Towards complex pro-family policy in tax regulations

Kompleksowe uregulowania w zakresie podatkowej polityki prorodzinnej

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Summary
Income tax, through the proper structure of its pro-family reliefs, should be one of the elements of a complex welfare support for Polish families and a vital instrument in accomplishing the objectives of the state pro-family policy. Analyzing welfare, social and pro-family functions of taxation in the construction of personal income tax, we made a holistic analysis of relationships between fiscal instruments of welfare support (within social aid) for the family and fundamental notions of human rights and social equity.

Keywords: pro-family tax policy, allowances, reliefs, support, social equity, personal taxation

Streszczenie
Polityka prorodzinna, to polityka mająca na celu dobro rodziny i społeczeństwa. Polityka prorodzinna polega na próbę tworzenia przez państwo (samorząd terytorialny itp.) rodzinom odpowiednich warunków ekonomicznych. Obejmuje stosowanie ulg podatkowych, płacowych dodatków i zasiłków dla osób utrzymujących rodziny i dzieci, stosowanie preferencji kredytowych dla młodych małżeństw, zapewnianie mniej zamożnym rodzinom mieszkań w budownictwie publicznym, zapewnienie bezpłatnej opieki zdrowotnej dla matek i dzieci, preferencje w uzyskaniu pracy oraz jej ochronę dla pracujących matek itp.

Słowa kluczowe: polityka rodzinna, ulgi, zwolnienia, wsparcie, sprawiedliwość społeczna, podatek dochodowy
Pro-family tax policy

Firstly, pro-family policy is undoubtedly a policy implemented in the interest of the family and the society. Its premises are deeply rooted in the belief that a family is the most important unit of a society and plays a vital part in the process of raising children and youth. This policy consists in attempting (by the state or local government) to create appropriate economic conditions for families. It covers tax reliefs, wage allowances and benefits for people maintaining families and children, using loan preferences for young couples, providing public accommodation for less affluent families, free health care for mothers and children, preferences in finding jobs and preserving these jobs for working mothers, etc. Such an approach to pro-family policy means that it is part of many sections of economic policy (fiscal, employment, welfare, accommodation, education, etc.), and it allows parents to make decisions concerning the number of children, tying to create for these children appropriate conditions for gaining knowledge, developing, being promoted and accumulating wealth, while on the national scale – providing simple reproduction of population and sound age structure. We should remember that pro-natal policy should be an indispensable part of pro-family policy and it should consist in creating various moral and material incentives for increasing the number of children in a family. It should also take care of large families.

Secondly, the state implements the family policy using the following instruments: legal measures, monetary allowances, allowances in kind, allowance in form of services. Legal norms regulate family relations and relations between the family and the state and other institutions. They also determine principles and conditions of using family benefits, defining the circle of people entitled to receive financial, in kind and service allowances. Financial allowances in form of various benefits and allowances may obligatorily or discretionally (through the system of social support) be allocated to particular families. Benefits in kind cover various goods provided for families (clothes, fuel, food parcels, etc.). Benefits in form of services are provided by various institutions. They are aimed at supporting the family in performing its basic functions. These services are offered by means of social infrastructure (for example crèches, kindergartens, day-care rooms at school). The state is the main entity shaping family policy, as it is responsible for determining, conducting and financing this policy. We should emphasize that this model of family policy is typical of European countries. The tasks and powers of the state in family policy are shared among central, regional and self-government organs. Other entities of family policy are also non-government organizations, trade unions, associations of employers, the Roman-Catholic Church, other
churches and religious unions. In western Europe we can observe an increasing number of entities implementing family policy through processes of power delegation and greater role of social partners.

Thirdly, in order to encourage parents to use institutional forms of children care and education as well as to encourage mothers to take up work, we should modify the pro-family tax relief so that its part (or even the whole relief) was clearly related to costs incurred by parents and related to care (and education) of their kids, it could be used on condition that both parents work. Linking financial support/tax reliefs for pre-school education of their kids to the requirement that both parents should work exists in many countries, for example in the Netherlands. Such modification could increase budget incomes by increasing tax incomes from women who take up work. A drawback to the system in which incentives for women to take up work stem mainly from tax reliefs is that it does not solve the problem of families with very low incomes (they pay very low taxes), so probably – families where women have low education. An alternative solution could be to eliminate the whole system of family reliefs and to allocate financial resources to direct co-financing to child care in families where both parents work – in form of care and education vouchers. Such a solution requires detailed analysis of the possibility of constructing an effective system of distributing public resources.

Fourthly, we should limit tax preferences which do not significantly influence employment of women or the number of children they have and which contribute to a high deficit of public finance in Poland. We propose to eliminate “becikowe’ (one-off payment of allowance for a newly-born child) – financed both from central budget and from communes own resources, which does not contribute to the increased professional activity of women or their employment but is an ineffective tool of pro-natal policy. We could also consider eliminating the possibility of joint income taxation of spouses or – at least – restricting this privilege to families with children in which both parents work. The current system, in which all spouses can use it, no matter whether they are professionally active or not, whether they maintain children, weakens motivation of unemployed women to take up work. OECD countries are currently diverting from joint taxation of spouses, though progressive taxation systems still dominate.

Complex pro-family policy

Towards complex pro-family policy in tax regulations should consist in:
1. The project of changes to the personal income tax should assume mainly the introduction of tax-free amount for child maintenance. This amount is not a tax

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relief but a construction element of the system guaranteeing equality of taxpayers in carrying public burden. Therefore this amount should be available to each taxpayer who maintains their own or adopted children, for each child, regardless of the form of income taxation or marital status.

2. Tax-free amount should be determined as minimum cost of maintaining a child (subsistence minimum). To preserve a fixed relation between the amount and the costs of child maintenance regardless of the inflation, we should determine its size using the appreciation clause (125% of average monthly earnings in enterprise sector).

3. The aim of such mechanism is not to cover the costs of child maintenance, even in subsistence level, but to neutralize economic burden of VAT tax, imposed on child’s necessary consumption. The proposal aims at allowing to lower the tax base by this amount, not to make a deduction from tax in this amount.

4. The main goal of changes in law should be to eliminate unequal treatment of people maintaining children and those who do not by Polish tax law. The valid tax system places heavier burden on people supporting children than on those who do not, at a similar consumption level. The current PIT Act can be seen as inconsistent with the Constitution in this respect. The aim of the act is not to implement pro-family policy (income tax is potentially one of instruments of pro-family policy) or to create particular preferences for a family. It is all about eliminating discriminating effects of indirect taxation imposed on child’s consumption, in its necessary scope.

5. The changes proposed are fully justified in comparative analysis. In nearly all European Union countries, beginning with the biggest ones: Germany, France, Spain, Italy, to Austria, Belgium, Estonia, the Netherlands, Luxemburg, Hungary, Bulgaria or Romania, the necessity to reflect the costs of maintaining children in the tax system is seen. The taxpayer who spends his income on children, cannot pay the same income tax as he would pay if he did not have children, without detriment to them. With similar level of personal consumption, such a taxpayer pay much bigger VAT than a person who does not maintain children, as he pays VAT on necessary consumption of his children. Therefore EU countries introduce either the principle of joint taxation of a family (not only of spouses), which goes beyond the principle of tax neutrality but supports families, or, in order to provide equal treatment of taxpayers in carrying public burden and to ensure tax neutrality for the family, tax-free amounts are introduced for each child. These solutions do not free the taxpayer from the economic burden of maintaining the child. It is the family that incurs the costs of maintaining and educating children. These solutions, however, bring neutralization of economic burden of VAT tax which is imposed on the child’s consumption.
The first of these models assumes joint taxation of spouses and children by summing up family incomes, tax-free amounts and dividing by the number of family members (multiplying by the coefficient defined in the law). This solution can be found in France and Luxemburg.

The second model stipulates taxation of personal incomes only when they exceed specific amounts necessary to maintain the child. Such solutions are used in Italy and Estonia. The latter is of particular interest, as it is far less case-based than the former and functions in the line tax system (one uniform tax rate). It also proves that the problem of tax discrimination against people maintaining children exists not only in the progressive tax system, though tax progression is especially painful to people maintaining children. It should also be noticed that the countries using the tax-free amount systems, the system only supplements the principles of joint taxation and is not an alternative solution to it (for example in Germany, Austria, Spain, Belgium). Regardless of the differences in tax constructions or size of tax-free amounts for particular children (these range from 300 to 2000 euro and depend on the number of children and maintenance costs in a given country), the universality of these solutions shows that they express a general view that the tax system should be at least neutral towards the family and tax law-makers must take into account the constitutional obligation of equal public burden.

6. Western Europe notices that the principle of joint taxation with children or tax-free amounts also bring other positive effects apart from anti-discrimination ones. They decrease the pressure on development of very case-based social regulations and expansion of bureaucratic institutions servicing social transfers. This decreases costs of redistribution. These regulations thus contribute to optimization of the expenditure of the state and households. They also decrease the need to spend large sums of money on public orphanages, systems of family benefits, and what is most important, they increase upbringing and education opportunities for children from poor and less affluent families.

7. Protection of family and parenthood is a fundamental duty of all public authorities in Poland (Article 18 and Article 71, paragraph 1 of the Constitution). This obligation forbids to treat people with children worse than people without them (Article 32 of the Constitution). This also refers to the tax law, as emphasized by the Constitutional Tribunal. The Tribunal stated that, for example: “... when determining the amount of income tax, we should take into account not only the size of income obtained by the taxpayer, but also his payment capacity, determined after taking into consideration necessary expenditure for maintaining his family.”

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2 Porozumienie Stowarzyszeń Na Rzecz Rodziny http://www.pro-rodzina.pl
4 Decision from 11.04.1994, case number K 10/93; judgment from 07.06.1999, case number K 18/98; judgment from 04.05.2004, case number K 8/03.
Since one taxpayer has members of family to maintain and the other does not have such burden, they are not in an identical tax situation. Therefore they can and should be treated differently.” (judgment K 8/03). The Constitutional regulation and the judgments made by the Constitutional Tribunal show that people with financial burden of maintaining their children cannot be asked to pay public tribute which is larger than that paid by those who do not have children, especially in a situation which leads to depriving the taxpayer of necessary income to support themselves and their family. The violation of the principle of equality with reference to public burden by the Polish Act on PIT is visible in two spheres:

First of all, since the child is born or adopted, parents have been obliged by the maintenance obligation. The tax law does not reflect this fact, except for people who raise their children on their own (only the first child). The Tax Act requires the same tax payment from the taxpayer who does not carry any maintenance obligation and from the one who maintains several children, although the final beneficiary of obtained income is a child, not a taxpayer. Thus, a child obtains income at the expense of their parents. Neglecting this fact leads to the situation in which the act treats equally entities which differ significantly (child maintenance), which violates the principle of equality in carrying public burden.

Secondly, the costs of child maintenance visibly decrease payment capacity of the taxpayer. This is particularly visible when VAT rates for children products were raised. Double taxation: with income tax and VAT tax, of the amounts necessary to maintain a child seriously limits constitutional right to have start a family. A married couple who raise a child must, first of all, pay income tax in progressive scale, and cover increased costs of household consumption with the remaining income. If we bear in mind the fact that VAT on children products was increased to 23%, it is easy to notice the lack of neutrality of the Polish system towards people maintaining children. Polish tax regulations especially hit large families in which usually one parent has to sacrifice their professional career and take care of children. In those families one income must be sufficient to maintain all persons and still income is not divided before taxation, no tax-free amounts are available. Large families in Poland, in spite of their efforts, are doomed to pauperize. This norm does violate constitutional guarantee of special care for large families (Article 71 paragraph 1 of the Constitution).

In consequence, we must assume that legal changes neutralizing burden of indirect taxation only serve as a guarantee that taxpayers with children will be equally treated as those who do not maintain any children. The project of changes should not exclude further support of families.

A vital factor justifying the adoption of the proposed concept of tax-free amount is a macro-economic factor. The demographic situation that may appear in Poland in the future may have very negative consequences for the economy.
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There is no doubt that in the medium-length perspective the current demographic trend in the labor market will be maintained by generations from population decline period, whereas the number of people in retirement age will grow out of proportion. This will be the effect of longer life expectancy and retirement of baby-boom generations. The level of burden related to maintaining people in retirement age may be so heavy that it will lead to slowing down Poland’s economic growth. Even today our social insurance contributions are considered the main obstacles to entrepreneurship. It is highly probable then that these contributions will grow to an unacceptable level. We should also pay attention to the fact that even if we introduced capital pension funds and eliminated Social Insurance Company (ZUS), this would not protect the resources we are gathering against depreciation. We can expect weaker demand and stagnation due to unfavorable demographic structure of the society.

Conclusion

The comparison of European tax systems and taking into account constitutional guarantees and economic arguments, we can put forward a thesis that it is necessary to introduce mechanisms neutralizing fiscal policy towards taxpayers maintaining children. This solutions is fair, a fact well known by those who take the challenge of raising children. This solution is also expected by the society, as over 90% of the society has been expecting the introduction of some mechanisms supporting families for the past few years. It seems that the proposed mechanism has the advantage that it does not promote ‘giving away’ public money, therefore it does not de-motivate, but it encourages younger generations to work harder and more effectively. Leaving a larger part of obtained income in a family will have stimulation effects. This will also contribute to revealing sources of income that has often been hidden due to serious tax burden.

We should emphasize that it is hard to consider the Polish income tax as really pro-family tax. It has some institutions related to family taxation, but they provide only secondary protection of family members. This is mostly due to the problem of accomplishing both fiscal and non-fiscal objectives. Such a situation is a result of instability of legal regulations and the lack of long-term tax policy assumptions.

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