

MUNI
LAW

Property-related Local Taxes

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Property taxes

Property taxes on

- Movable asset (motor vehicles tax, dogs, TV and radio)
- Imovables (recurrent property tax, property transfer tax)

Property taxes on

- Possession of property (recurrent property tax, motor vehicles tax, dogs)
- Property transfers (property transfer tax)

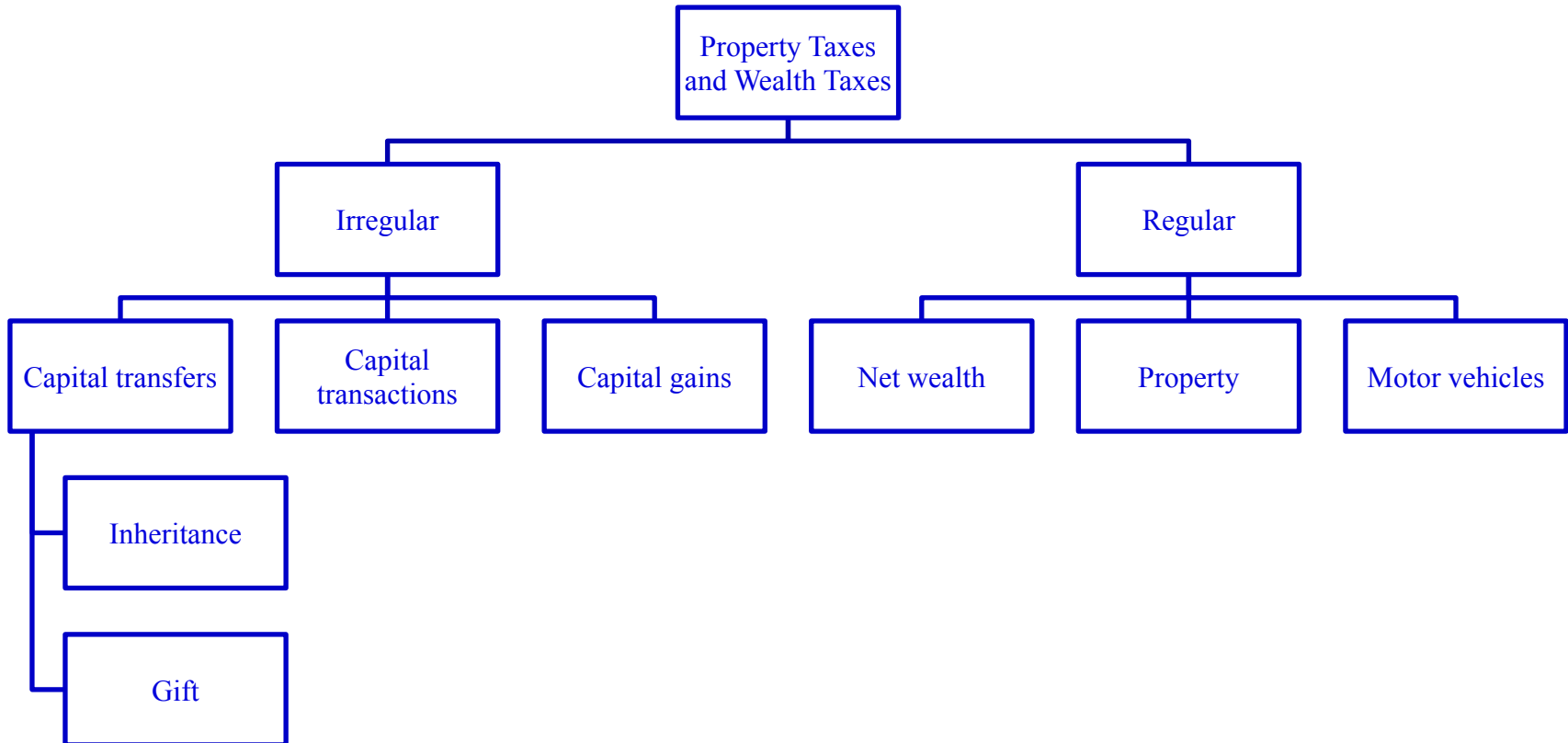


Taxes on net wealth

- Collections, securities, life insurances, goodwills, copyrights, patents
- What is the value?
- How to control?
- Scandinavia, FRA, LUX



Property taxes



Property tax as the second tax?

- Income tax
- Property transfer tax
- Recurrent property tax



3+1 basic types of laws as for their legal force

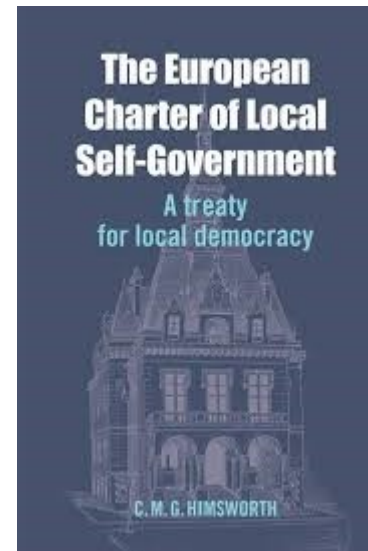
- International laws
- Constitutional laws
- Ordinary laws in the form of statutes
 - These may impose obligations on individuals and corporations, but these obligations have to comply with the limits set forth by the constitutional order.
- Ordinances and decrees (bylaws) issued by the bodies of executive power
 - These are rather supplementary to ordinary laws.

European Charter of Local Self-Government

- Art. 9 presents some principles of economic independence of local self-government units granting financial resources of local authorities
 - local authorities shall be entitled to adequate financial resources of their own
 - part at least of the financial resources of local authorities shall derive from local taxes and charges
 - financial systems on which resources available to local authorities are based shall be of a sufficiently diversified and buoyant nature
 - principle of protection of financially weaker local authorities
 - principle of consultations with local authorities
 - grants to local authorities shall not be earmarked for the financing of specific projects
 - principle of access to the national capital market

Reservations (examples)

- CZ: principles of local taxes, protection of financially weaker local authorities, consultations with local authorities
- SK: principles of sufficiently, diversified financial systems, protection of financially weaker local authorities, consultations with local authorities, grants not earmarked for the financing of specific projects, access to the national capital market
 - However, officialy none



Constitutions

- Define municipalities (public law corporation)
- Set the right to own property
- Set the right to manage the affairs
- Set the right to own budget
- Define and specify sources of the property or the budget (not everywhere – CZ)
- Principle *nullum tributum sine lege* (no taxation without law; taxes and fees/charges can be imposed only by acts) – CZ: Charter of Fundamental Rights and Freedoms
- Everyone shall comply with his responsibilities and public duties, including the payment of taxes, as specified by statute

Property tax: most problematic issues

- Low revenues
- Property tax base
- Property tax administrator



Recurrent property tax

- Superficies solo cedit principle
- Land vs buildings vs both

Tax base

- Fair value: AUT
- Rental value: CYP
- Cadastral income: BEL, FRA
- Assessed value: BUL, DEN, GER, EST, IRL, ROM, SWE, UK
- Cadastral value: GRE, SPA, FIN, FRA, ITA, LAT, NETH
- Market value: HUN, LIT
- Taxable value: PORT
- Area: CZE, HUN, POL, ROM (land), SVK

Specialities

- ❑ AUT: fair value on basis of 1973 plus 35%
- ❑ BEL: cadastral income still refers to the deemed rental income of 1975; an inflation adjustment is however made (1.7863 for 2018)
- ❑ CYP: market value of the immovable property on the 1st January 1980
- ❑ CZE: combination of area based system and ad valorem system (agricultural land)
- ❑ GER: 1964 values, 1935 values for property in the new Länder
- ❑ DEN: the threshold has been frozen at the nominal value since 2002; the government is expected to propose new legislation in 2019 with effect from 2021
- ❑ EST: land only
- ❑ FRA: the cadastral value at 1st January 1980, with an allowance of 20% (1978 for buildings); rates voted by each beneficiary local authority for the year in question

- HUN: the tax base depending on the decision of local government shall be the net floor space of the building, or the adjusted market value of the building (thus the 50 % of the market value)
- IRL: rates are assessed on the valuation of immovable property ; the valuing of property for rating is carried out by the Commissioner of Valuation for the whole State; a right of appeal to a Valuation Tribunal and a further to the High Court
- POL: 0,49 PLN per m² land, 0,79 PLN per m² buildings, 23,47 PLN per m² economic activity
- PORT: if the taxpayer (corporate) is a resident of a listed tax haven, the applicable rate is 7.5 % (generally max. 0,8 %)
- ROM: in case of buildings which haven't been revaluated by individuals during the last 3 years, the tax rate is 5 % (generally max. 0,2 %)
- SWE: tax assessment value equivalent to 75 % of market value; general assessment every six years
- UK: each dwelling has been valued and placed in one of eight "valuation bands" (nine in Wales)

Tax rate

- AUT: 0-1 %
- BEL: 0-3,97 %
- BUL: 0,1-0,7 %
- CYP: 0-1,9 %
- GER: 0,26-1 %
- DEN: 1-3 %
- EST: 0,1-2,5%
- GRE: 0-1,15 %
- SPA: 0.4% (urban) 0.3% (rural)
- FIN: 0,41-2 %
- LIT: 0,3-3 %
- LAT: 0,2-1,5%
- PORT: 0,3-0,8 %
- ROM: 0,08-1,3 %
- SWE: 0,3-1 %

CZE: 2-10 CZK per m², 0,25-0,75 %

HUN: 1,100 HUF per m²; 3,6 %

POL: 0,49-23,47 PLN per m²

SVK: 0,25 %, 0,033 EUR per m²

STATE OR MUNICIPALITY???



My house CZ

- Built-up area 100 m², 2 floors, garden 200 m²
- Market value 400000 EUR

- Land tax:
 - TB: $200 \cdot 10$ CZK/m²
 - TR: 0,75%
 - TAX: 15 CZK (0,58 EUR)
- Building tax:
 - TB: 100 m²
 - TR: $(2 + 0,75) \cdot 3,5 = 9,63$
 - TAX: 963 CZK (37 EUR)

Correction components

- Public property
- Property used for public transport
- Property used for praying purposes, graveyards
- Diplomatic reasons
- Reductions for family houses
- Reductions for families with children (BEL)
- Reductions for protected buildings
- Low value property

- By State or by Municipality?

Tax administrator and beneficiary

- Municipalities



Property transfer taxes

- VAT (CZ, NETH, SPA – rules to avoid double taxation)
- Stamp duties
- Inheritance tax
- Gift tax
- Income taxes
- Property-value increasement taxes
- PROPERTY TRANSFER TAXES



Advantages

- Property is immovable - fixed in location
- It is impossible to hide the property
- There is always a value of the property
- Property is registered
 - Transfers are public and registered
 - Taxpayers are easily identifiable
- Is the property transfer registered before or after the payment?
- Easy to administer, low administration cost

Disadvantages

- Second tax (income tax, annual property tax, VAT)
- Unfair tax: the decision of Czech Constitutional Court argued that this is a politicum
- Benefits for taxpayer??? – Registration and protection of rights
- Other legal acts not to tax property transfers
- Undervaluation of property
- Deformed market

- Movable property transfer tax
 - Easy to avoid taxation
 - What is to be taxed?
 - What is the value?



Types of property transfer taxes in EU

- Transfer tax: AUT, CRO, GER, FIN, GRE, HUN, NETH, POL, PORT, SLO
- Registration tax: BEL, FRA, ITA, LUX
- Acquisition tax: BUL, CZE
- Capital Tax: CYP (capital gains), SPA (capital transfers)
- Stamp duty: GB (land tax), IRL, SWE
- Tax on sale: DEN
- Duty: LAT (for consolidation of ownership), MAL (property transfers)
- No transfer taxation: EST, LIT, ROM, SVK

Taxpayer

- Buyer: BEL, BUL, CRO, CZE, FIN, FRA, GRE, IRL, LAT, LUX, MALT, NETH, POL, PORT, SPA, SWE, GB
- Seller: DEN, CYP, SLO
- Both: AUT, GER, ITA
- Contract?: BUL, (CZE,) GER
- Surety?: BUL (in case of contract buyer), (CZE (byuer))

Tax base

- Contract price: AUT, BEL, DEN, GB, GER, IRL, LAT, MAL, SLO, SPA, SWE
- Price vs. Market value: FIN, FRA, GRE, NETH
- Price vs. Taxable value: PORT
- Assessed value: BUL
- Market value: CRO, ITA, LUX, POL
- Re-evaluation of the cadastral income: ITA for houses purchased by private persons
- Net profit: disposal proceeds less the greater of the cost or market value as at 1st Jan. 1980 as adjusted for inflation: CYP
- Costs are often deductible from the tax base

- Set by:
 - Central authority
 - BEL (central and regional authority)

Tax rate

PORT: 0-8 % progressive, depend
on type of the property and location

BUL: 0,1-3 %

IRL: 1-2 %, GB 1-15 % progressive

SWE: 1,5 % for natural persons,
4,25 % for legal persons

POL, SLO: 2 %

LAT: 2-6 % depends on type of the
property, discounts for relatives

GRE, ITA: 3 %

MAL: 3-5 % degressive

AUT, GER: 3,5 % (0,5-3,5 % for
relatives in AUT; decision of lands
in GER)

FRA: 3,8 – 4,5 depends on
departments + 1,2 % additional
local tax

CZE, FIN: 4 %

CRO: 5 %

BEL: 5-12,5 % depends on region

LUC, NETH: 6 % (2% for dwellings in NETH)

SPA: 6-7 % depends on location

CYP: 20 %

DEN: taxed by income taxes

Set by:

- Central authority
- BEL, SPA, PORT (central and regional authority)
- GER – regional authority
- BUL – local authority
- FRA – central, regional and local authority

Correction components

- For relatives
- Public institutions, charities, public benefit associations, churches, Red Cross, etc.
- Protection of environment
- Low value, especially used as permanent residence
- In the act, sometimes depend on local or regional authorities

- Set by:
 - Central authority
 - BEL, SPA (central and regional authority)
 - FRA, PORT (central, regional and local authority)

Tax administrator Beneficiary

- State tax offices
- Region: FRA, GER
- Local authority: BUL, SPA
- Professional intermediaries
like notaries: BEL
- Land register: LAT

Central authority - generally
Regional authority – GER, SPA
Local authority – BUL, FRA, SLO, POL, PORT
Shared – BEL, ITA (central and regional), AUT,
CRO, GRE (central and local)



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Inheritance and gift tax

- Mostly abolished in CEE countries
- BEL up to 80 %
- GER 7-50 %
- DEN 15-36,25 %
- GRE 0-40 %
- SPA 7,65-34 %
- FIN 7-33 %
- FRA 5-60 %
- ITA up to 8 %
- LUX 6-15 %
- NETH 10-40 %
- SWE 10-30 %
- UK up to 40 %



Property tax administration

- Municipality vs State
- CZ: administered by State; communal waste charge replaced by property tax as a solution to save administrative costs
- CZ: ca. 6300 municipal office



Full vs limited self-government autonomy

- Taxes are imposed by act - State / by local bylaw - local self-government
- Too many different definitions of local tax: amount of money defined by law as revenue of local budgets, self government unit has right to impose this tax or anyhow influence the revenue setting the tax base, tax rate, or any of correction components
 - No matter if the taxpayer receives any compensation
 - No matter if it is paid regularly or irregularly
 - No matter who is the tax administrator
 - Includes taxes sensu stricto and charges

Property tax CZ

- Municipalities only have the right to exempt immovable property affected by natural disasters, certain agricultural land (arable land, hop-fields, vineyards, orchards and permanent grass pastures), and immovable property in special industrial zones
- Municipalities are allowed to adjust those coefficients that influence the tax rate (the location rent, the municipal coefficient) or the tax itself (the local coefficient)
- Local revenues 4 %

Property tax SK

- Municipality may decrease or increase (10x) the basic tax rate
- Municipalities are also allowed to adjust other construction elements of the taxes, such as additional reliefs, instalments, reporting duties, value of building lands & floor surcharge in case of the immovable property tax, particular means of the use of a public area, etc.
- Local revenues 12 %

Local tax (or price?)



- voluntary vs obligatory

- PIT (shared or surcharge, HU)
- CIT (shared or surcharge)
- VAT (shared)
- Property taxes incl. transfer taxes
- Motor vehicle taxes
- Local excise and sales taxes
- User charges (water supply and sewerage, electricity, gas. etc.)
- Business registration and other registration taxes
- Tourist taxes
- Poll taxes
- Betterment fees incl. building permits, planning permissions etc.
- Local wage taxes
- Animal taxes (dogs, cows, etc.)
- Communal waste tax
- etc.

- CHOOSE THE BEST LOCAL TAXES!!!
- Property tax is no. 1 local tax
- THINK ABOUT THE TAX BASE!!!
 - Unit vs ad valorem
 - Re-evaluations
 - Rates
 - Competences of local officials (basic rates vs local rates)
 - Costs vs revenues
 - Easy administration and control
 - Self-application
- Revenues vs costs – economic and political issues

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Thank You