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Depreciation as a Tax Optimisation Tool

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Abstract

The main goal of people conducting tax policy in an enterprise should be tax optimisation. It is commonly known that entrepreneurs can legally pay lower taxes using the possibilities offered by tax regulations. The use of tax optimisation allows reduction of tax burdens, and hence leads to improvements in financial results. The key, in this case, is to draw up an appropriate analysis and to create, on its basis, a tax strategy that will allow minimization of the debt burdens owned to the treasury, in a legal way. It is also important to minimize the risk associated with the use of certain approaches – the interpretation of existing laws needs to be verified by tax authorities, the judiciary of administrative courts (both WSA [Voivodship Administrative Court] and NSA [Supreme Administrative Court]) and the Constitutional Tribunal. The present article shows, in a practical way, how tax risk managers can take advantage of depreciation as a tax optimisation tool. Depreciation generates tax-deductible costs which are usually equal to depreciation deductions. Tax advantages arising from the use of depreciation are the result of shaping the level of the taxable income. Therefore, the condition for an efficient tax costs management of an enterprise is tax depreciation planning.

Keywords: tax optimisation, tax risks, tax planning, depreciation, tax strategy
JEL: H24; H21

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Introduction

Tax optimisation is mainly based on the knowledge of tax law and on the ability to apply it skilfully. However, besides the legal aspect, the choice of a specific tax strategy is also influenced by such elements as: access to specific tools and methods of tax planning, financial barriers related to the fact that some optimisation instruments deliver value for money only after having reached a certain income level, and psychological reasons largely related to the propensity of decision-making individuals to take risk (Dymek, 2006, p. 9). Another important element is the choice of

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appropriate moment for tax planning. Everybody knows that prevention is better than cure (Dymek, 2006, p. 10). It is similar in the case of tax optimisation. From none of the legal norms can we derive the rule imposing the obligation on the taxpayer to undertake actions aimed at determining the highest possible tax liability.

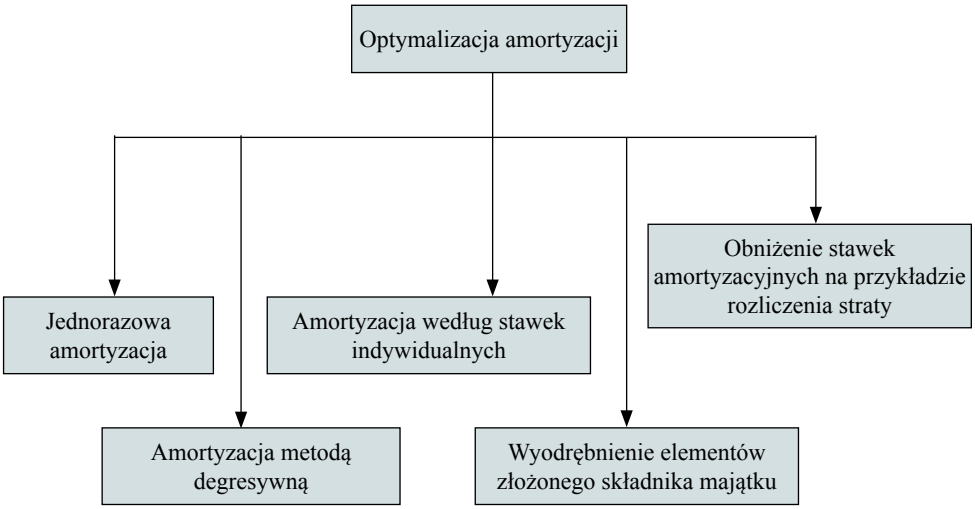
If the legal order in force creates the possibility for the taxpayer to choose a few legal constructions, each having a different tax assessment, so as to reach the intended business objective, then choosing the most advantageous tax arrangement cannot be viewed as circumvention of the law. This kind of action, which is legal although aimed at minimizing tax liabilities, is tax optimisation which needs to be distinguished from tax abuse or circumvention of tax legislation.

The aim of this paper is to show tax optimisation methods on the basis of the depreciation of an enterprise, being a corporate and personal income taxpayer. The studies which were carried out show practical methods of the tax optimisation application in selected enterprises. The research period covers the years 2009 - 2015.

In the paper, such research methods as induction and deduction will be used on the basis of which the main conclusions will be drawn, and quantitative methods aimed at showing the effects of the application of the selected tax optimisation methods, as exemplified by specific enterprises.

Description of Tax Optimisation through Depreciation

Tax optimisation can also be performed using depreciation. This is because depreciation generates tax-deductible costs which are usually equal to the depreciation deductions that are being made (Article 22 (8) of the Act of 26 July 1991 on Personal Income Tax) and (Article 15 of the Act of 15 February 1992 on Corporate Income Tax). However, it should be noted that the tax advantage will not always consist in obtaining the maximum depreciation, since it will sometimes be more advantageous to use lower depreciation, so as to optimize the deductibility of the expenditures used for purchasing a fixed asset. In principle, the taxpayer may choose the most suitable depreciation method, which, on the other hand, affects the amount of tax liabilities. Depreciations constitute simultaneously tax-deductable costs. The tax advantages arising from using depreciation are the result of shaping the income level to be taxed (Poszwa, 2007, p. 170). Therefore, tax depreciation planning is a condition for an efficient tax cost management of the enterprise. Another important aspect is to decide, when budgeting financial results, on whether the enterprise will seek to depreciate the investment in fixed assets possibly quickly, accepting smaller profits initially, or whether it will prefer to show greater profits spreading the costs over a longer depreciation period (Bień, 2002, p. 151). It is not always that the tax optimisation is in line with the business plans of the enterprise. The perception of economic risk is also important because almost every business activity involves risk. More risky are those economic activities which have not been dealt with yet. What is more, novelty is associated with the possibility of incurring immediate losses (Tyszka, 2004, p. 52). Thus the psychology of economics plays an important role in choosing the staff who make financial decisions at the enterprise, including those made within the scope of tax optimisation. The psychology of economics emerged together with the free market economy and the need for psychological knowledge that would enable one to understand people's economic behaviour has been recognised increasingly more frequently



Jednorazowa amortyzacja – one-time depreciation;
Amortyzacja metodą degresywną – declining balance depreciation method;
Amortyzacja według stawek indywidualnych – depreciation according to individual rates;
Wyodrębnienie elementów złożonego składnika majątku – separation of elements of the composite component of an asset
Obniżenie stawek amortyzacyjnych na przykładzie rozliczenia straty – the reduction of depreciation rates on the example of accounting for losses

Fig.1. Depreciation optimisation

Source: Author's own study.

(Sowińska, 2007, p. 25). In systemising the tax optimisation tools within the scope of depreciation, the following should be distinguished: (see Figure 1)

Optimisation through One-Time Depreciation

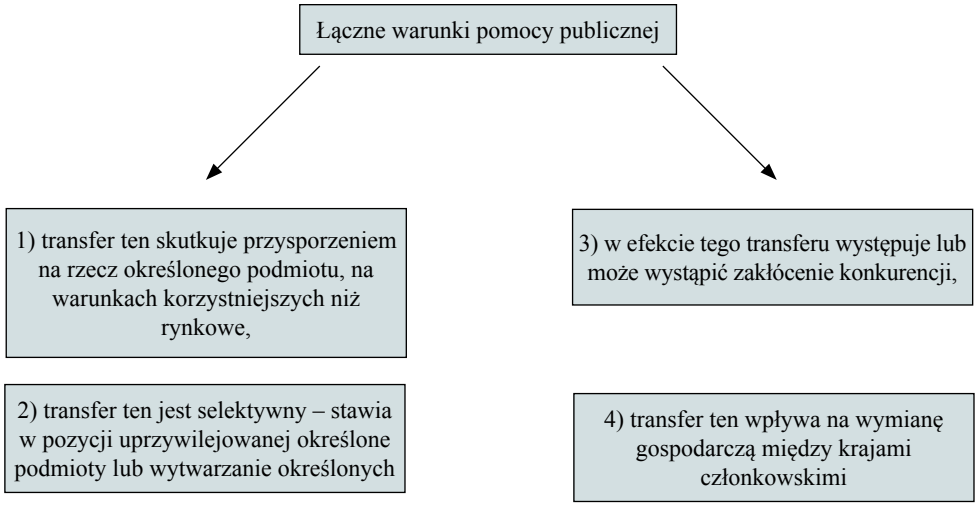
Tax legislation provides for not one but several possibilities of one-time depreciation, and more generally – one-time classification of expenditures used on purchasing a fixed asset as tax-deductable costs. One-time depreciation represent "de minimis" aid in accordance with the wording of the Roman maxim [„De minimis non curate lex"], hence the entrepreneurs who apply for such aid to the tax office, that is, apply for tax optimisation (Garzyńska, 2013, p. 99) should take into account the content of the Regulation of the Council of Ministers of 29 March 2010 on the scope of information provided by an entity applying for de minimis aid, issued based on delegated legislations, included in Article 37 (2a) and (6) of the Act of 30 April 2004 on the procedural issues concerning public aid.

According to Article 16k (7) of the Act on Corporate Income Tax, 22k (7) of the Act on Personal Income Tax, taxpayers, in the year in which they launched their business activity, as well as minor taxpayers, may make one-time

depreciation deductions on the initial value of the fixed assets included in group 3-8 of the Fixed Assets Classification, excluding personal vehicles, in the tax year in which those assets were entered into the register of fixed assets, and intangible and legal values up to the amount not exceeding a sum equal to EUR 50.000 of the total amount of those depreciations.

One should remember that the form of one-time depreciation represents de minimis aid, which involves the usual restrictions present in this kind of aid, e.g. excluding entrepreneurs whose economic situation is difficult. Thus, the public aid is the transfer of resources imputable to public authorities, provided all of the following conditions are met (see Figure 2):

Since the first source of internal funds used to finance investments in a given year are those coming from depreciation, companies, in their cash flow statements, indicate depreciation as one of the most important, if not the most important, source of funds (Brigham, Gapenski, 2000, p. 60). The tax purpose the enterprise wants to achieve is also relevant, for it is the reason for which the cost of a fixed asset is burdened by depreciation during its operational period. Before, the operational period of a fixed asset for depreciation purposes was closely linked to the time of its commercial use. The intention was that the asset should completely be depreciated roughly at the same time that it should reach the end of its lifetime (Brighma, Gapenski, 2000:



1) the transfer has the effect of an economic benefit for a specific entity on conditions more favourable than the market conditions,
2) the transfer is selective – it puts in a privileged position specific entities or the manufacture of specific goods
3) as the consequence of the transfer, distortion of competition occurs or may occur,
4) the transfer has an impact on the economic exchange between the Member States

Fig. 2 Cumulative conditions for public aid

Source: Author's own study

Table 1. Tax preferences providing support to enterprises within the scope of personal income tax and corporate income tax in Poland in the years 2009-2012 (in PLN million)

One-time depreciation	2009	2010	2011	2012
Tax preferences providing support in terms of personal income tax in Poland	258	258	150	150
Tax preferences providing support in terms of corporate income tax in Poland	148	148	50	50

Source: Author's own study based on the reports on tax preferences in Poland in the years 2009-2012. Ministry of Finance, www.finanse.mf.gov.pl/abc-podatkow/preferencje-podatkowe-w-polsce .

pp. 345-346). However, with a rapidly changing market, and therefore the necessity to keep higher cash flows which provide the possibility of reinvestment, enterprises started to use tax deductions on an ever wider scale. For this reason, a very important task facing the manager is to combine tax advantage with the financial management of an enterprise. It is worth pointing out that a relatively small number of entrepreneurs know about the possibility of using de minimis aid, which confirms the principal-agent problem (the theory of agency) (Brigham, Gapenski, 2000, p. 44) and indicates a certain barrier in taking risk by entrepreneurs. As can be clearly seen based on the considerations so far, managing an enterprise does not only require high professional knowledge of its goals, but also, or perhaps most of all, the psychological knowledge of human resources being the subject of the management. The following has been described in Figures 3 and 4: multi-level model of the manager's personality, and also risk assessment has been performed in relation to two separate factors. This knowledge constitutes an important instrument of the modern management (Terelak, 2005, p. 322). This leads to the conclusion that persons who are involved in accountancy and finances should work towards improving the entrepreneurs' awareness as to its application, or rather expand the knowledge of basic and detailed factors of economic risk assessment, so that entrepreneurs and managers could more often refer to the tools of tax optimisation and could assess the risk associated with it correctly. This seems indispensible seeing that relatively few entrepreneurs have used one-time depreciation, being part of the tax optimisation scope. Moreover, Table 1 demonstrates tax preferences providing support to enterprises in terms of personal income tax, as well as corporate income tax in Poland in the years 2009-2012.

Although the reports outlined in the table are informative in nature, we can observe a clear decline in the use of this form of aid by the enterprises.

An example of tax advantage using one-time depreciation.

XYZ firm, a registered partnership having its seat located in Mikołów, purchased a Ford Ranger P3 truck on 27.09.2012. The purchase was recorded by a VAT invoice 00/00/000000/00 for a net amount of PLN 117 500,00. The company submitted the relevant documents to the head of the tax office in Mikołów, requesting a certificate stating the amount of the de minimis aid obtained in connection with the one-time depreciation of a fixed asset and proceeded with the one-time depreciation affecting its tax result in the following way, as shown in Table 2 and 3.

Osobowość menedżera

Poziom Komponentowy

Typ umysłowości	Typ osobowości	Typ charakteru
-Kreatywność	- Potrzeba osiągnięć	- Spontaniczność
(oryginalność i giętkość myślenia)	- WEWNĘTRZNE POCZUCIE Kontroli	- Nonkonformizm
-Inteligencja analityczna	- Skłonność do ryzyka	- Empatia
(orientacja na skuteczność)	- Asertywność	- Koncentracja
-Inteligencja analityczna	-szybka orientacja na zadanie	
(planowanie w oparciu o informacje zwrotne	- Silny typ układu nerwowego	
o rezultatach działania)	(jako cecha temperamentu)	
-Wyobraźnia		
(zdolność do wyobrażania sobie)		
-Nastawienie na jakość		
(dostrzeganie sprzyjających okoliczności i działanie na ich podstawie		

Poziom empiryczny

Cechy identyfikowane w badaniach empirycznych

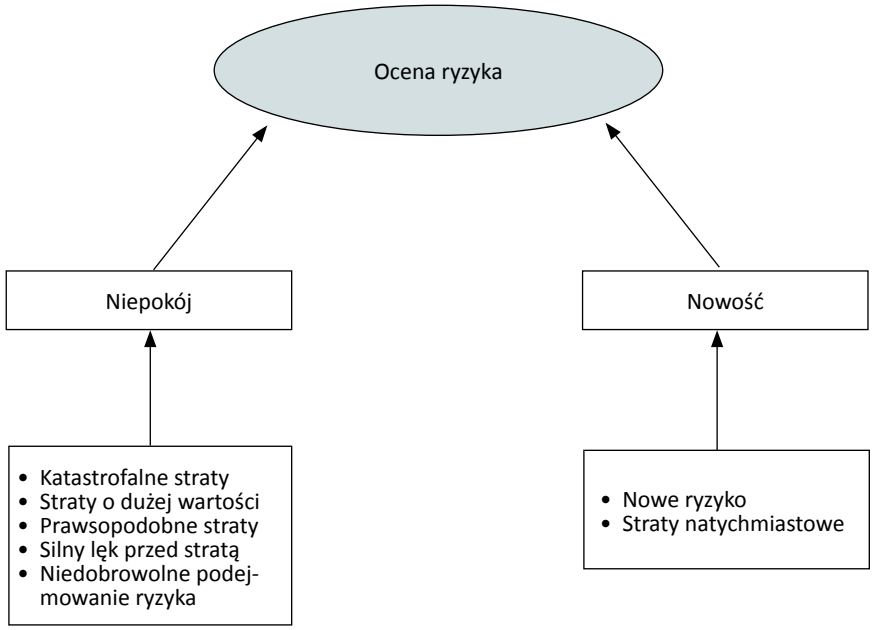
Managers' personality
Component level
The type of intellectuality
- *Creativity*
- *(originality and flexibility of thinking)*
- *Analytical intelligence*
- *(efficiency-oriented)*
- *-Analytical intelligence*
- *(planning based on feedback on the results of actions)*
- *Imagination*
- *(ability to imagine things)*
- *Quality-oriented*
- *(noticing favourable circumstances and acting upon them)*

The type of personality
- *Need of achievement*
- *INNER SENSE OF control*
- *Risk propensity*
- *Assertiveness*
- *Quick task orientation*
- *A strong type of the nervous system*
- *(as a feature of one's disposition)*

The type of character
Spontaneity
- *Non-conformism*
- *Empathy*
- *Concentration*
- *Empirical Level*
- *The features identified in empirical studies*

Fig. 3 A Multi-level model of manager's personality

Source: J.F. Terlak.: Psychologia organizacji i zarządzania, Warszawa 2005; p. .96.



Risk assessment
Anxiety
- *catastrophic losses*
- *large value losses*
- *Possible losses*
- *Intense fear of loss*
- *Involuntary risk-taking*

Novelty
- *New risk*
- *Immediate losses*

Fig. 4. Risk assessment

Source: Koonce et al., 2001; Zaleśkiewicz, 1996.

Table 2. Tax result in PLN before applying one-time depreciation, taking into account depreciation according to the straight-line method at 20% annually.

Revenue	Costs	Gross income	Tax	Net income
4 242 363,69	3 320 937,66	921 426,03	175 071	746 355,03

Source: Author's own study based on the accounts of XYZ, Registered Partnership

Table 3. Tax result in PLN, taking into account one-time depreciation of fixed asset

Revenue	Costs	Gross income	Tax	Net income
4 242 363,69	3 432 562,67	809 801,02	153 862	655 939,02

Source: Author's own study based on the accounts of XYZ Registered Partnership

The basic objectives of the tax management such as: minimization of tax liabilities and the postponement of the tax payment deadline at the optimum level of tax risk, can be achieved using a variety of tax tools, including one-time depreciation. The tax advantage the company received was reducing the tax base by PLN 117 500,00, and thus paying less by PLN 21 209,00 on personal income tax, compared to the straight-line method of depreciation,. In this way, the company minimized its tax debt. Apart from the tax advantage, the company, using this form of aid, pursuant to the Accountancy Act, entered the fixed asset it purchased into the register of fixed assets, thus increasing its fixed assets by a net amount of PLN 117 500, 00. The taxpayer achieved the aforementioned objectives at the optimum risk level. Tax risk refers to this kind of events whose occurrence or non-occurrence may have a negative impact on the implementation of the goals set within the framework of tax policy of the enterprise. Those are actions which are short-term in nature (on-going) – in their essentials involving the ongoing making of decisions which have an impact on the level of taxation and tax risk in everyday operations of the company, and whose tax consequences are short-termed, as was the case when using the one-time depreciation as de minimis aid, where tax advantage occurs within a short period of time.

The drawback of this form of optimisation is that there are no advantages in using it by an enterprise with low income. Of course, such an enterprise may use this form of tax optimisation, yet, as a consequence, this will lead to a loss by which, in accordance with Article 9 (3) of the Act on Personal Income Tax setting out the level of loss from the source of revenues incurred in the fiscal year, the income obtained from this source may be reduced over five successive fiscal years; however, the reduction level may not exceed, in any of those years, 50% of the amount of this loss, thus having a negative implication for the assessment of the company's finances.

One therefore needs to recognize that it might be risky to apply this form of optimisation in the enterprise with low income, as e.g., it may not obtain credit worthiness necessary for the enterprise to achieve its goals, based on the assessment of financial institutions.

The possibilities, indicated above, of one-time deduction of the expenditure used to buy asset components as costs will be particularly attractive for taxpayers who in the period concerned obtained high income – especially if they are taxed on a scale-basis.

Optimisation through Declining Balance Depreciation Method

From the point of view of sustaining the company's financial balance, the key is the relationship occurring between fixed and current assets (Bień, 1998,p. 178). In other words, the structure of fixed assets, consciously shaped by the entrepreneur, has a significant influence on the right choice of the strategy for financing assets (Ostaszewski, 2008, p. 396). The element of this planning also includes the planning of a suitable depreciation method. This refers especially to enterprises with high profits. This planning finds its application in the income strategy consisting in the minimization of taxable income.

In this strategy, the taxpayer aims to show taxable income as a possibly small amount, mainly by maximizing the tax-deductable costs (Ickiewicz, 2009, p. 163).

In this situation, the choice of the declining balance depreciation method as a form of tax optimisation appears very fitting, since in a short time we can reduce the tax base without having to spend any additional funds.

The declining balance depreciation method consists in depreciations on the initial value of machines and equipment included in group 3-6 and 8 of the FAC, and the means of transport, save personal vehicles, in the first fiscal year of their use, applying the rates given in the "List of Depreciation Rates", increased by a factor not exceeding 2,0, and over the subsequent fiscal years, on their initial value, reduced by previous depreciations, determined in early years of their use. From the fiscal year in which thus determined amount of annual depreciation were to be lower than the annual amount of the straight-line depreciation, one moves on to the straight-line method (Article 22 (1) of the Act on Personal Income Tax)

Thus, the declining balance depreciation method allows one to receive higher depreciation costs in the first period of depreciation deductions– therefore being, in economic terms, an intermediate method between one-time depreciation and the normal straight-line method. The key in the method of declining balance depreciation is that depreciation is charged on a declining base (Bartosiewicz, Kubacki, 2015, p. 344).

In the first year of use, the basis for depreciation is the initial value of the fixed asset concerned. Over the subsequent years, the basis of depreciations gets reduced. In each subsequent fiscal year, the basis is the initial value reduced by the depreciations already dedudcted (Bartosiewicz, Kubacki, 2015, p. 346). Instead of deducting depreciations on the basis which declines annually, the taxpayer has the possibility to use depreciation rates increased by the factor not exceeding 2,0. In practical terms the annual depreciation rates under the method of declining balance depreciation are twice as high (Bartosiewicz, Kubacki, 2015, p. 347).

For example, if the initial value of a lathe was PLN 7000, in the first year of depreciation we use the applicable depreciation rate increased by the factor 2,0, that is, 20% - which results in the annual depreciation at the level of PLN 1400; in the second year of use the annual depreciation is calculated on the basis 7000 – 1400 = 5600, thus the annual depreciation equals PLN 1120; in the third year of use, the basis for depreciation deduction is: 7000-1400-1120 = PLN 4480.

Article 22h (4) of the Act on Personal Income Tax finds its application in depreciation deductions under the declining balance depreciation method. This means that the annual amount of depreciation may be taken into account in equal instalments on a monthly basis or in equal instalments on a quarterly basis or on a one-time basis at the end of a fiscal year.

The practice of deducting depreciations on the basis which constantly declines could not lead to making the value of depreciations equal to the initial value of the fixed asset – a paradox of Zeno of Elea, who, using sophisticated intellectual arguments advocated the thesis of being as unchangeable and undivided. He formulated famous paradoxes which were to prove that movement (change) did not not exist. He advanced the thesis against the view that being is many, as one cannot divide infinitely an object, for we will eventually obtain parts devoid of dimensions, and the sum of dimensionless parts must equal zero. Zeno's paradoxes have been discussed by the greatest philosophers, and a scientific solution to them came only with the research on the concept of continuity by .e.g. G.W Leibnitz and I. Newton)

Therefore, the legislator orders taxpayers to change, at a certain moment, to the straight-line method from the declining balance depreciation

Table 4. An example of the declining balance depreciation

First year of use	Second year of use	Third year of use
Declining balance depreciation method: 200 000 × 40% = PLN 80 000 Straight-line method: 200 000 × 20% = PLN 40 000	Declining balance depreciation method: 120 000 × 40% = PLN 48 000 Straight-line method: 200 000 × 20% = PLN 40 000	Declining balance depreciation method: 72 000 × 40% = PLN 28 000 Straight-line method: 200 000 × 20% = PLN 40 000

Source: A. Bartosiewicz, R. Kubacki.: PIT. Komentarz, published by V. Warszawa, 2015, p. 348.

method. This is to occur at the beginning of the fiscal year in which thus determined annual amount of depreciation under the declining balance depreciation method were to be lower than the annual depreciation under the straight-line method.
Then the taxpayers begin depreciation based on the rules applicable under the straight-line method. The basis for depreciation deduction is the initial value of a fixed asset and the rates set out in the List (Bartosiewicz, Kubacki, 2015, p. 347).

Example
The initial value of a bus is PLN 200 000; the rate according to the List is at 20%. The level of depreciation deductions using both of the depreciation methods will look as follows:

In the example presented, taxpayers should move to the straight-line method beginning in the third year of use.
An example of the tax advantage obtained using the method of declining balance depreciation is presented below.
The ABC company with its seat located in Katowice purchased, on 26.02.2014, a machine for manufacturing injection moulds for air supply boxes. The purchase was evidenced by a VAT invoice 000031/2014/02/F for a net amount of PLN 174 000,00. The company, on account of the planned development and further purchases of machines, decided to choose the method of declining balance depreciation in order to optimize the advance income tax payment, and to purchase, for the funds thus saved, moulds. The choice of this form of depreciation had the following impact on the tax result:
The analysis of the choice of the depreciation method by the ABC company leads to the conclusion that in the first depreciation year it obtained tax-deductable costs higher by PLN 10 150,00 than it would have obtained if had chosen the depreciation on a fixed asset using the straight-line method. Furthermore, in the next year those costs were higher by PLN 13 340,00 than under the straight-line method, and in the subsequent year this amount was equal to PLN 7 192,00, with the sum of the tax advantage obtained thanks to the method of declining balance depreciation over the straight-line method being equal to PLN 32 955,60.
The advantage of this method is when it is chosen for depreciation on fixed assets which undergo rapid technical progress. In their operations, economic undertakings may use fixed assets which are subject to rapid technical progress.
For the purpose of the provisions of the Act on Corporate Income Tax and the Act on Personal Income Tax, the term fixed assets subject to rapid technical progress should be understood as machines, devices and equipment (included in group 4-6 and 8 of the Fixed Assets Classification) in which

Table 5. Depreciation through the method of declining balance depreciation of a machine for manufacturing injection moulds for air supply boxes (PLN)

initial value of the fixed asset	174 000,00		
month in which depreciation begins	June 2014		
basic depreciation rate	10%		
increase factor	2		
the rate of the declining balance depreciation method	20%		
annual depreciation using the straight-line method	17 400,00		
number of depreciation months	98		
accumulated depreciation in 2014	20 300,00	Cumulative amount of depreciation	remaining amount to be depreciated
accumulated depreciation in 2015	30 740,00	51 040,00	122 960,00
accumulated depreciation in 2016	24 592,00	75 632,00	98 368,00
accumulated depreciation in 2017	19 673,60	95 305,60	78 694,40
accumulated depreciation in 2018	17 400,00	112 705,60	61 294,40
accumulated depreciation in 2019	17 400,00	130 105,60	43 894,40
accumulated depreciation in 2020	17 400,00	147 505,60	26 494,40
accumulated depreciation in 2021	17 400,00	164 905,60	9 094,40
accumulated depreciation in 2022 (July)	9 094,4	174 000,00	0

Source: Author's own study based on the accounts of ABC company with its seat located in Katowice

microprocessor microcircuits or computer systems are used, having complex functions thanks to the application of state-of-the-art techniques, as well as other scientific and research apparatus, as well as experimental and production devices.

The most wide-spread application of this method is certainly in enterprises showing high profit, where its application in early years raises the tax-deductable costs considerably because there is rapid depreciation of the fixed asset in early years of its operation, that is, during the time of its highest productivity; it reflects the actual fixed asset consumption, the income tax payment is postponed, the financial surplus which is net profit plus depreciation is used at an earlier

time. Moreover, we can find its drawbacks such as increased costs, lower profit in the beginning years which could prove to be relevant depending on the company's goals. In addition, financial surplus used inappropriately may surely be seen as posing a threat, which can lead, at the beginning of the fixed asset use, to a situation where in later years the undertaking will lack funds when in need of overhauling the fixed asset.

Therefore, managers are faced with the task of performing a comprehensive analysis and result assessment, for they constitute the basis for undertaking decisions which will shape future actions. Thus, it can be said that the future of the enterprise and its success on the market largely depend on the quality those actions (Bednarski, Wilkin, 2008, p. 96).

Optimisation through Individual Depreciation Rates

Similar, in its economic nature, to the declining balance depreciation method is the method of individual depreciation rates, which allows acceleration of depreciation and cumulation of the costs on depreciation. This method is linear in nature and consists in establishing individually depreciation rates for used or improved fixed assets entered for the first time into the register of a given taxpayer, Article 22j (1) of the Act on Personal Income Tax and Article 16j (1) of the Act on Corporate Income Tax. A particular attention to the method of individual rates should be paid by those entrepreneurs who seek depreciation costs on premises and buildings and investments in third party fixed assets, depreciated on a straight-line basis according to low rates. Since entrepreneurs often decide to take risk of investing in third party fixed assets, this case will be discussed in this chapter, and also because, from the point of view of the enterprise and tax risk management, it involves the greatest number of risks.

Regardless of the anticipated period of use, the investment in the third party fixed assets, admitted for use, are subject to depreciation, Article 16a (2), item 1 of the Act on Corporate Income Tax and Article 22a (2), item 1 of the Act on Personal Income Tax according to individual depreciation rates determined by taxpayer, Article 16j (1) of the Act on Corporate Income Tax and Article 22j (1) of the Act on Personal Income Tax.

In determining those rates, one should remember that the depreciation period for those investments may not be shorter than that indicated in Table 6.

Table 6. The list of the minimum depreciation period for individual rates for particular groups of fixed assets.

-10 years- for investment in third party buildings (premises) or structures; this means that this kind of investment can be depreciated using an annual rate of 10% or less	-30 months – for investment in transport means, including personal vehicles	- 24 months – for other investment whose initial value does not exceed PLN 25.000 (fixed assets included in group 3-6 and 8 of FAC)	-36 months – for other investment whose initial value is over PLN 25.000 and does not exceed PLN 50.000 (fixed assets included in group 3-6 and 8 of FAC)	-60 months – for other investments (fixed assets included in group 3-6 and 8 of FAC)

Source: Author's own study.

One should notice here the difference between accounting for the depreciation on investments in third party fixed assets and other fixed assets in terms of the level of the depreciation rate.
According to the general rule arising from the tax acts, depreciations on fixed assets are according to the depreciation rates specified in the Depreciation Rate Lists constituting annexes of those acts. For investments in third party fixed assets, there is the possibility of determining individual depreciation rates.
The determination of the individual depreciation rate is carried out according to the following formula:

$$\textit{Annual depreciation rate} = \frac{100\ \%}{\textit{Anticipated depreciation period}}$$

Depreciations on investments in third party fixed assets may be carried out on a monthly, quarterly basis or one time at the end of a fiscal year.
Depreciation deductions are made beginning with the first month following the month in which investments are adopted for use, until the end of the month in which:

- the sum of depreciations is equal to their initial value, or
- they are put into liquidation, or
- they are to be disposed of.

However, in this case (solution II), the company is taking risk that if it does not extend the term of the agreement, it will not have time enough

Example

A company, GRAF VON FRANKENSTEIN Sp.z o.o. [a limited liability company] engaged in services activities, rented a building in the centre of the city of Katowice for a period of 10 years (with the possibility of extension for an additional period of 10 years), and it made significant investments in this building, resulting in rebuilding the facility in order to adapt it to the needs of a coffee house Cafe Kattowitz.
The value (net value) of the investments made amounted to PLN 440 000,00. These expenditures the company treated as an investment in third party fixed asset, and included them in its costs through depreciation deductions.
The determination of the rate of depreciation according to which the investment was to be depreciated (depreciation period may not be shorter than 10 years). Below, there are two solutions presented for determining depreciation deductions.

Solution I
The company set a 10-year period to depreciate the investment in the third party building, using a 10%-annual depreciation rate (100% /10 years), thus the level of the depreciation deductions was determined as follows:
annual depreciation deduction: PLN 44 000,00 (440 000,00 x 10%).
monthly depreciation deduction: PLN 3 666,67 (44000,00 /12).

Solution II
The company set a longer depreciation period, e.g. 20 years. Then the investment will be depreciated using the annual depreciation rate at 5% (100% / 20 years), with depreciation looking as follows:
-annual depreciation deduction: PLN 22 000, 00 (440 000 x 5%)
- monthly depreciation deduction: PLN 1 833,33 (PLN 22 000,00 / 12)

to depreciate the entire investment. The individual rate is determined for the whole period of depreciation and may not be modified afterwards. Of this opinion was also the Voivodship Administrative Court in Cracow in its judgment of 1 December 2010 I SA/Kr 1359/10.

"The applicant who started to depreciate the tractors or semitrailers using basic depreciation rates may no longer change them to individual depreciation rates, in accordance with Article 22j of the Act on Personal Income Tax, for the choice of the individual depreciation rate can only be made before entering the fixed asset concerned into the register."

Tax authorities also expressed their position on that matter, recognizing that in such circumstances it is not possible to classify an undepreciated component of the investment as a tax-deductible cost (a letter of Tax Chamber in Wrocław of 28 December 2005, PD I 415/110/05; a letter of Tax Office in Mikołów of 18 October 2005, PB I-415-44-05-BF). The termination of agreement may not constitute fixed asset liquidation and therefore there is no loss incurred on this account.

Moreover, if entrepreneur, as the result of the termination of the agreement, dismantles the investments made, then there is factual liquidation of the investment in the third party fixed asset, which allows the undepreciated component of the investment to be classified as a tax-deductible cost (Tax Office No 1 of Masovian Voivodship in Warsaw in its letter of 14 July 2005 1471/DPD/423-47/05/MS/1).

In view of the contradictory decisions regarding this matter, further appeal was made by Head of Tax Chamber in Warsaw, acting under the authority of the Minister of Finance, referring the case to the Supreme Administrative Court which, composed of seven judges, issued a resolution of 25 June 2012, II FPS 2/12, expressing the view that the loss corresponding to the undepreciated value of the initial investment in the third party fixed asset which does not fulfil the conditions of Article 16 (1) item 6 of the Act on Corporate Income Tax, may be classified as a tax-deductible cost if the loss incurred was the result of the taxpayer's actions taken in order to implement the goal laid down in Article 15 (1) of this act. In its judgment, the Court drew attention to the fact that the possibility of classifying the value referred to as a tax-deductible cost was conditional on whether or not the general condition arising from the definition of the tax-deductible cost, which is the cost incurred for the purpose of generating income or sustaining or securing the source of income, has been fulfilled.

It is also possible that the renting agreement will provide for the reimbursement of the investment costs incurred by the lessee. The contractual regulation of this matter is particularly important when there is no liquidation possibility of the investments made. The reimbursement thus obtained does not represent for the entrepreneur an income from economic activity, but only in the portion which does not exceed the value of the undepreciated component of the investment (Tax Chamber in Wrocław in its letter of 28 December 2005, PD I 415/110/05).

In view of the foregoing, enterprise managers should show exceptional abilities in predicting certain consequences already at the stage of investment planning. Of course, this is not to say that entrepreneurs should not invest in third party fixed assets at all, as "the trouble is that if you don't risk anything, you risk even more", E. Jong. However, when risk is involved, one should consider all risks arising from renting. This is all the more important that, in general, the management personnel of enterprises with better

economic results more frequently report making decision intuitively (Tokarski, 2006, p. 279).

Moreover, when calculating depreciation on investment, one should account for the fact that the sum of depreciation deductions also comprises those deductions which do not represent tax-deductible costs. A general principle referring to tax-deductible costs applies here. In order to classify depreciation as tax burden costs, there must be a relationship between making depreciation deductions and the revenues obtained or the revenues possibly to be obtained by the taxpayer, or sustaining or securing the source of revenues. That implies that the investment ready for use must be used in the business activities run by the taxpayer.

Below, I show an example of tax advantage when using the individual method of depreciation while investing in a third party fixed asset.

"WIZARD SPORTS GROUP" Spółka z o.o., Spółka Komandytowa [a limited liability company and limited partnership] with its seat located in Sosnowiec made investments in third party fixed asset in 2014, signing a renting agreement which in accordance with & 11 was concluded for an indefinite period of time, with the possibility of terminating the agreement by the parties after 3 years, following its signing, effective at the end of a 3-month-notice. The company made this investment in order to implement a very innovative project which was the opening of a non-public nursery school "Baby Planet" in the facility being the object of the agreement. On 31 December 2015 the investment was completed and entered into the register of fixed assets as an investment in a third party asset with the value of PLN 1 381 696,72. The company, considering the return on investment and tax optimisation, chose depreciation using individual depreciation at the rate of 10% annually.

The choice of this form of depreciation had the following impact on the tax result:

In analysing the choice of the depreciation method by the enterprise „WIZARD SPORTS GROUP" Spółka z o.o., Spółka Komandytowa with its seat located in Sosnowiec, we should recognize that, while accounting for all the risk aspects and, in particular, for the regulations contained in the renting agreement pertaining to the possible termination of the agreement after 3 years with a 3-month-notice at the

Table 7. Depreciation according to individual rate of the investment in a third party fixed asset (in PLN)

initial value of the fixed asset	1 381 696,72
month in which depreciation started	January 2015
individual depreciation rate	10%
annual depreciation at the individual depreciation rate	138 169,67
number of depreciation months	120

Source: Author's own study based on the register of fixed assets of the enterprise „WIZARD SPORTS GROUP" Spółka z o.o., Spółka Komandytowa with its seat located in Sosnowiec.

end of the month, following the signing of the agreement, the conclusion to be made is that the depreciation method was chosen well. The choice is justified both in tax terms, where in the situation in which the company would adopt the standard rate of 2,5%, the annual depreciation would amount to PLN 34 542,42, that is, it would be lower by PLN 103 627,25. A higher depreciation deduction will allow the tax base to be reduced in a shorter period of time (10 instead of 40 years). At the same time, the decision was justified too on account of the provisions of the renting agreement, which, from the point of view of the investments made and the possibility of obtaining return on them, seems disadvantageous for the company because, from the point of view of risk management, it would have been preferable if the agreement had been concluded for the period of minimum 10 years, with the possibility of being extended. In this case the risk stems from lacking the possibility to have influence on liquidation of the business in the rented facility, which implies the risk of having no possibility to classify the undepreciated component of the investment in the third party asset as tax-deductible costs. The conclusion that should be made is that although this investment was very innovative and pioneering on a national scale, its implementation was still influenced by the intuition which played a role in the decisions made by the managers. Managers are not eager to admit following their intuition when making decisions because – as Maryem Le Saget says – "rationalism is a sacred cow for contemporary European and US. American enterprises". A sort of a silent code of conduct tells us that "we are amongst serious people. We should be rational, professional and we should speak in numbers" (Bolesta-Kukułka, 2003, p. 253).

Optimisation by Separating Elements of the Asset Composite Component

In practice, managers do not often turn to tax optimisation tools in a situation when the enterprise they manage have high profits, but also with a view to limit expenditures, e.g. in order to survive at the times of economic slowdown.
As the result of the economic downturn in the years 2007-2009, some companies which managed to survive did so not only by taking remedial actions, but also by using the opportunities offered by the tax optimisation which can be legally obtained (Garzyńska, 2013, p. 92).
Analysing the possibility of depreciation optimisation using elements separated from the asset composite component, special attention should be paid to establishing the tangible scope of depreciation. A correct separation of the asset components allows for using higher depreciation rates for those components or a more advantageous method of depreciation. A correct analysis and technical separation enable one to isolate entire installations, machines and equipment from the fixed asset (cf. the position expressed in the interpretation by, among others, Minister of Finance of 16 October 2009, ITPB3/423-428a/09/AM).
In order to show in practical terms the advantages arising from the choice of this depreciation method as a tool providing entrepreneur with tax advantage, we should investigate the choice of the depreciation method as made by the enterprise XYZ Spółka Jawna [a general partnership], with its seat located in Bielsko-Biała. The company used a retail and service building for its own seat, yet mostly the building was intended for renting ready to use areas for commercial and office purposes with its initial value of PLN 1 600 000,00, where in the situation the enterprise were to adopt the standard depreciation at the rate of 2,5%, the

Table 8. The separated asset components of the enterprise XYZ (in PLN)

No	Name of the separated asset component	Number of the Fixed Asset Classification	Initial value of the separated asset component	Depreciation rate
1	Telephone system	KŚT 626	152 060,55	10%
2	Air condition	KŚT 653	98 100,40	10%
3	Alarm system	KŚT 624	178 000,55	10%
4	Computer system	KŚT 491	73 200,00	30%
	Total initial value		**501 361,5**	

Source. Author's own study based on accounting records of the enterprise XYZ, a general partnership with its seat located in Bielsko Biała.

annual depreciation would be PLN 40 000, 00. The table below contains the value of depreciation deductions subject to higher depreciation rates, after having separated the components of the composite fixed asset

After having applied the tax optimisation by separating the components of the assets, the initial value of the retail and services building is PLN 1 098 638,50, with a-2,5% - rate of depreciation, with annual depreciation of PLN 27 465,96.

Table 9 below presents depreciations for the separated components of the fixed assets.

Table 9. Depreciations after the separation from the building (in PLN)

No	Name of the separated asset component	Initial value of the separated asset component	Depreciation rate	Annual depreciation amount
1	Telephone system	152 060,55	10%	15 206,06
2	Air condition	98 100,40	10%	9 810,04
3	Alarm system	178 000,55	10%	17 800,06
4	Computer system	73 200,00	30%	21 960,00
	Total amount of annual depreciation of the separated fixed assets			64 776,16

Source. Author's own study based on accounting records of the enterprise XYZ, a general partnership with its seat located in Bielsko Biała.

The enterprise by choosing this depreciation method as a tax optimisation tool gained tax advantage per year which included depreciations higher by PLN 52 242,12 (PLN 64 776,16 + PLN 27 465,96 = PLN 92 242,12 – PLN 40 000,00 = PLN 52 242,12). That was due to separating the installations from the building, thus having received the total costs of PLN 92 242,12 (instead of PLN 40 000) annually.

In separating individual asset components one should follow the explanatory notes to the CFA and, naturally, technical expertise.

An enterprise deciding on this form of optimisation must pay special attention not only to its pros and cons, but also to the risks involved in this form of tax advantage. The advantages certainly include, e.g. maintaining greater liquidity at times of economic crisis by the entity running business which may be used to cover public-law liabilities, e.g. preserving jobs. However, as one of the drawbacks of this form of optimisation, one should indicate the fact that the entrepreneur has to remember that by performing the separation of the asset component in the CFA, even applying for individual interpretation to a tax authority, the entrepreneur is not protected against possible negative consequences during tax audit, which is because if the separated elements of the asset component are classified incorrectly to the relevant groups of the CFA, then the tax authority will not recognize, within this scope, the issued interpretation as binding. This happens because tax authorities are not authorized to perform such classification. Entrepreneurs should do it by themselves, possibly with the assistance of a licensed statistical authority, as the interpretation issued will be based on the groups indicated by the entrepreneur.

This aspect should be seen as posing the greatest risk, as this is precisely the choice of an appropriate definition and CFA group which gives us the authorization to decide whether a given fixed asset may be separated (what really constitutes a fixed asset, what belongs to it, what is its component, and what elements represent a separate and independent item of the asset), and if so, then according to which depreciation rate it should be depreciated. It is in the taxpayer's interest that the tax authority does not question the components of the asset which have been separated, not only in terms of the depreciation rate, but, in the first place, in terms of identifying a given component as a separate fixed asset. Seeing the work of tax authorities in practice in this field, this method can certainly be classified as highly risky and therefore it is well advised to ask for opinion of a competent statistical authority in order to reduce this risk.

The risks and deficiencies of this method are more significant yet, from the perspective of tax risk management, as in the Polish tax regime, even in the case law regarding one entity, but at different years, yet still based on the same facts, two different decisions have been issued.

The decision of 25 February 2010 II FSK 1628/08 made by the SAC can be viewed as exemplifying this kind of precedent, providing an element of substantial novelty or innovative perception of the issue concerned, and which was a milestone for tax case law influencing the directions of practices or ways of interpretation (Nowak, 2013, p. 47). The court settled the matter regarding the depreciations of fixed assets used by a different entity to the disadvantage of the taxpayer, which was then followed by another decision made on the basis of the same facts by Voivodship Administrative Court in Warsaw III SA/Wa 354/13 on 8 October 2013, in which the Court stated that it did not share the position of the SAC expressed in its decision of 25 February 2010.

As a side note, it should be highlighted that this is not the first case when the voice of reason can be heard from a lower court. Interesting notes on this case provided B. Brzeziński in his commentary regarding the decision of the Voivodship Administrative Court in Białystok of 13 August 2013, I SA/Bk 372/12 (Nowak, 2013, p. 48).
To sum up the discussion on the choice of this form of tax optimisation, it is burdened by high tax risk and in choosing it the entrepreneur should apply to statistical and tax authorities for appropriate interpretation so as not to become a precedent.

Tax Optimisation through Reduction of Depreciation Rates as Exemplified by Accounting for Losses.

Despite the fact that tax optimisation is usually associated with cost increase, there are situations in which it pays off to reduce this cost. Lowering depreciation rates may be used in this case. In light of Article 22j (5) of the Act on Personal Income Tax, taxpayers may reduce the rates contained in the list of depreciation rates for individual fixed assets. In reducing those rates, the taxpayer does not have to explain to tax authorities why they did that by referring to some special circumstances. Nor is there any obligation to inform tax authorities on the reduction of the rates of depreciation. The possibility of lowering the rates is not conditional on any circumstances. The decision is made by the taxpayer, neither having to justify it nor having to apply for it.
The reduction of depreciation rates is only possible for those fixed assets which are depreciated on the straight-line basis. Thus, the rates may not be lowered if the fixed asset is depreciated using the declining balance depreciation method or the individual method.

The change of the depreciation rate is carried out according to Article 22i (5) of the Act on Personal Income Tax and Article 16i (5) of the Act on Corporate Income Tax:

1. starting in the month in which those assets were entered in the register, or
2. from the first month of every next fiscal year.

Example
An entrepreneur bought in February 2014 equipment which would represent a fixed asset. In February, the equipment was entered into the register of fixed assets. In this situation the reduction of the depreciation rate must be carried out in February 2014. Otherwise, the reduction will be possible only at the beginning of 2015.

In practice, the situation gets complicated if depreciation deductions are made on a quarterly or annual basis. According to the explanatory notes of tax authorities, if fixed assets were entered into the register in previous years, then in the fiscal year concerned the reduction of the depreciation rate may not be carried out later than at the moment of making the first depreciation deduction in the fiscal year concerned, that is, for depreciation on a monthly basis – in January, on a quarterly basis – at the end of the first quarter, at the end of the year – for the depreciation made once a year at the end of a fiscal year (Szlęzak-Matusewicz, 2013, p. 129).
Theoretically there is no lower limit of the rate reduced. Basically one can carry on the reduction even up to zero. In the Act on Personal Income Tax there are no provisions providing a detailed scope of the reduction of the depreciation rates. It is thus possible to lower the rate of one fixed asset of the same kind or of all assets. The decision rests with the taxpayer (Szlęzak-Matusewicz, 2013, p. 129). While it is true

Table 10. Financial result of the enterprise ABC Sp. z o.o. with its seat located in Sosnowiec in 2009-2010 (in PLN)

Year	Revenue	Costs	Profit/Loss
2009	1 959 909,31	2 567 731,7	-607 822,39
2010	2 709 893,25	3 180 542,57	-470 649,32

Source. Author's own study based on accounting records of the company ABC Sp. z o.o with its seat located in Sosnowiec.

that tax authorities do not dispute the possibility of this sort of reduction of depreciation rates, they highlight the fact that the level of the rate reduced should be determined taking into account the effective economic usefulness of a given fixed asset and the principles of the tax policy conducted (cf. individual interpretation of Head of Tax Chamber in Poznań of 25 April 2013, no. ILPB4/423-30/13-2/ŁM).

The reduction of the depreciation rate will have the effect that the depreciation costs will be lower, thus the income to be taxed will be higher. However, there are situations in which a higher level of income will lead to tax advantages (Szlęzak-Matusewicz 2013: 129).

One of the situations involves unused loss from earlier years. The legislator restricted accounting for a tax loss, both in terms of time and level. Pursuant to Article 9 (3) of the Act on Personal Income Tax and Article 7(5) of the Act on Corporate Income Tax, revenues derived from the income source may be reduced over 5 subsequent fiscal years by the level of the loss incurred on this source in a fiscal year, provided the level of reduction in any of those years does not exceed 50% of this loss. This means that if the taxpayer generates a relatively high level of income, they will be able to deduct the loss in 2 years (50% in the first year following the year the loss was incurred and 50% in the second year).

In deciding on the form of tax optimisation through minimizing depreciation costs, we can use, as the example, the situation which took place in the enterprise ABC Sp. z o.o with its seat located in Sosnowiec. In 2009-2010, the enterprise generated the financial result illustrated in the Table.

The company generated loss which could be accounted for over five subsequent years, as set out in Article 7(5) of the Act on Corporate Income Tax. The loss mainly resulted from the investment in fixed assets necessary to launch the business. The cumulative depreciation using the straight-line method was PLN 417 125,38 annually. Therefore the staff responsible for tax risk management in the company, seeing that their forecasts for revenue increase, and thus profit increase, are correct, decided to lower the depreciation rates so as to show higher profit, being the tax basis, and then exercise the right the company was entitled to to accounting for the loss incurred in the previous years. Those actions allowed the tax base to be reduced on the basis of the loss settled which was not "wasted", and at the same time to retain the right to include depreciations in the tax burden over a longer period of time. The enterprise ABC Sp. z o.o decided that from January 2015 it would return to the increased depreciation rates. Table 11 presents the financial result of the company over the next years.

Table 11. . Financial result of the enterprise ABC Sp. z o.o. with its seat located in Sosnowiec in 20011-2014 (in PLN)

Year	Revenues	Costs	Profit/Loss	Income tax due
2011	6 644 188,02	5 651 618,56	992 569,46	197 139,00
2012	10 235 281,08	8 977 278,66	1 258 002,42	250 059,00
2013	16 688 162,69	15 588 965,37	1 099 197,32	175 016,00
2014	17 783 648,19	16 445 365,00	1 338 283,19	203 337,00

Source. Author's own study based on accounting records of the company ABC Sp. z o.o with its seat located in Sosnowiec.

Table 12. Accounting for the loss for 2009-2010 of the enterprise ABC Sp. z o.o. with its seat located in Sosnowiec in 2011-2014 (in PLN)

Year	Profit/Loss	Income tax due	Accounting for the loss from previous years	The amount of the loss settled	Tax due after accounting for the loss
2011	1 041 257,75	197 139,00	50 % z 2009	303 911,19	153 127,00
2012	1 356 687,13	257 771,00	II 50 % z 2009	303 911,19	213 059,00
2013	1 301 481,32	247 281,00	50 % z 2010	235 324,66	196 379,00
2014	1 338 283,19	254 274,00	II 50 % z 2010	235 324,66	209 562,00

Source. Author's own study based on accounting records of the company ABC Sp. z o.o with its seat located in Sosnowiec.

Accounting for the loss incurred in 2009-2010 enabled the company to pay the tax showed in Table 12.

In analysing the company's decision, one should express one's approval in this respect, as in reducing depreciation rates while accounting for losses, the company gained tax advantage in 2011 in the form of a lower level of income tax advanced payment for the amount equal to PLN 44 012,00, in 2012 – PLN 44 712,00, in 2013 – PLN 50 092,00, in 2014 – PLN 44 712,00, while still retaining the right to include depreciations in the tax-deductible costs according to higher rates over the next years.

The advantage of the depreciation rate reduction is surely the possibility of accounting for losses from previous years without forfeiting that right, as was the case in the above example. This kind of solution enabled the enterprise to gain two tax advantages; the first one derived from accounting for the loss, and the second one through classifying the depreciations on fixed assets as tax-deductible costs. The legislator does not, for the straight-line depreciation, exclude the possibility of raising the level of those rates over the next years. As a business, and not tax, advantage this method of tax optimisation should certainly be seen in a situation where the enterprise does not show high profits while trying to obtain credit. The

choice of this method will then enable the enterprise to show fixed assets at a higher level (the change of the rate will lead to a smaller loss of the initial value), and, at the same time, present higher income to the financial institution, without losing the possibility of including the already higher depreciations in the tax-deductible costs.

Unfortunately this method has its drawbacks, with the biggest one being that it does not reflect the actual consumption of the fixed assets.

Amongst the risks involved in this form of depreciation one should mention that although the legislator did not establish how many times the rate may be changed in the process of depreciation (reduction, increase), thus providing the taxpayer with discretion in this respect, as the taxpayer may, e.g. determine a different depreciation rate for every fiscal year; still, pursuant to Article 22i (5) of the Act on Personal Income Tax and Article 16i (5) of the Act on Corporate Income Tax, taxpayers may reduce the rates, included in the List of depreciation rates, for particular fixed assets, yet the change of the rate, unless it occurs at the beginning of depreciating the fixed asset concerned, is permitted only from the first month of every next fiscal year, thus the change of the rate in the course of the year carries the risk of losing the right to the reduction of the depreciation rate.

However, the key is that the reduction of depreciation rates allows for eliminating additional costs in the form of tax payment.

Conclusion

The tax optimisation of depreciation does not necessary need to aim at obtaining the highest tax-deductible costs possible on account of depreciation; it should rather lead to the most effective, in tax terms, use of those depreciations. In order to achieve those objectives, taxpayers have at their disposal a wide range of possibilities from costs cummulation at the beginning of using a fixed asset (e.g. through one-time depreciation), to just accelerating their identification (e.g. using the method of declining balance depreciation), to postponing the inclusion of costs (e.g. by the reduction of depreciation rates). However, the choice of those tools must be preceded by an in-depth analysis of the economic implications of the adopted solutions and the assessment of risk involved. The methods outlined in the paper of the tax optimisation using depreciation as a tool have been described together with advantages and disadvantages of the specific methods, which enables one to make an appropriate assessment of the effects as regards their application.Choosing the method of one-time depreciation, for example, will particularly be attractive for those taxpayers who obtained high income in a given period of time. Moreover, the method of declining balance depreciation will find its widest application in companies making considerable profits, but also using fixed assets which wear out quickly. Furthermore, while referring to e.g. individual depreciation rates, or separated components of an asset, one should draw attention to the fact that managers face tasks involving a comprehensive analysis and results assessment providing the basis for decisions shaping future actions, which is particularly important in choosing the depreciation methods which aim at tax optimisation, because what is also required is forecasting the company's performance in the long term. Only then can we talk about an effective use of the tax optimisation methods on the example of depreciation.

The aim of the study has been achieved through the indication, based on the examples of the

enterprises investigated in 2014-201, of the practical methods of tax optimisation on the example of depreciation. The study will allow the entrepreneurs to assess the financial effects of the methods applied and to assess their deficiencies, advantages and risks.

To sum it up, the theoretical arguments presented and facts derived from the practice of the contemporary enterprises allow for making the conclusion that the subject of tax optimisation will continue to draw much attention, both in the theoretical and empirical dimension.

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Amortyzacja jako narzędzie optymalizacji podatkowej

Abstrakt

Głównym celem osób zarządzających w przedsiębiorstwie polityką podatkową powinna być optymalizacja podatkowa. Powszechnie wiadomo, iż przedsiębiorcy mogą legalnie płacić niższe podatki wykorzystując możliwości jakie dają przepisy podatkowe. Korzystanie z optymalizacji podatkowej pozwala obniżyć obciążenia podatkowe, a co za tym idzie prowadzi to do poprawy

wyniku finansowego. Kluczowe jest w tym przypadku opracowanie odpowiedniej analizy oraz stworzenie na jej podstawie strategii podatkowej, która pozwoli w legalny sposób minimalizować obciążenia na rzecz fiskusa. Ważne jest też minimalizowanie ryzyka związanego z zastosowaniem określonych rozwiązań- należy weryfikować wykładnie obowiązujących przepisów podatkowych przez organy skarbowe, orzecznictwo sądów administracyjnych (zarówno WSA jak i NSA) oraz Trybunału Konstytucyjnego. Niniejszy artykuł w sposób praktyczny wskazuje w jaki sposób osoby zarządzające ryzykiem podatkowym mogą wykorzystać amortyzacje jako narzędzie optymalizacji podatkowej. Amortyzacja bowiem generuje koszty uzyskania przychodu, zwykle równe dokonywanym odpisom amortyzacyjnym. Korzyści podatkowe z zastosowania amortyzacji stanowią wynik kształtowania poziomu dochodu do opodatkowania. Dlatego warunkiem skutecznego zarządzania podatkowymi kosztami przedsiębiorstwa jest planowanie amortyzacji podatkowej.

Słowa kluczowe: optymalizacja podatkowa, ryzyko podatkowe, planowanie podatkowe, amortyzacja, strategia podatkowa