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Fulfilment of the Neutrality Principle and the Fiscal Function of the Tax on Goods and Services – Selected Issues

***Abstract.** It follows from the analysis that there is some tension between the implementation of the principle of neutrality and the fiscal function of the tax on goods and services, which is as a kind of value added tax. It is true that our legislation should follow the EU law. Nevertheless, in some areas a Member State is free to form its own tax system. With regard to this freedom, as is clear from the analysis, decisions about changes in goods and services tax have been mainly guided by its fiscal function. Of course, the need to ensure budget revenue at a certain level will always be a priority for every state authority. However, the realization of the fiscal function of goods and services tax should always be confronted with the need to comply with one of its fundamental features, i.e. the principle of neutrality. This means that the degree to which the principle of neutrality is respected in the construction of goods and services tax has a significant impact on the fulfillment of its fiscal function.*

***Keywords:** neutrality principle, fiscal function, tax on goods and services, value added tax*

Introduction

At the current stage of development every state has to obtain funds to accomplish specific public tasks. Taxes are the main instrument that serves this purpose. The fundamental function of a tax in a properly functioning public finance system is the fiscal function [Wojtyna 2000; Famulska 2007: 116 ff.; Kosikowski & Ruśkowski 2008: 465 ff.; Wójtowicz 2008: 144-145; Owsiak 2013: 173]. This function must therefore be regarded as principal and necessary for accomplishing other functions attributed to taxes [Sokołowski 1995: 23-26; Famulska 2007:

116-118; Kosikowski & Ruśkowski 2008: 470-472; Wójtowicz 2008: 144-145; Mastalski 2012: 30-37]. The usefulness of tax as a fiscal instrument – to guarantee an adequate level of tax receipts – results mainly from its features as a mandatory contribution, the payment of which may be enforced, as a last resort, using coercive measures [Harasimowicz 1988: 112; Gaudemet 1990: 352-361; Gajl 1992: 218-224; Kosikowski & Ruśkowski 2008: 465; Nykiel 2010: 27-37; Nowak-Far 2011: 373-377].

Among existing forms of taxation, indirect taxes are one the most efficient tools of satisfying the state's demand for money. One commonly used kind of indirect tax is the value added tax, which is known in Poland as the tax on goods and services (TGS). Because of the way it is calculated [James 2015: 25 ff.], VAT is relatively cheaper than other tax instruments used by the state. This feature of VAT stems directly from the in-built self-control mechanism. On the one hand, the self-control results from the conflict of interest between the entity performing an transaction subject to taxation and the beneficiary of this transaction – assuming that neither party intends to violate the regulations; on the other hand, the self-control is associated with the procedure of documenting transactions made. In addition, the obligation of calculating the amount of due tax is the responsibility of the taxpayer.

These characteristics of VAT do automatically guarantee its optimal efficiency. VAT's fiscal efficiency is affected by many factors, some of which are external [Hybka 2011: 6; Ebrill et al. 2001: 51-61; Aizenman & Jinjark 2006] (e.g. macroeconomic variables), while others result from the form of the tax and the way it is implemented [van Brederode 2009: 49] (above all tax neutrality) as well as the fact that tax authorities can easily check if the VAT on particular transactions has been correctly calculated.

The purpose of this article is to analyse the relationship between the fulfilment of the neutrality principle and the fiscal function of the tax on goods and services. Consequently, the first part of the study is devoted to the analysis of macroeconomic data in order to assess the fiscal significance of the tax on goods and services for the public finance in Poland. The next part is an attempt to identify the fiscal effect of maintaining legal solutions that reduce the neutrality of the TGS. The last part deals with directions of changes in the implementation of the TGS that contribute to the fulfilment of the neutrality principle.

1. Fiscal significance of the tax on goods and services for the public finance

Taxes are the basic source of revenue for the state budget and tax rates largely determine to what extent the state is capable of accomplishing its basic functions.

The role of the VAT (TGS) as a tool of acquiring tax revenues can be evaluated on the basis of an indicator which expresses the relation between VAT receipts and the gross domestic product (GDP) [Hybka 2011: 207-217]. Table 1 presents detailed data in this regard.

Table 1. Share of revenues from Tax on goods and services in GDP
in the period 2004-2015

Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Share in %	7.1	7.7	8.1	8.2	8.0	7.3	7.6	7.9	7.2	7.0	7.1	7.0

Source: based on Eurostat data, <http://ec.europa.eu/eurostat/data/database> [access: 15.09.2017].

In the reference period, the share of revenues from the tax on goods and services in the GDP ranged from 7.0% in 2013 and 2015 to 8.2% in 2007. It is notable that despite these fluctuations, in 2015 the ratio was similar to that in the year of Poland's accession to the European Union, in spite of the legal changes regarding the tax, which should have had a positive impact on the amount of tax revenues. These changes included, among others, the expiry of the transition period with a super-reduced tax rate on unprocessed food, an increase in all tax rates by 1 percentage point (or 2 points for food) in 2011, or partial elimination of reduced tax rates on specific groups of goods. This means that between 2004 and 2013, the receipts from the GTS rose in proportion with the growth in GDP.

This ratio should also be examined after adjusting for the so-called VAT gap, i.e. the loss of budget receipts in relation to the GDP, calculated by the European Commission, as a result of the shadow economy and tax fraud. It is clear from the report published by the European Commission in 2013 [European Commission 2013] regarding the period 2000-2011 that the VAT gap was calculated as a difference between a theoretic value added tax liability (on the basis of the applicable regulations) and the state's actual VAT receipts, and was presented in the report as a percentage of the GDP (in the following years, the European Commission changed the method of presenting the VAT gap and stopped making reference to the GDP).

Table 2 contains information on the relation between TGS receipts and the GDP adjusted for the VAT gap. The difference between official and adjusted ratios

Table 2. Share of revenues from TGS in GDP in the period 2004-2011
after adjusting for VAT Gap

Year	2004	2005	2006	2007	2008	2009	2010	2011
Share in %	8.6	8.5	8.5	8.4	8.8	8.6	8.7	9.4

Source: based on Eurostat data, <http://ec.europa.eu/eurostat/data/database> [access: 15.09.2017] and CASE 2013.

Table 3. Structure of state revenues in Poland in the period 2004-2016 (in %)

Specification	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Total revenues	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
1. Tax revenues	86.75	86.72	88.48	87.32	86.57	78.37	88.91	87.63	86.33	86.57	89.86	89.81	86.80
1.1. Indirect taxes	64.62	64.36	64.47	61.97	60.61	56.52	66.00	64.95	63.25	62.82	65.98	64.77	61.57
– tax on goods and services	39.84	41.95	42.72	40.76	40.14	36.27	43.10	43.53	41.73	40.63	43.82	42.58	40.23
– excise tax	24.29	21.97	21.29	20.74	19.91	19.67	22.25	20.88	21.02	21.73	21.71	21.72	20.89
– tax on gambling	0.49	0.44	0.45	0.47	0.55	0.57	0.65	0.53	0.50	0.47	0.44	0.46	0.45
1.2. Corporate income tax	8.36	8.77	9.78	10.38	10.71	8.81	8.70	8.96	8.74	8.27	8.21	8.93	8.38
1.3. Personal income tax	13.76	13.59	14.23	14.96	15.25	13.04	14.22	13.72	13.84	14.79	15.17	15.58	15.33
1.4. Tonnage tax	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
1.5. Tax on the extraction of some raw materials	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.50	0.69	0.50	0.54	0.41
1.6. Taxes abolished	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
1.7. Tax on some financial institutions	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1.11
2. Non-tax revenues	11.48	11.72	10.15	9.50	7.62	10.01	9.79	11.63	12.92	12.89	9.60	9.58	12.75
2.1. Dividends	1.16	1.76	2.05	1.53	1.31	3.04	1.99	2.21	2.85	2.53	1.49	2.20	0.89
2.2. Payment from National Bank of Poland	2.60	2.32	0.59	1.05	0.00	0.00	1.58	2.23	2.85	1.89	0.00	0.00	2.50
2.3. Custom duties	1.46	0.71	0.70	0.74	0.68	0.59	0.66	0.69	0.69	0.72	0.86	1.01	1.01
2.4. Fees, fines, interest and other non-tax income	5.50	6.26	5.96	5.25	4.65	5.30	4.47	5.64	5.68	6.96	6.40	5.83	7.64
2.5. Contributions of local self-government units	0.77	0.67	0.85	0.79	0.85	0.99	1.09	0.86	0.84	0.79	0.86	0.66	0.71
2.6. Foreign income	0.12	0.23	0.37	0.14	0.12	0.09	0.00	0.00	0.00	0.00	0.00	0.00	0.00
3. European Union funds and other non-refundable sources	1.66	1.36	1.00	3.19	5.81	11.62	1.30	0.75	0.76	0.55	0.54	0.61	0.45

Source: based on Ministry of Finance data, <http://mf.gov.pl> [access: 15.09.2017].

of TGS revenues to GDP ranged from 0.2 percentage point in 2007 to 1.5 percentage points in 2004 and 2011. These data highlight the significance of the TGS as a fiscal tool.

If one analyses data regarding the structure of state budget revenues in Poland for the same reference period 2004-2016 (Table 3), it can be seen that the share of indirect taxes in total budget revenues exceeded 60% (except 2009). This means that this kind of tax constituted the state's main source of revenue. By comparison, the contribution generated by income taxes (including corporate and personal income taxes) is roughly only a third of that obtained from VAT, although income taxes are the second largest source revenue.

The TGS and excise tax are the most important indirect taxes used in Poland, although the contribution of the TGS is considerably bigger. In the period 2004-2016, the share of TGS revenue in the state budget fluctuated between 36% and 43%. The TGS accounts for nearly half of all tax revenue in the state budget and two thirds of indirect tax receipts.

Table 4. Share of revenue from TGS in the state budget revenue in Poland, total tax revenue and indirect tax revenues in 2004-2016

Year	Share of TGS revenue in		
	state budget	tax revenues	indirect taxes
2004	39.84	45.93	61.65
2005	41.95	48.38	65.19
2006	42.72	48.29	66.27
2007	40.76	46.68	65.78
2008	40.14	46.37	66.23
2009	36.27	46.28	64.18
2010	43.1	48.47	65.31
2011	43.53	49.68	67.03
2012	41.73	48.33	65.97
2013	40.63	46.93	64.67
2014	43.82	48.77	66.43
2015	42.62	47.41	65.75
2016	40.23	46.34	65.34

Source: based on Ministry of Finance data, <http://mf.gov.pl> [access: 15.09.2017].

When one compares the initial and final year of the reference period, i.e. 2004 and 2016, it can be seen that the share of the TGS in total revenues and tax revenues remained at a similar level, while its share in indirect tax revenues increased by about 4 percentage points. This indicates that the role of the TGS as a component of the state's tax policy is slowly becoming stronger. In view of the importance of the GTS for the budget, the state naturally focuses its attention on ensuring higher

efficiency of tax collection. On the other hand, however, it undoubtedly makes the state sensitive to any activities or changes in the economy that could contribute to a reduction of TGS receipts.

It is clear from the analysis presented above that the tax on goods and services plays the key role in satisfying the state's demand for money. Empirical data confirm that the present form of the TGS makes it a very good fiscal tool. It does not mean that the current implementation of the TGS (or, more generally, value added tax) should not be modified to respond to the current challenges facing each European economy, including that of Poland. Indeed, the VAT system, including the tax on goods and services, should be changed as quickly as possible in order to significantly reduce the aforementioned VAT gap.

2. The relationship between the fulfilment of the neutrality principle and the fiscal function of the tax on goods and services

The following part is dedicated to the examination of how the limitation of the neutrality of the TGS (i.e. limitation of the right to adjust the amount of output tax by deducting the amount of tax paid on inputs) affects the fulfilment of the fiscal function, especially budget revenues from the GTS. After assessing the impact of the limitation of the right of deduction on budget revenues, its impact will also be analysed with respect to the budget deficit observed in the reference period. If such limitations are eliminated, the budget deficit could increase, assuming that the government spending remains at the same level. By viewing the fiscal effect of the limitation of the right of deduction in the context of the budget deficit, it should be possible to determine the scale of the state's reduced borrowing needs in connection with a lower budget deficit.

The analysis only focuses on the limitation of the right of deduction which applies to purchases of a specific category of motor vehicles¹ (the definition of this category was modified several times in the period following Poland's accession to the EU, as well as the scope of the deduction [Selera 2014: 13-18; Bartosiewicz 2014: 18-25; 2015: 33-38; Martini 2011: 24-28]).

Limitations of the right to deduct TGS paid on purchased passenger cars in the reference period can be generally divided into three periods (disregarding the differences in the definition of the motor vehicle, which has changed slightly over the years). The periods are summarised in Table 4. In addition, it is worth noting that from 1 April 2014 onwards, taxpayers can apply deduct VAT paid on cars used

¹ For the purpose of this analysis, the expression "purchases of a specific category of motor vehicles" includes both, the acquisition of the right to use them as owner as well as the right to use them under a lease, tenancy, leasing or another similar agreement.

exclusively for business purposes. According to the information received from the Ministry of Finance in 2014, i.e. in the first year when the amended regulations were in force, 39 379 taxpayers filed declarations to this effect.

Table 5. Limitations of the right of deduction when purchasing passenger cars in the in the period 2004-2017

Period of limitation	Percentage limit	Value limit (PLN)
1.04.2004 – 21.08.2005	50	5 000
22.08.2005 – 31.03.2014	60	6 000
1.04.2014 – today	50	none

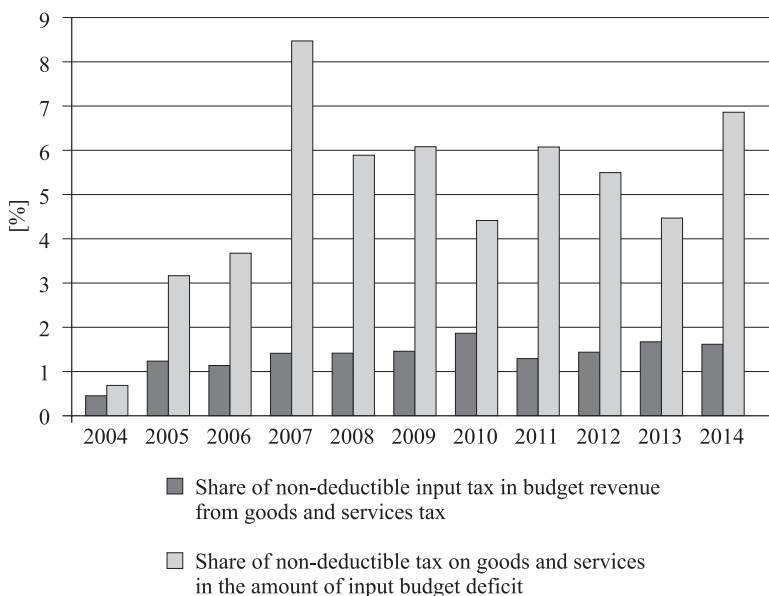
Source: based on the Law on the tax on goods and services.

In order to assess how budget revenues are affected by the limited right to deduct VAT when purchasing passenger cars, it is necessary to calculate the amount of revenue obtained by the introduction of the limitation. This revenue component is equal to the total amount of input tax not deducted by businesses when purchasing passenger cars. The amount was calculated on the basis of average prices of passenger cars purchased by taxpayers in the period 2004-2014 and the total number of cars purchased by in this period.

The total fiscal effect of the limitation of the right to deduct input tax is the product of the non-deductible input tax calculated on the basis of the average price of a passenger car purchased by businesses in a given year and the number of cars registered by businesses in the same year. It is clear from the analysis of the available data that between 2004 and 2010, the amount of revenue gained by the state budget kept growing, and in 2010 exceeded PLN 1.9 billion. In the following year, the total amount of non-deductible input tax on goods and services decreased by ca. 22% only to rise again in subsequent years. However, after the introduction of significant changes in the principles of deducting input tax in 2014 (elimination of the limit and introduction of the right to a full deduction if passenger cars are used solely for business purposes), the amount declined again to PLN 1.6 billion. More importantly, between 2004 and 2014 the amount of revenue obtained by the state budget thanks to the limitation increased almost sixfold.

It is clear from the calculation that in the reference period, additional budget revenues from the limited right to deduct input tax when buying passenger cars ranged from 0.43% in 2004 and 1.83% in 2010 of all TGS revenues (calculations shown in Chart 1). In the whole period, the average share of additional revenue (the amount of non-deductible tax) in all TGS revenues was equal to 1.31%. The relatively low share in the first year of the reference period is mainly due to the fact that the data regarding, for example, the number of cars, only cover (proportionally) the period after Poland's accession to the EU. Nevertheless, the impact

Chart 1. Comparison of shares (in percentage) of non-deductible tax on goods and services on the purchase of passenger cars in the budget revenue for this tax and the budget deficit for 2004-2014



Source: based on data provided by the Samar Automotive Market Research Institute (unpublished information) and information from <http://mf.gov.pl> [access: 15.09.2017]..

of the limitation should be considered significant. It applies to only one group of goods (i.e. passenger cars), and in the extreme case (i.e. in 2010), non-deductible input tax accounted for almost 2% of all TGS revenues in the budget.

In order to get a more complete picture, the gain resulting from the introduction of the limitation can be also compared with the budget deficit observed during the reference period. This comparison will help to answer the question of how much less the state needed to borrow in the reference period because of the existence of the limitations (which ensured higher budget revenues from the TGS). According to the data, the share of non-deductible input tax on goods and services in the budget deficit ranged from 0.65% in 2004 to 8.52% in 2007, with an average of ca. 5% during the whole period analysed. This means, in simple terms, that the deficit would have been higher by this amount if the deduction right had not been limited and if the full neutrality of the tax on goods and services had been retained. Given that the analysis concerns one group of goods, like in the comparison with the budget receipts, the limitation of the deduction right has a significant impact on the fiscal function of the tax on goods and services.

Identical conclusions can be drawn from the analysis of data regarding other limitations of the right of deduction concerning:

- motor fuels, diesel oil and gas, used to power motor vehicles which were subject to the limitation of the deduction right;
- accommodation and restaurant services;
- services provided by companies based in countries or territories engaged in harmful tax competition – the limitation was repealed in 2011.

Similarly, when one analyses refund periods of the surplus of input tax over output tax, which are a way of ensuring the tax neutrality of the TGS system, it is clear that they are also an important determinant of the fiscal significance and neutrality of this tax. The longer the refund periods are, the more the state budget gains from using the tax money paid by the purchaser, which has, in fact, already been paid by another taxpayer (supplier). In this way, the state budget takes advantage of a free “loan” without having to pay any interest (unless the refund deadline is exceeded). On the other hand, sufficiently long refund periods enable the state to verify the validity of the refund.

3. Potential directions of changes regarding the tax on goods and services to increase the extent to which the neutrality principle is fulfilled

When planning potential directions of changes to increase the neutrality of the tax on goods and services, both components mentioned above should be considered. In other words, possible space for changes is created by the current limitations of the right to deduct input tax and the principles of refunding the surplus of input tax over output tax. As regards the former area, efforts to increase tax neutrality should focus on limiting the deduction right when purchasing accommodation and catering services, and a specific category of motor vehicles including expenses related to their use. As regards conditions of refunds, the refund periods are the basic component ensuring tax neutrality, i.e. the period between the time of filing a tax reclaim and the lapse of the refund period that the tax authorities are entitled to.

From the perspective of the legitimacy of maintaining a full limitation of the deduction right for the first of the aforementioned categories of expenses, the case of accommodation services is the most questionable. It makes sense to introduce limitations of the deduction right if:

- an expense by its very nature is private and does not show any connection with the business activity or the connection is limited and therefore leads to final consumption;
- an expense is of a dual nature, i.e. it may be made for private purposes and for business purposes, but there are no easy control mechanisms on the part of tax

authorities to verify the legitimacy of the input tax deduction or taxation of final consumption.

Accommodation services can certainly be used in the course of business activity, e.g. during business trips. On the other hand, a significant portion of this type of services is undoubtedly used to meet peoples' individual needs related to non-business trips, i.e. private trips. However, these services, in terms of ease and efficiency of ensuring correct settlements, i.e. ensuring taxation of final consumption, do not seem to differ from purchases of passenger cars or other expenses related to such cars. In this case, from the beginning of Poland's EU membership, the legislator has permitted to deduct input tax, at least partially. Under the current regulations, it is even permitted to fully deduct input tax from output tax provided that a vehicle is used solely for business purposes and the taxpayer keeps the relevant records. Therefore, it seems reasonable to adopt analogous solutions to those currently applicable to passenger cars. In practice, the full limitation of the right to deduct input tax on the price of accommodation services purchased would have to be abolished, and a partial or full deduction would have to be introduced. Such legislative amendments would be in line with EU law and would require no consent from the European Commission. It is clear from European Court of Justice case law² issued under Art. 17(6) of the Sixth Directive³ (currently, Art. 176 of Directive 2006/112⁴) that Member States may retain exclusions of the deduction right that applied prior to the state's accession to the EU or before the entry into force of the Directive. However, the state may reduce the scope of the limitation of the right to reduce the output tax by input tax, thus pursuing the tax neutrality principle to a greater or full extent.

In the case of passenger cars and operating expenses, the neutrality level was increased significantly, compared to earlier regulations, by the introduction of the following rights in 2014 and 2015:

- the right to fully deduct input tax on goods and services if the vehicle was purchased or is used solely for business activity, which is eligible for full utilisation of the input tax refund;
- the right to deduct 50% of the input tax on fuel used in passenger cars which are subject to the limitation of the right of deduction (before the change, the taxpayer was not entitled to any deductions).

However, the fundamental component under the current rules which affects the tax neutrality level is the percentage of input tax that can be deducted when

² E.g. judgment of the CJEU of 14 June 2001 in case C-345/99 *Commission of the European Communities vs French Republic*, Reports of Cases 2001, I-04493.

³ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment (OJ L 145).

⁴ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347).

cars are used for both business and non-business purposes. In accordance with the current regulations, in such cases the taxpayer is entitled to deduct only half of the input tax when purchasing a passenger car and incurring expenses related to its operation. A natural direction extending the scope of the right to deduct input tax would be to increase the deduction percentage to the level that reflects more adequately the degree of the taxpayer's car use for business purposes. This change can be made either by adopting a single higher deduction percentage, based on previous calculations of the degree of car use for business purposes in the general population of registered TGS taxpayers, or by granting taxpayers the freedom to make individual decisions based on their records of car use in a given settlement period (month or quarter).

As regards the current time limits for refunding the surplus of input tax over output tax, it is worth noting that the 60-day refund period (nearly 90% of refunds are made within the basic period) is a significant burden for taxpayers, which limits the neutrality of the tax on goods and services. Therefore, three solutions can be considered:

- eliminate the conditions for 25-day refund period (in particular the condition of payment), while maintaining the current basic 60-day period for the refund of excess input tax; or
- introduce a 25-day refund period as the basic period for the refund of excess input tax (or gradual introduction of this solution); or
- introduce the possibility of using the 25-day refund period for a larger group of entities classified as so-called trustworthy taxpayers (classification criteria for obtaining this status should be connected, in particular, with reliable settlements of obligations).

The introduction of changes described above is a relatively simple legislative procedure, requiring no agreements between Poland and the European Commission. Of course, such a change should be made after safeguarding the interest of the state budget and the fiscal function of the tax on goods and services, which results not only from the reduction of the interest-free "loan" available to it, but primarily from shortening the time necessary to verify the validity of a refund. Such activities are particularly significant at present, when tax reclaims for cross-border transactions within the European Union are a frequent form of tax fraud. It is estimated that annual losses to the state budget resulting from tax fraud amount to nearly 2% of the GDP [European Commission 2015]. For this reason, any action aimed at improving the neutrality of the tax on goods and services by changing the principles of tax refunds should be accompanied by actions aimed at tightening up the system and enabling tax authorities to identify taxpayers and transactions that reduce the fiscal efficiency of the tax on goods and services.

Regardless of the complexity of the tax on goods and services system, which is exploited by entrepreneurs committing tax fraud, rules regarding refunds of

excess output tax over due input tax should comply with the neutrality principle. This is particularly true given that other Member States have developed rules that seem to be more favourable for taxpayers.⁵ First of all, in some Member States tax refund periods are shorter than the basic refund period in Poland (e.g. Austria, Croatia, Czech Republic, Estonia, Slovenia). However, in some countries, for instance in Scandinavia, and particularly in Germany or the Netherlands, tax refunds are generally made immediately, the refund period being often related to the taxpayer's status and their diligence in fulfilling tax obligations. In many cases, the length of the refund period depends on the duration of business activity. The latter set of criteria would definitely need to be considered, since it should help to increase the neutrality of the TGS.

Conclusion

It is clear from the analysis presented above that the tax on goods and services is a crucial source of revenue for the state budget. Empirical data confirm that this kind of tax is a very good fiscal tool.

Therefore, the basic factor to consider in the process of designing the TGS system, especially as regards tax neutrality, is the contribution of the TGS to budget revenues. After Poland's accession to the European Union, the legislator often increased the scope of neutrality but only to the extent required to ensure compliance of the Polish regulations with EU laws or if those changes were neutral for the state budget.

It must be admitted that the current regulations concerning the fulfilment of the neutrality principle regarding both aspects, i.e. the right to deduct input tax from output tax and the right to claim a refund of excess input tax (including the right to make a refund to non-residents) are largely similar to the principles set out in EU laws, specifically Directive 2006/112 and resulting case law of the European Court of Justice. What does arouse considerable doubts, however, is the limitation of the deduction for accommodation services. In the case of such services, specifically those acquired solely in connection with business activity, the taxpayer should be entitled to deduct input VAT.

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⁵ http://online.ibfd.org/kbase/#topic=d&N=3+10&ownSubscription=false&Nu=global_rol-lup_key&Np=1 [access: 19.12.2016].

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Realizacja zasady neutralności a funkcja fiskalna podatku od towarów i usług – wybrane zagadnienia

Streszczenie. Z przeprowadzonych rozważań wynika, że istnieje napięcie między realizacją zasady neutralności a funkcją fiskalną podatku od towarów i usług. Oczywiście w zakresie przestrzegania tej zasady ustawodawca jest związany prawem unijnych. Niemniej w niektórych obszarach prawo to pozostawia państwu członkowskiemu swobodę kształtowania własnego systemu podatkowego. W zakresie tej swobody, jak wynika z dokonanej analizy, podstawowym kryterium przy podejmowaniu decyzji dotyczących kierunków zmian w zakresie podatku od towarów i usług była funkcja fiskalna podatku. Oczywiście konieczność zapewnienia dochodów budżetowych na określonym poziomie jest priorytetem dla każdej władzy państwowej. Jednak realizacja funkcji fiskalnej podatku od towarów i usług powinna zawsze być konfrontowana z koniecznością realizacji jednej z fundamentalnych cech tego podatku, tj. zasadą neutralności. Potwierdza to, że zakres respektowania zasady neutralności w konstrukcji podatku od towarów i usług ma istotne znaczenie dla realizacji funkcji fiskalnej tego podatku.

Słowa kluczowe: realizacja zasady neutralności, funkcja fiskalna, podatek od towarów i usług, ograniczenia prawa do odliczenia