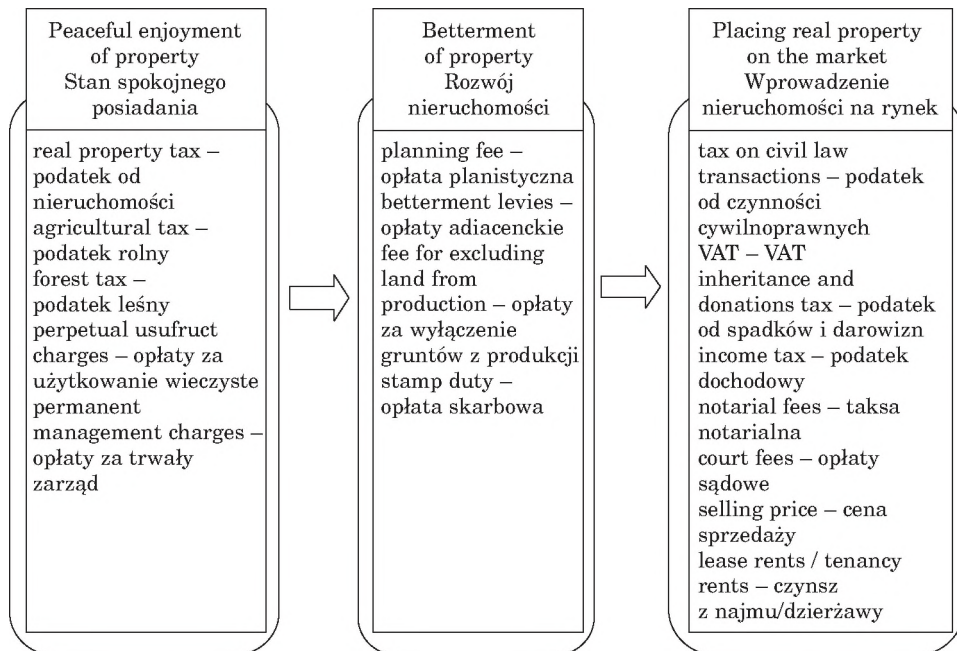


Fig. 1. Real property charges applicable to each phase of the property life cycle

Source: own data

Rys. 1. Opłaty od nieruchomości w poszczególnych fazach cyklu ich użytkowania

Źródło: opracowanie własne

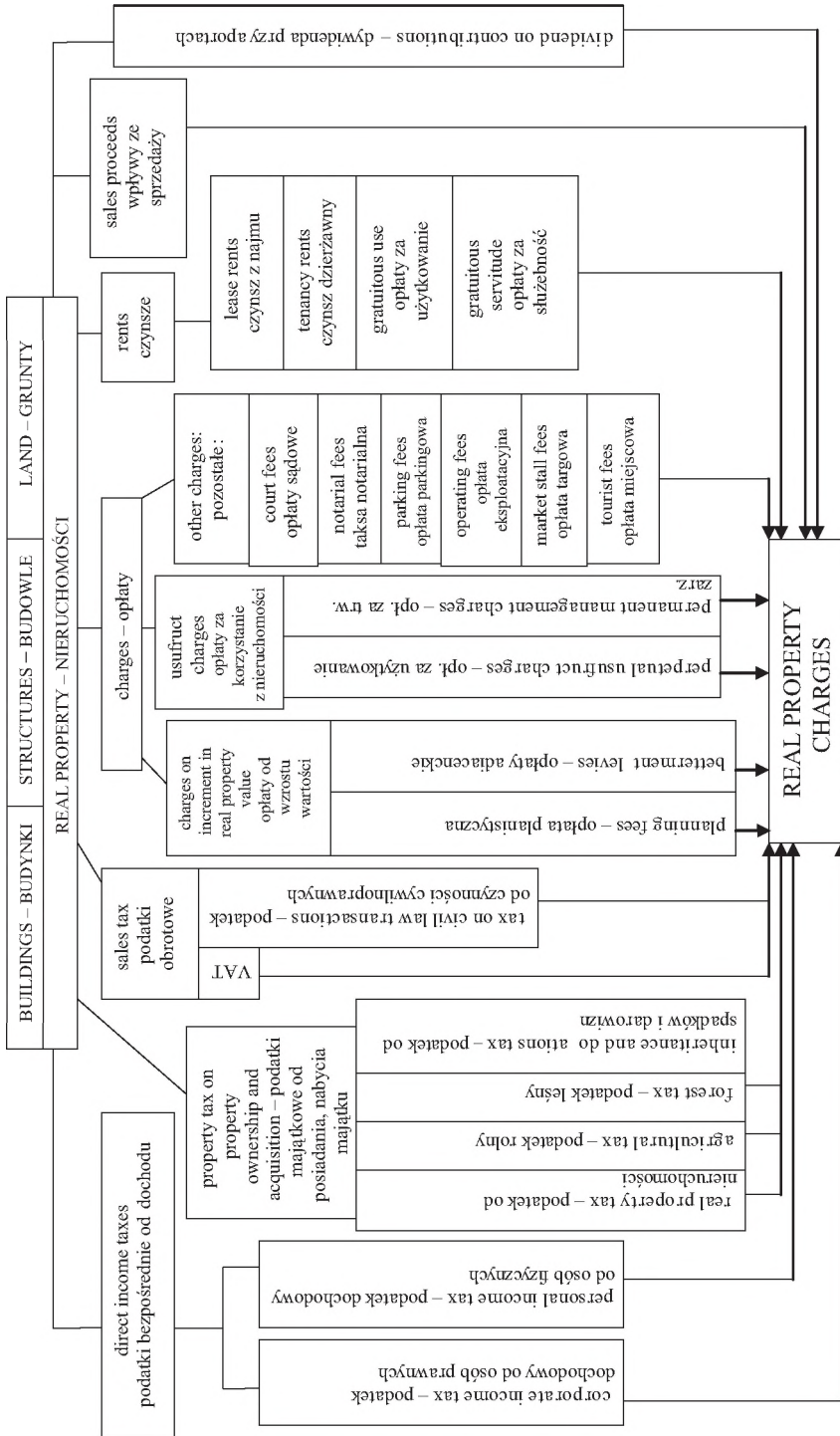


Fig. 2. Real property charges – generic approach
 Source: own data
 Rys. 2. Opłaty od nieruchomości – ujęcie rodzajowe
 Źródło: opracowanie własne

on the increment in the property of natural persons by way of non-gratuitous events, such as donations, inheritance and acquisitive prescription.

Charges levied on actions that lead to the “betterment” of real property – relate to administrative actions (procedures) concerning real property pursuant to the provisions of the public law which lead to the betterment (increment in value) of real property. This group of charges includes planning fees, betterment levies as well as annual charges for excluding land from agricultural and forestry production.

In view of the activity of the real property owner/perpetual usufructuary, the property life cycle can be divided into three phases:

- phase I (peaceful enjoyment of property) – in which the owner/perpetual usufructuary uses the property to satisfy his/her tenancy needs;
- phase II (betterment of property) – in which various measures are implemented to develop the property and increase its value. This may involve the modification of the property’s designation in the local zoning plan, the exclusion of land from production, division and consolidation of land plots, utilities supply, construction;
- phase III (placing real property on the market) – in which the user/perpetual usufructuary exercises his/her right to real property by performing various legal transactions, such as the sale, exchange, donation, lease or rental of property.

The list of real property charges applicable to each phase of the property life cycle is presented in Figure 1.

The figure below presents real property charges in a generic approach, with a division into: taxes and other public levies (public law charges), civil law charges, i.e. proceeds from the sale of real property, rents and incomes generated in virtue of the contribution of real property, as well as indirect charges applicable to real property, including tourist fees, market stall fees, parking fees and operating fees (Fig. 2).

CLASSIFICATION OF REAL PROPERTY CHARGES

Various approaches can be used to classify real property charges. All classification systems have a discretionary nature, and they are largely based on a set of generally applied criteria. The main criteria adopted in the classification of real property charges are:

- legal nature of real property charges (charges payable under the civil law and the public law),
- manner of payment (one-time fees and periodic fees),
- collecting entity (charges which constitute public revenues of central and local authorities, and private revenues),
- territorial coverage (local and national charges),
- formal grounds (based on the value or the price of real property, based on physical categories).

Based on the legal nature of real property charges, the relevant fees can be divided into two groups: charges that fall subject to the civil law and charges collectable under the public law (Table 3).

Table 3. Classification of real property charges based on their legal nature
 Tabela 3. Klasyfikacja opłat od nieruchomości według charakteru prawnego

Civil law charges Oplaty o charakterze cywilnoprawnym	Public law charges Oplaty o charakterze publicznoprawnym	
	Taxes Podatki	Other public levies Inne daniny publiczne
Selling price of real property Cena sprzedaży	real property tax podatek od nieruchomości	stamp duty opłata skarbową
Perpetual usufruct charges Oplaty za użytkowanie wieczyste	agricultural tax podatek rolny	court fees opłaty sądowe
Lease rents Czynsz z najmu	forest tax podatek leśny	notarial fees taksa notarialna
Tenancy rents Czynsz dzierżawny	inheritance and donations tax podatek od spadków i darowizn	betterment levies opłaty adiacenckie
Lease installments Raty leasingowe	personal income tax podatek dochodowy od osób fizycznych	planning fees opłata planistyczna
Usufruct charges Oplaty za użytkowanie	corporate income tax podatek dochodowy od osób prawnych	permanent management fees opłaty za trwałe zarząd
Servitude charges Oplaty za służebność	tax on civil law transactions podatek od czynności cywilno- prawnych	–
–	vat vat	

Source: own data

Źródło: opracowanie własne

Real property charges can also be classified in view of the manner of payment to identify one-time fees and fees that are paid periodically (Table 4).

On the one hand, real property charges are an encumbrance for both private and public payers, while on the other hand, they are a source of revenue for the State Treasury, municipalities and individuals. Based on the type of entity generating the relevant proceeds, real property charges can be classified into groups which constitute the revenue of the State Treasury, municipalities and individuals (Table 5).

Real property charges can be subdivided into two groups in view of their territorial coverage:

- local property charges (whose value varies subject to municipality) which are set by the local authorities, in particular municipal councils;
- national property charges (of identical value) which are set by the central authorities (Table 6).

Local charges are largely regulated by municipal authorities which are competent to control the local tax system, including both legislative bodies (municipal councils) and bodies that exercise executive powers (municipal governors, town mayors, city mayors). The above classification is based on the territorial coverage of real property charges, and it is a vital source of information for prospective investors (residents, businesses) looking for a place of residence or a business location.

Table 4. Classification of real property charges based on the manner of payment
 Tabela 4. Klasyfikacja opłat od nieruchomości według okresu wnoszenia

One-time fees Opłaty wnoszone jednorazowo	Periodic fees Opłaty wnoszone okresowo
Selling price of real property Cena sprzedaży	perpetual usufruct charges opłaty za użytkowanie wieczyste
Inheritance and donations tax Podatek od spadków i darowizn	lease rents czynsz z najmu
Tax on civil law transactions Podatek od czynności cywilnoprawnych	tenancy rents czynsz dzierżawny
Stamp duty Opłata skarbową	usufruct charges opłaty za użytkowanie
Notarial fees Taksa notarialna	servitude charges opłaty za służebność
Court fees Opłaty sądowe	real property tax podatek od nieruchomości
Planning fees Opłata planistyczna	agricultural tax podatek rolny
Betterment levies Opłaty adiacenckie	forest tax podatek leśny
Income tax (on revenues generated from the gratuitous transfer of real property rights) Podatek dochodowy (od dochodu z odpłatnego zbycia praw do nieruchomości)	income tax (on revenues generated by the gratuitous transfer of real property rights) podatek dochodowy (od dochodu z odpłatnego udostępnienia praw do nieruchomości)
VAT (on the gratuitous transfer of real property rights) VAT (przy odpłatnej dostawie praw do nieruchomości)	VAT (on the gratuitous transfer of real property rights) VAT (przy odpłatnym świadczeniu usług dotyczących nieruchomości)
Charges for excluding farmland and forests from production – due amounts Opłaty za wyłączenie gruntów rolnych i leśnych z produkcji – należność	charges for excluding farmland and forests from production – annuities opłaty za wyłączenie gruntów rolnych i leśnych z produkcji – opłaty roczne
–	permanent management charges opłaty za trwały zarząd

Source: own data

Źródło: opracowanie własne

The classification of real property charges in view of the formal grounds for levying the relevant payments plays an important role in the process of property valuation. As part of this system, real property charges are systematized into two groups: charges which are based on the value or the price of property and charges imposed in view of the physical attributes of property, such as its actual area or conversion area (Table 7).

As demonstrated by the above, the majority of charges are calculated based on the value or the price of real property. The second category of charges which rely on the physical attributes of property covers:

- charges levied based on the property's area (physical area or conversion area) – property taxes: real property tax, agricultural tax and forest tax;
- charges levied upon the performance of a given action indicated in the law, e.g. the submission of a building permit request necessitates the payment of stamp duty, the submission of a request to establish an easement on a road necessitates the payment of a standing court fee (PLN 200).

Table 5. Real property charges as revenues of the State Treasury, municipalities and individuals
 Tabela 5. Opłaty od nieruchomości jako dochody Skarbu Państwa, gmin i osób prywatnych

Real property charges that constitute revenues of the State Treasury Opłaty od nieruchomości stanowiące dochody Skarbu Państwa	Real property charges that constitute revenues of municipalities Opłaty od nieruchomości stanowiące dochody gmin	Real property charges that constitute revenues of individuals Opłaty od nieruchomości stanowiące dochody prywatne
1	2	3
Income tax (less the share of territorial self-governments) Podatek dochodowy (pomniejszony o udział jednostek samorządu terytorialnego)	Real property tax Podatek od nieruchomości	Selling price Cena sprzedaży
VAT	agricultural tax podatek rolny	lease rents czynsz z najmu
Court fees Opłaty sądowe	forest tax podatek lesny	tenancy rents czynsz dzierżawny
Charges for excluding farmland and forests from production (20%)* Opłaty za wyłączenie gruntów rolnych i leśnych z produkcji	inheritance and donations tax podatek od spadków i darowizn	lease installments raty leasingowe
Annual charges for the permanent management of real property owned by the State Treasury** Opłaty roczne za trwały zarząd nieruchomości SP	tax on civil law transactions podatek od czynności cywilnoprawnych	usufruct charges opłaty za użytkowanie
Annual charges for the right of perpetual usufruct to land owned by the State Treasury** Opłaty za użytkowanie wieczyste nieruchomości SP	income tax (% share in the state treasury's proceeds)	servitude charges opłaty za służebność
Lease rents applicable to real property owned by the State Treasury** Czynsz z najmu nieruchomości SP	planning fees opłata planistyczna	notarial fees taksa notarialna
Tenancy rents applicable to real property owned by the State Treasury ** Czynsz z dzierżawy nieruchomości SP	betterment levies opłaty adiacenckie	–
Price of selling real property owned by the State Treasury** Cena sprzedaży nieruchomości SP	price of selling real property owned by the municipality cena sprzedaży nieruchomości gminy	–
Usufruct charges applicable to real property owned by the State Treasury** Opłaty za użytkowanie nieruchomości SP	annual charges for the permanent management of real property owned by the municipality opłaty roczne za trwały zarząd mienia komunalnego	–
Servitude charges applicable to real property owned by the State Treasury Opłaty z tytułu służebności ustanowionych na nieruchomościach SP	annual charges for the right of perpetual usufruct to land owned by the municipality opłaty roczne za prawo użytkowania wieczystego gruntów komunalnych	–

cont. Table 5 – cd. tabeli 5

1	2	3
–	stamp duty opłata skarbową	–
–	lease rents applicable to real property owned by the municipality czynsz z tytułu najmu nieruchomości gminy	–
–	tenancy rents applicable to real property owned by the municipality czynsz z dzierżawy nieruchomości gminy	–
–	usufruct charges applicable to real property owned by the municipality opłaty za użytkowanie nieruchomości gminy	–
–	servitude charges applicable to real property owned by the municipality opłaty z tytułu służebności obciążających nieruchomości gminy	–

*The charges levied on land excluded from production constitute the proceeds of the Regional Fund for the Protection of Arable Land. Within 15 days after the end of each quarter of the year, 20% of the accumulated funds are transferred to the Central Fund for the Protection of Arable Land, an entity which reports directly to the minister competent for rural development. The transferred funds are used to protect, reclaim and improve the quality of arable land, and to pay statutory damages.

** Pursuant to art. 23 item 3 of the Real Property Management Law, 25% of the proceeds generated in virtue of property sale, usufruct charges, permanent management charges, lease rents, tenancy rents and interests on delayed payments constitute the revenue of the municipality where a given property is situated.

Source: own data

Źródło: opracowanie własne

Table 6. Local and national property charges

Tabela 6. Opłaty od nieruchomości o charakterze lokalnym i powszechnie obowiązującym

Local property charges Opłaty o charakterze lokalnym	National property charges Opłaty o charakterze powszechnie obowiązującym
1	2
Real property tax Podatek od nieruchomości	tax on civil law transactions podatek od czynności cywilnoprawnych
Agricultural tax Podatek rolny	inheritance and donations tax podatek od spadków i darowizn
Forest tax Podatek leśny	income tax podatek dochodowy
Planning fees Opłata planistyczna	VAT VAT
Betterment levies Opłaty adiacenckie	notarial fees taksa notarialna

cont. Table 6 – cd. tabeli 6

1	2
Price of selling municipal property Cena sprzedaży mienia gminnego	court fees opłaty sądowe
Perpetual usufruct charges imposed on municipal property Opłaty za użytkowanie wieczyste nieruchomości gminnych	stamp duty opłata skarbowa
Permanent management charges imposed on municipal property Opłaty za trwały zarząd nieruchomości gminnych	selling price cena sprzedaży
Lease rents and tenancy rents imposed on municipal property Czynsz z najmu, dzierżawy nieruchomości gminnych	lease rents, tenancy rents czynsz z najmu, dzierżawy
Usufruct charges imposed on municipal property Opłaty za użytkowanie nieruchomości gminnych	usufruct charges, servitude charges opłaty za użytkowanie, służebność
Servitude charges imposed on municipal property Opłaty za służebności na nieruchomościach gminnych	lease installments raty leasingowe
	charges for excluding land from production opłaty za wyłączenie gruntów z produkcji

Source: own data

Źródło: opracowanie własne

Table 7. Classification of real property charges in view of the formal grounds for payment
Tabela 7. Klasyfikacja opłat według rodzaju podstawy opłaty

Charges directly related to the value or the price of real property Opłaty o podstawie bezpośrednio związanej z kategorią wartości lub ceny nieruchomości	Charges based on the physical attributes of real property Opłaty, których podstawę stanowią kategorię fizyczne
1	2
Tax on civil law transactions Podatek od czynności cywilnoprawnych	real property tax podatek od nieruchomości
VAT VAT	agricultural tax podatek rolny
Inheritance and donations tax Podatek od spadków i darowizn	forest tax podatek leśny
Income tax Podatek dochodowy	stamp duty opłata skarbowa
Planning fees Opłata planistyczna	court fees – standing charge opłaty sądowe – stałe
Betterment levies Opłaty adiacenckie	charges for excluding land from production opłaty za wyłączenie gruntów z produkcji
Selling price Cena sprzedaży	
Perpetual usufruct charges Opłaty za użytkowanie wieczyste	
Permanent management charges Opłaty za trwały zarząd	
Lease rents/tenancy rents Czynsz z najmu/dzierżawy	

cont. Table 7 – cd. tabeli 7

Usufruct charges, servitude charges, lease installments

Oplaty za użytkowanie, służebność, leasing

Real property tax on structures

Podatek od nieruchomości – od budowli

Notarial fees

Taksa notarialna

Court fees – floating charge

Oplaty sądowe – stosunkowe

Source: own data

Źródło: opracowanie własne

FUNCTIONS OF THE SYSTEM OF REAL PROPERTY CHARGES

Real property charges have two important functions in the contemporary world. By affecting many areas of life, they influence the activities of various entities operating on the real property market, including investors, developers, lenders and providers of support services. Changes in the system of real property charges will either stimulate or inhibit the operations carried out by those entities. To illustrate – an increase in rental rates will increase the rates of return, thus encouraging market actors to invest in rental property. The introduction of home renovation tax credit increases the demand for construction materials and renovation services. **Real property charges have three principal functions:** capital, economic and social.

The main function of real property charges is the **capital (fiscal) function** – real property charges are a source of revenue for both public and private entities. Taxes and public levies provide funding for the central budget, municipalities and other providers of public services (such as the notary public). Under a concluded agreement, real property charges that fall subject to the civil law (e.g. selling price, lease rents, tenancy rents) constitute cash benefits paid by the entity acquiring property rights to the property owner.

Real property charges also have an **economic function**. Since they have a stimulating or an inhibiting (discouraging) effect on market actors, property charges influence their activities and contribute to changes in supply and demand on the real estate market and the associated markets. Housing tax credit encourages prospective property buyers and stimulates demand on the housing market.

Lastly, real property charges have a number of **social functions**. By indirectly influencing living and working conditions, they initiate certain behaviors and act as a catalyst of social processes. An environment conducive to property purchase (e.g. income tax breaks, inheritance and donation tax allowances) encourages young people to buy their first home. On the other hand, the high cost of court proceedings (court fees) may prevent many people from pursuing their rights in court.

DESIRABLE ATTRIBUTES OF THE SYSTEM OF REAL PROPERTY CHARGES

The system of real property charges has to meet certain criteria in order to fulfill its functions effectively (Fig. 3). The list of desirable attributes is purely theoretical and it forms the ultimate model (template).

Stability implies that in line with the good legislation principle, the law should not take the citizens by surprise. The system of real property charges should not be subject to frequent change in order for the citizens to be able to understand, accept and apply its principles. The stability of a system does not imply its unconditional permanence, yet all modifications should have a prospective (long-term) character, and they should eliminate the need for frequent amendments. An example of legislative instability are the frequent amendments to the income tax law in the part relating to revenues generated from the sale of real property, which lead to changes in the taxable base, tax rates, the replacement of the existing tax breaks with new allowances.

Efficiency means that in a long-term perspective, the system of real property charges should constitute an effective source of revenues for public bodies, including the State Treasury and municipalities (taxes, public levies, public property revenues), legal entities and individuals generating incomes from private property. The system is efficient if the following two principles have been taken into account at the stage of its development: the capacity to perform and compliance with market principles. The first principle has a microeconomic character, and the burden of payment is spread on members of the society relatively equally, subject to their “economic prowess”. The second principle is macroeconomic in nature. As external factors, real estate charges are “incorporated” into the economy in a manner which ensures that they do not exert an inhibiting effect on the economy. The system of real property charges has to respect free market mechanisms, while being consistent with the direction of market processes.

⇒ stability – stabilność
⇒ efficiency – wydajność
⇒ economic effectiveness – efektywność ekonomiczna
⇒ administrative simplicity – przystępny system administracyjny
⇒ flexibility – elastyczność
⇒ political responsibility – odpowiedzialność polityczna
⇒ equity – sprawiedliwość

Fig. 3. Desirable attributes of the system of real property charges

Source: own data

Rys. 3. Pożądane cechy systemu opłat od nieruchomości

Źródło: opracowanie własne

Economic effectiveness implies that the system of real property charges should not distort the property market (distort price signals or affect the manner of resource allocation). If possible, it should enhance economic effectiveness by ensuring that resources are deployed in the least wasteful manner. All economic decisions relating to the allocation of resources in real property are to a certain extent affected by real property charges. At the current rates, many decisions concerning property transactions are made in view of the applicable charges (such as housing tax credit as part of which the revenues generated from the sale of real property are exempt from tax, provided that they are used for private housing purposes within two years from the sale. This solution encourages tax payers to invest their capital on the housing market).

Administrative simplicity implies that the cost of operating and managing the system of real property charges should be low. There are two types of costs associated with the system of real property charges: direct costs (e.g. the cost of reaching the revenue office) and indirect costs (e.g. the cost of drawing up and storing documents, the cost of financial consulting services). These costs are determined by two principal factors: the type and the quantity of the required documentation, and the complexity of the system which is determined by the nature of the relevant fees (e.g. complex structure of the legal basis, rates, allowances and exemptions).

Flexibility means that the system of real property charges should easily adjust to changing social and economic conditions. A changing environment (market upturn or downturn) requires modifications in real property charges. Some charges are easy to adjust, some are modified automatically, while others require long-term political debates (e.g. the passage of resolutions on local tax exemptions, legislative amendments at a time of an economic downturn).

Political responsibility implies a transparent system of real property charges which clearly sets out the entities charged with the relevant burden. The conviction that the State and other public authorities (territorial self-governments) should not abuse the citizens' ignorance of legislative provisions is a generally recognized political virtue. Transparency is increasingly often perceived as a characteristic feature of a good state. An example of a non-transparent property charge is VAT which distorts the awareness of a real burden being imposed on the tax payer. The legal tax payer is the entrepreneur who sells real property and pays the relevant tax to the State Treasury, while the economic tax payer is the buyer who pays the tax as part of the price of real property.

Equity means that the system of real property charges should offer similar treatment to persons in the same tax bracket (horizontal equity), while higher charges should be imposed on persons who are capable of paying more tax (vertical equity). Examples of real property charges that fit the equity criterion include the system of rebates applicable to the sale and perpetual usufruct of real property owned by the State Treasury and territorial self-governments, as well as the system of allowances and exemptions available to the payers of the income tax, inheritance and donations tax.

The seven attributes of the system of real property charges, discussed above, are purely theoretical and they form the ultimate model (template). In practice, the system's compliance with the above characteristics is determined by the relevant state policies (domestic legislation concerning real property charges) and the decisions of local authorities (local tax policy, local spatial policy and property management strategies).

CONCLUSIONS

Real property charges occupy an important place on the market as they relate to the possession of property rights, managing public property resources, property development, property transactions and property administration. The role and significance of real property charges grows as the property market reaches new phases of development. A sound knowledge of the system of real property charges is required of all professionals working in the area of property management, valuation, administration and sale.

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POLSKI SYSTEM OPŁAT OD NIERUCHOMOŚCI

Streszczenie. Publikację poświęcono problematyce opłat od nieruchomości, prezentując podstawowe zagadnienia teoretyczne z tego obszaru, tj.: pojęcie systemu opłat od nieruchomości, funkcje pełnione przez ten system oraz jego pożądane cechy z punktu widzenia efektywnej realizacji pełnionych funkcji. Przedstawiono też liczne klasyfikacje opłat od nieruchomości, według następujących kryteriów: charakteru prawnego, okresu wnoszenia, podmiotu uprawnionego do poboru oraz zasięgu przestrzennego i rodzaju podstawy opłaty.

Słowa kluczowe: opłaty od nieruchomości, system opłat od nieruchomości, funkcje systemu opłat od nieruchomości, pożądane cechy systemu opłat od nieruchomości, klasyfikacje opłat od nieruchomości.

Zaakceptowano do druku – Accepted for print: 10.06.2010