

# TAXATION SYSTEM IN POLAND: WAYS OF REDUCING THE TAX GAP

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## Abstract

The article focuses on presenting instruments of taxation system in Poland and its main problem – tax gap. The current tax system in Poland is presented, by definition, on four planes: set of taxes, tax administration, tax law and the principles according to which it should operate. The study discusses the volume of the state tax revenue in relation to the organisation and costs of tax administration, which, though being strongly developed organisationally, is inefficient and expensive. The author presents the problem of declining budget revenues, especially in the area of VAT i.e. tax which have the largest share in the revenue to the state budget. Also identified and presented tax gap is estimated and its components are named (shadow economy, crime or tax optimisation). Instruments which could help to eliminate or to limit the gap – already implemented in Poland and prepared to implement in the coming years – are listed and described.

**Keywords:** taxation, tax collecting, tax gap

**JEL:** H 20, H 21, H26

## Introduction

A tax system is most frequently referred to as the whole of taxes operating in a given place and time. However, a tax system should be viewed upon from two perspectives. A tax system in terms of economics is to generate the state and local government revenues and thanks to them should finance the pre-assumed goals. Because the goals and tasks of state are subject to change in the course of its historical, economic, social and technological development, a tax system and its instruments have to change accordingly. A tax system has an economic significance, but it cannot exist without legal norms, which constitute the basis of its construction and operation. It is them that should be set non-contradictorily, logically and completely (sufficiently) in order to guarantee the most efficient acquisition of funds by the budget. In a broad sense of implementation of the state goals, a tax system should be understood not only as a set (system<sup>1</sup>) of taxes mutually integrated and effective in a particular country and time, but this idea should be completed by treasury administration, law regulating all the issues in the area of taxes, the operation of treasury administration and the principles of the tax system. (see: Dzwonkowski, 2013; Ickiewicz, 2014).

**The purpose** of this paper is to introduce a problem of the tax gap in the tax system in Poland. Author would like to present the instruments that can be used for the reduction or even elimination tax gap. These instruments, by reducing the tax gap, could help to increase the efficiency of the tax system, but they should be implemented by competent and well organized tax administration.

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<sup>1</sup> A system is a set of elements coordinated internally and indicating a definite structure and all organisational norms and rules effective in this set.

## Tax system in Poland

The description of the tax system operating at the moment in Poland according to this definition should include (1) tax set, (2) tax administration, (3) tax law as well as (4) taxation system principles.

(1) There are many kinds of taxes distinguished in the Polish tax system. They are classified according to different criteria (see: Dzwonkowski, 2013; Dolata 2013), object (income, taxable income, wealth and spending taxes), source<sup>2</sup> (direct and indirect taxes), budget destination (state, local, state and local). When enumerating the whole set it should be noted that there are 13 kinds of taxes in operation. They have been organised according to the last criterion (destination) for the purpose of the present study: state taxes comprise taxes on goods and services (VAT), excise and tax on betting and gambling. State and local taxes include personal income tax (PIT) and corporate income tax (CIT). The taxes feeding only local budgets include agricultural tax, forestry tax, real property tax, transportation tax, inheritance and donation tax, tax on civil law transactions, tonnage tax or tax on mineral extraction. The choice of these taxes has been caused by their significance for budget revenues and recent changes in their acquisition.

(2) Tax administration<sup>3</sup> consists of bodies and institutions dealing with the registration of taxpayers, tax assessment, auditing and collection as well as the recovery of tax liabilities, investigations in the cases on treasury crime and offences. Its basic role is to collect tax revenue in the most efficient and fair way. The implementation of this goal is to ensure a permanent and timely inflow of tax and tax liability revenues to the state budget and local government budgets. In Poland tax administration is comprehensive and consists of 16 treasury chambers, 400 treasury offices, including 20 special treasury offices for servicing large taxpayers (operating since 1 January 2004). It is divided into two parts: institutions of government administration and local self-government units. The government administration includes the Minister of Finance, treasury chamber directors and treasury office heads. The self-government administration includes the positions of a village mayor, town mayor president, starost, voivodship marshal and self-government bodies of appeal.<sup>4</sup>

A broadly understood tax administration also includes customs service institutions, which play a role of tax organs in relation to certain taxes (for example excise). In Poland it consists of 16 customs chambers, 45 customs offices, including 49 servicing border crossings. The tax organs are in this case the Head of Customs Service (in the rank of vice minister he manages the Customs Service), directors of customs chambers and heads of customs offices. Within the structure of tax administration there is also a special division of treasury inspection called treasury administration specializing in auditing and recovery: these are the Minister of Finance and the General Inspector of Fiscal Control.

(3) The tax law used to be a part of financial law, due to the changes in the legal system it is presently regarded to be an independent area of law (see more: Nykiel, 1999; Wolański 2009). It is divided into a general part – it includes legal norms referring to all or the majority of taxes making up the tax system, for example regulation included in the Constitution and

<sup>2</sup> There are different opinions about this criterion in the literature.

<sup>3</sup> In the literature, besides a legal description and meaning of the term tax organ there are numerous varied classifications and definition of tax administration, tax administration bodies and treasury administration. It is not the task of the present study to orderly arrange all these terms, that is why all the institutions dealing with taxes are called tax administration.

<sup>4</sup> The structure and competence of every tax administration body are presented on the website of the Ministry of Finance ([www.mf.gov.pl](http://www.mf.gov.pl)).

Tax Ordinance as well as a detailed part regulating the construction of every tax, the so-called material tax law (cf. different ideas on the subject: Dzwonkowski, 2012).

(4) The taxation system principles are scientific postulates addressed to the organisers of the taxation system defining how it should be constructed to effectively implement its tasks. There are many catalogues of tax principles beginning with historical ones formulated by Adam Smith and Adolf Wagner up to the present ones (cf. for example Kosikowski, 2004; Kosek-Wojnar, 2012; (Etel, 2013). As far as the principles go, it would be best for the practice of collection and payment if the tax was certain (unavoidable and not changing), simple to assess and cheap to collect.

### The volume of tax revenue

The economic significance of the tax system can hardly be overestimated as tax revenues account for more than 90% of the budget incomes. The structure of tax revenues in Poland is presented in Table 1.

Table 1. Budget revenues in Poland in 2015

Taxes:	Tax revenues in 2015 in thousands zlotys	Tax revenues in 2015 in thousands euros*	Share %
Corporate income tax (CIT)	32,894,156	7,703,549	10.84
Personal income tax (PIT)	83,140,145	19,470,760	27.42
Tax on goods and services (VAT)	123,120,798	28 833,911	40.59
Excise	62,808,633	14,709,282	20.71
Tax on gambling	1,337,125	313,144	0.44
Total	303,300,857	70,717,501	100

\*Euro exchange rate 4.27 zlotys

Source: author's own calculations based on [www.finanse.mf.gov.pl](http://www.finanse.mf.gov.pl)

The data in the table indicate that the most important tax for the budget is the tax on goods and services, and relatively smallest budget revenues, besides minimal gambling tax are provided by the corporate income tax.

### Tax administration bodies

There are 48,000 clerks employed in the Polish tax administration; the cost of its operation amounts to 3.3 billion zlotys (2011).<sup>5</sup> The report made by the Republican Foundation (Jagliński, 2013) calculated the ratio of administration costs to the total of collected taxes at the level of 1.5%, which means that in order to obtain 100 zlotys of tax, 1.5 zlotys should be spent. The ratio insignificantly changed in the period of 2008-2012, without a clear downward or upward trend, but its volume referred to the ratios in other countries makes a negative impression. Poland is rated 22nd among 25 countries, which indicates very high costs of tax administration. It is enough to say that a corresponding ratio in Sweden amounts to 0.48%, in

<sup>5</sup> According to some opinions these figures should be enlarged by the social insurance system, which functions in the universal awareness as a pre-tax system, 4.7 billion zlotys should be added to these figures (costs of ZUS operation – the insurance system for employees and entrepreneurs and KRUS – the insurance system for farmers) and 55,000 people working for the insurance administration.

Estonia to 0.77% and in the United Kingdom to 0.79%<sup>6</sup>. Only Portugal, Hungary and Slovakia had a more expensive tax administration than Poland in all the European Union countries. Subsequent indicators quoted by the author (the share of tax arrears in tax revenues, average time needed to settle taxes or a yearly number of tax settlements) lead to negative conclusions not only in the area of system costs but also a declining efficiency in tax collection and time intensity of tax settlements. Also calculations included in the study done by Furman (2014) indicate excessive costs of operation of tax institutions in Poland in relation to other European countries. The Minister of Finance said "the present (tax – M.M.) activities spread among three services are inefficient. This state may be compared to a hypothetical situation, in which there would be three institutions possessing the fire service status. The first one authorized to extinguish fire only in the buildings marked with even numbers, the second with uneven and the third one to deal with complicated technical installations or industrial buildings. It has to be changed." (see:www.money.pl)

It is also to be noted that in order to implement the recommendation for Poland made by the Ecofin Council in December 2013, a diagnosis was made of the most essential problems in the area of observance of tax regulations and effectiveness of tax administration. On the basis of it, the Ministry of Finance prepared and approved on 8 April 2014 a document defining a list of actions in the period of 2014-17 to increase the degree of compliance with tax regulations and improving the effectiveness of tax administration.

A special attention should be paid to the report of the International Monetary Fund in reply to the request of the Ministry of Finance with regard to technical aid to modernise the tax administration. The report refers to the problems concerning the need for the institutional reform of tax administration, management and implementation of its basic goals and the approach to risk management in the area of the fulfilment of tax duties. (Toro et al., 2015). The key recommendations formulated the need for creating a new vision of tax administration in Poland. First of all, a uniform National Tax Administration should be created as one entity subordinated to the Ministry of Finance and responsible for the all the tax related problems in Poland and the introduction of a new organisational solution should take effect as well. Besides, some immediate actions were indicated to raise the efficiency of work of tax administration through the impact on the institutional reform, improvement of management of the key tax activity and better management of tax duty fulfilment by taxpayers (Toro et al., 2015). The reform of the treasury administration is under way, and the appointment of the National Treasury Administration is one of the priorities of the Ministry of Finance. The planned reform is aimed at the development of a taxpayer friendly modern administration, efficiently collecting public duties and simultaneously taking care of the state financial security. According to the announcements of the Minister of Finance the advantages resulting from the introduced changes will be discernible for taxpayers and entrepreneurs. The performance of new offices will be more efficient; the consolidation of administration will be a source of saving for the state budget. The Act on the National Tax Administration (KAS) assumes changes in the structure of institutions and new tax-control procedures, a new classification of staff (treasury clerks and KAS functionaries). The KAS functionaries will have more power than treasury clerks. It will be them that will constitute the stem of customs treasury offices, which will deal with inspection and treasury intelligence. (see: Szulc and Jędrzejewska, 2016)

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<sup>6</sup> After the reform of administration in the United Kingdom this ratio plunged from 4.15% (2010) to 0.77% (2012). Estonia may also be an example of a successful reform of the tax system. There are low tax rates there and the system is simple thanks to making the personal and corporate income taxes linear (low collection costs, small number of yearly tax settlements (7) and 80 hours needed for tax settlements).

## Tax gap and its components

The need for the change of tax administration did not result only from the worrying levels of the aforementioned indicators showing a low efficiency of tax administration but also from the declining tax budget revenues. It is reflected primarily in the tax gap and shadow economy.

According to the PricewaterhouseCoopers (PwC) report on the tax gap (PwC, 2014), the improvement in the performance of tax administration may bring effect in the form of the improvement in the real budget revenues, as a result of which there could be a reduction in the tax gap, which is now estimated from 36.5 to 58.5 billion zlotys with regard to the VAT itself. The calculation of the exact volume of the estimated amount is less important than measuring the tax gap growth rate, which according to the minimum assumption rose from 10.6 billion zlotys to 36.5 billion zlotys in the years 2006–2012, and maximum from 25.2 to 58.5 billion zlotys (see: PwC, 2014).

In Poland there has been no official tax gap definition, but the most general definition describes the gap as a difference between tax revenues, which theoretically should be implemented and the actual amount of revenues. The tax gap, however, is not the only measure of the relation of **actually** obtained tax revenues to the revenues **potentially** possible to obtain, because the second gap is the so-called political gap describing the relation of **reduced** tax revenues as a result of the state policy having fiscal consequences to **potentially** achievable revenues if these preferences did not exist, for example in the value added tax, these preferences consist primarily in the application of reduced tax rates (Adamczyk and Czyż, 2015).

Tax gap is naturally a disadvantageous phenomenon not only because of the reduced budget revenues but also because it does harm to the honest entrepreneurs, who adequately meet their tax liabilities, thanks to which they cumulate smaller funds to meet their own needs. Besides, the tax administration, forced by poor results of tax collection, carries out strict auditing to recover the lost revenues of also honest entrepreneurs, whose only sin (in view of a complicated tax system) may appear to be just a common mistake. Tax gap has the greatest significance with regard to the VAT tax because, as remarked before, this tax ensures the biggest budget revenue, besides the very construction of VAT in some cases "facilitates" the creation of the gap. Its considerable sizes will also be an obstacle to reduce a basic rate, and even may cause its rise.

*PricewaterhouseCoopers* estimates tax gap with regard to VAT taking into account a theoretical volume of VAT revenues assuming that all taxpayers declare and pay tax according to the current legal regulations. VAT revenues calculated in this way are compared to the real data, i.e. real tax revenues. The calculations are based on a theoretical tax base, calculated on the basis of final consumption of households, public entities, indirect use and investment. PwC, in its publication *VAT extortion – tax gap in 2014 and forecast for 2015*, analyses the volume of tax gap in 2006–2015 as a percentage of GDP in Poland. The results of the calculations are presented in Table 2.

Table 2. The change of VAT gap as a percentage of GDP in 2006-2015

Year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Percentage of GDP	1.0	0.6	1.0	1.5	1.5	1.9	2.3	2.9	2.4	3.0

Source: VAT extortion – tax gap in 2014 and forecast for 2015, PWC, [www.pwc.pl](http://www.pwc.pl)

It may be noticed that in 2007 the tax gap began rising (from 0.6% in 2007, which accounted for 7.2 billion zlotys up to 2.9% in 2013). The growth the VAT is particularly disturbing because GDP was on the rise, which was connected a consumption growth. This growth should result in a clear increase in the budget revenues on account of VAT, and it does result in the tax gap rise.

According to the PwC report (PwC, 2014) findings the size of the tax gap is affected by:

- unregistered transactions made in the shadow economy,
- crime – extortion of taxes, primarily VAT,
- tax avoidance through legal though sometimes aggressive tax optimisation,
- other phenomena – bankruptcies, mistakes or arguments.

The idea of the shadow economy is used not only in the area of taxes but also in other regulations of social life, social insurance and employment. The term shadow economy is referred to activities beyond the official state controlled turnover (Łapiński et al., 2015). One of the reasons why the shadow economy comes into existence is the imposition of excessively burdensome regulations by the state. M. Morawiecki, the Minister for Development stated that "it is not the volume of tax that poses a major problem, but paperology and sealology, law volatility, general bureaucratic nuisance and numerous absurdities far removed from an everyday company operation." (see: UN Global Compact, 2015/16). Shadow economy operates in many areas of life and may affect many areas of life. The consequences of its existence may be either immediate (a larger annual deficit or reduced health insurance premiums) or deferred (lower old age pension payments, necessity for higher tax rates or tax administration extension). Because there are no official data on the size of the shadow economy, estimates attempt to approximate the size. Such estimates are made by the Central Statistical Office (GUS). They may also be found in the report of the Institute for Market Economics or the Global Compact.

As the shadow economy, for obvious reasons, is not subject to the control of state or its statisticians, many methods are used to estimate this phenomenon, for example analysis of the labour market, monetary sphere, fiscal and econometric modelling (see more: UN Global Compact, 2015/16). For example, GUS uses three elements in its estimates:

- 1) illegal activity, i.e. crime and offences,
- 2) hidden activity conducted by entrepreneurs consisting in underinvoicing turnovers and disclosing only a part of output,
- 3) informal business activity (unregistered) undertaken by physical persons.

At the same time GUS indicates that the biggest impact on the size of the shadow economy is exerted by unregistered activity conducted by registered entities, i.e. this part of the shadow economy which consists in concealing a part of incomes by legally operating companies, e.g. in the years 2009–2012 its share in GDP was estimated at about 9.9 percent, which accounted for nearly 75% of the whole shadow economy.

In its estimates GUS uses data from the labour market as well as surveys. It uses also a comparative method of expert work productivity norms and remuneration in different types of companies with results obtained from statistical reports. Completely illegal activities are to be estimated, too. GUS has not published estimates of the size of the shadow economy including illegal activity, though it has already presented certain calculations about it.

With regard to the tax policy, it is obvious that the lost tax revenues are the most important issues from the point of view of the state budget. The elimination of the shadow economy

would mean a rise in the revenues of the public finance. According to the *Ernst & Young* estimates (Un Global Compact, 2015/16), after the elimination of the shadow economy, on account of CIT and VAT the state revenues should have risen at least by 40.3 billion zlotys in 2014, 23.6 billion of which on account of VAT and 16.7 billion on account of CIT.

Besides the shadow economy the tax gap is also affected by another illegal – understood not only with regard to illegal sectors of economy – business activity, i.e. tax extortion, which primarily has to do with VAT.

The methods connected with the extortion of the tax on goods and services are different and depending on the sector and character of the product and transaction they may consist in:

- (1) fictitious export of the goods, although the delivery never leaves the country, it is declared as intra-community delivery or export; or
- (2) falsified transaction object – admittedly, intracommunity delivery of goods or export is declared, and the transport is really effected, but the object and value is not true, or
- (3) fictitious place of implementation – the declared location is outside the country territory, while in real terms it is done in the country.

Thanks to such distortions, dishonest taxpayers may achieve undue tax advantages, as they will not have to pay the real tax amount according to the regulations. The remaining VAT related extortions and frauds are connected with the tax constructions. The right to reduce the amount of the tax due by the tax calculated, and also the return of the tax surplus is a solution that generates possibilities of abuse on an enormous scale. In the case of such tax extortions concerning the **tax calculated** or tax return it is necessary to falsify sales documents, e.g. through issuing invoices by non-existing entities in business turnover; or documenting the activities that never took effect; or indicating amounts not compliant with reality; or including the tax that should not be revealed there at all.

In the business practice the most common methods of tax extortion are: a tax carousel method (probably the most famous), dummy method, missing trader method or using the *Tax Free* system.

According to the research done for the European Commission, and also analyses published by PwC the VAT gap amounts to 39–47 billion zlotys. Unpaid tax is not only a result of tax frauds and extortions, a part of this amount is the tax unpaid by entrepreneurs who declared bankruptcy or effectively applied legal tax optimisation. However, it is a small percentage of the tax gap. Of course, it should be remarked that VAT extortions do not concern only Poland; in the European Union the tax gap in VAT amounts to about 16%, however in Poland it goes up to as much as 25% (PwC, 2013).

Tax avoidance through legal, though the so-called aggressive tax optimisation is a tax gap component. Tax optimization is perceived as the search for legal solutions aimed at the tax burden reduction. The difference should be indicated here between **tax avoidance** and **tax evasion**. Although both strategies are used to reduce tax liabilities, the avoidance is compliant with the law, while tax evasion is a kind of illegal activity connected with the breach of existing regulations. Besides VAT troubles, there is a more and more conspicuous problem of the loss of a part of CIT caused by an aggressive tax optimisation consisting in transferring incomes to countries of more lenient tax regimes. The main reason behind the development of bad practices related to avoiding taxes in the real location where income is generated is connected with the **expansion of international corporations**, which pursue tax strategies based on the expertise of international tax law. Taking advantage of tax avoidance is

particularly discernible by the state budgets of poorer countries, whose tax revenues determine economic development.

### **Instruments reducing tax gap**

An important element in the tax gap prevention is to use legal instruments interfering in the activities conducted within the shadow economy, illegal activities or tax optimisation pursued on the brink of law. The instruments already in use in Poland include: (1) cashless turnover promotion, (2) fiscal receipt lottery, (3) reverse charge, (4) buyer's joint tax liability, (5) exchange of information on Polfisc Platform and a (6) uniform control file recently introduced for some taxpayers.

Some instrument which are repressive in character should not be forgotten, for example (7) treasury audits (including cross-audits) or (8) denunciations.

Besides the existing and operating instruments limiting the possibility of tax abuse some new projects are about to be launched; they include: (9) central register of invoices and (10) split payment.

Recently, there have been some information about electronic fiscal receipt, but this is a solution arousing a lot of controversy due to the problem of protection of personal data and information that may serve broadly understood surveillance of people making purchases.

(1) The first measure mentioned and already in operation in order to tighten the tax system is the **cashless turnover support**. Because the transactions made in the shadow economy are exclusively cashless in character, therefore there is no trace of the conducted transaction in the financial system. Compulsory cashless settlements will eliminate the dishonest transactions then.

In Poland cashless turnover refers only to transactions between entrepreneurs and besides the single value of such a transaction has to exceed the equivalent of 15 000 euros, but the limit will amount to 15,000 zlotys from 1 January 2017. If despite the limit set in the regulations, there are cash transactions exceeding it, the entrepreneurs will be penalised and what is more it will be impossible to classify such expenditure as tax deductible expenses. Additionally, it should be said that entrepreneurs are encouraged to observe the cashless turnover limit by the mechanism of accelerated VAT return (25-day period of return in comparison with a standard 60-day period) in the case of cashless payments<sup>7</sup>.

(2) Another, relatively new method of fighting against the shadow economy in the **fiscal receipt lottery**. It is an operation launched by the Ministry of Finance in 2015. The aim of this method of tax system tightening is to encourage honesty on the part of both sellers and buyers. As a consequence, there will be a reduction in the tax gap as all transaction taxed with VAT will be revealed through the pressure from consumers (the slogan "Take the receipt") and the desire to participate in the lottery. It seems that this is also a way to increase the tax awareness of citizens, and the lottery in compliance with the intention of the Ministry of Finance should additionally draw people's attention to unregistered transactions in the selected areas of business activity.

(3) Another instrument used to fight declining tax revenues is the mechanism of reverse charge, which consists in the change of calculating and deducting VAT through the change of the entity responsible for its settlement. In the mechanism it is the buyer that

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<sup>7</sup> Article 87 Section 6 point 1 of the Act of 11 March 2004 on VAT (Journal od Laws 2004 No. 54 item 535)



is responsible for the VAT settlement. The mechanism was first applied in Poland in 2011 in the scrap metal turnover and transfer of greenhouse gas emission rights.

- (4) Another instrument is the buyer's joint tax liability, which refers to joint liability on the part of sellers and buyers with regard to the so-called sensitive goods like metal goods, fuels or chemical preparations used in photography<sup>8</sup>. The entity which received a delivery of sensitive goods is jointly liable with the supplier for the supplier's tax liabilities within the part of tax on the delivery executed in the buyer's favour. The joint liability is applicable when:
- the net value of sensitive goods bought from one entity exceeded the amount of 50,000 zlotys in a given month, and
  - at the time of delivery of the goods the taxpayer knew or had reasonable grounds to believe that the entire amount of tax on the delivery of those goods executed in his favour, or a part of this amount will not be paid to the tax office<sup>9</sup>.

This mechanism is aimed at curbing the application of the idea of a "missing trader" in VAT frauds. The joint liability was introduced into the Polish system in 2013.

- (5) And in April 2014 the Polfisc platform was launched to be used by treasury institutions. The Polfisc platform allows for (see: *Działania zwiększające stopień przestrzegania przepisów podatkowych i poprawiające efektywność administracji podatkowej w latach 2014–2017 – Activities to raise the level of tax regulations adherence and to improve the efficiency of tax administration in the years 2014–2017*):
- current identification of entities committing VAT frauds in group and individual analysis of every treasury office,
  - shorter time of analysis due to the use of electronic analytical tools,
  - faster identification of entities suspected of frauds and disclosure of them still in the phase of financial activity, which will translate into efficient fund security,
  - possibility of fast identification of tax fraud and the identification of its location in the chain of entities,
  - possibility of sectors affected tax frauds,
  - possibility of identification and monitoring of the Union partners effecting deliveries to missing traders,
  - development of the system of information exchange allowing for the optimal allocation of control proceedings accounting for the technical and physical possibilities of the offices.

This platform operates on the uniform basis of suspected entities and follows the pattern of the system of information exchange between tax administrations of the European Union countries – Eurofisc.

- (6) The Standard Audit File (SAF) is also an IT instrument. The SAF system makes firms doing accounts by means of computer programmes send electronically the information from their accounts in a definite clustering standard to tax institutions. Sending monthly files is effected in an electronic form with the guarantee of security, credibility and undeniability of the data included in the accounts. The duty of transferring files has been in force since 1 July 2016 with regard to large entities, and from 1 January 2017 it

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<sup>8</sup> Annex No. 13 VAT

<sup>9</sup> Article 105a Section 1 points 1 and 2 of the Act of 11 March 2004 on VAT (Journal of Laws of 2004 No. 54 item 535)

will also deal with small and medium-sized entities. And, from 1 January 2018 it will include also micro entrepreneurs.<sup>10</sup>

The introduction of SAF will shorten the time of audit and make it less troublesome for taxpayers. The transfer of file will occur within checking activities, so the audit at the taxpayer's will not be necessary. The auditing institutions will obtain instruments facilitating an efficient audit.

- (7) Another method used to fight the shadow economy is **conducting treasury audits including cross audits**. In the case of proving the concealment of a part or the whole income to the entrepreneur, penalties are imposed according to the law. If there is a suspicion of a large scale business activity in the shadow economy, and the state losses on this account are considerable, there are special police whose task is to fight against business crime.<sup>11</sup> It is a repressive method, not the one encouraging taxpayers to be honest and reliable in the tax area. The so-called **cross auditing** is also a repressive tool referring primarily to tax carousel frauds. The possibility of fight against frauds concerning false trade transactions by treasury offices has been limited though. During a conducted audit, a tax institution may require documents to verify from direct partners of the audited entity<sup>12</sup> (not indirect though). Suitable instruments to fight against this crime will be given primarily to the Treasury Audit Offices. Their directors will be able to verify the credibility of every entity participating in a given turnover of goods and also to examine whether these taxpayers acted in good faith and were duly diligent with regard to VAT deductions.
- (8) One of the well proven tools used by tax offices and chambers to fight against VAT extortions is a **denunciation**. Tax offices and chambers receive information in anonymous letters, electronic mail and also on the phone and in person. The information is submitted primarily by entrepreneurs who inform these institutions about the breach of law by competitors or physical persons. The aforementioned methods of fighting against tax extortions (primarily in VAT) have been introduced into the Polish system and are operating within it.
- (9) The central register of invoices is a system which allows for the tightening of the system of tax collection and reduction of the tax gap. The register is a database including invoices which reach buyers. This solution would let the treasury bodies access all taxpayers' invoices, issued by them as well as received. The analysis of entries in such a system made with advanced mathematical methods, supporting to detect tax frauds would help to reveal tax forgeries, and at the moment of finding some irregularities could automatically block VAT payments.
- (10) Split payment is a method of the so-called divided payment in VAT. When this method is used, the taxpayer purchasing goods or services pays the buyer only a net amount, and VAT calculated on the invoice is paid on a special supplier's account controlled by

<sup>10</sup> According to the Ministry of Finance for example, the analysis on 1000 invoices in this system will last only 3 minutes, what is more it will allow for the fast indication of companies to undergo cross-auditing, which is the basis for fishing out transactions serving only VAT extortion. SAF has already been introduced by some EU countries (Portugal, France, Luxembourg; Lithuania is making preparations) and it seems the results are very good (for example in Portugal in the first year when this solution was in force, the VAT revenues rose by 13%).

<sup>11</sup> According to the Institute for Market Economics the application of preventive activities to curb the shadow economy is much more effective than the aforementioned repressive measures. These activities should consist in the creation of appropriate legal and economic regulations which may discourage entrepreneurs from concealing their activity and evading paying taxes, e.g. the simplification of the tax system, fiscal burden reduction, reduction in non-tax costs of business activity; reduction in the number of regulations – concessions and permits. (see: Fundowicz, Łaciński, Peterlik, Wyżnikiewicz, 2016)

<sup>12</sup> Article 274c. § 1, Act of 29 August 1997, Tax Ordinance, (Journal of Laws 1997 No. 137 item 926).

the treasury office and used exclusively for VAT settlements. The supplier cannot dispose of the VAT due amount, which he can do at present, till the moment it is paid to him by the treasury office.

## Summary

It should be remarked that from the state perspective the inefficiencies of the tax system translate into the reduction in tax revenues as a result of poor tax collectability or dishonest taxpayers' performance. As mentioned before, the tax system has an economic significance, it provides funds to achieve goals set by the state and if it does not work effectively, the state goals will not be implemented. In order to counteract the tax gap, the state should use different tools and methods. The methods should be well adjusted to the activities of dishonest entrepreneurs or even tax criminal. It is best when the measures are able to forestall them. These methods and instruments will bring an appropriate effect – they will tighten the tax system – only when supported by an efficient tax administration. An inefficient, and consequently unfair, for the honest taxpayers, tax system will translate directly not only into the state revenues but also into the competitiveness of every enterprise and as a result into the whole economy.

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