



L

## Transfer Taxes and Municipal User Fees/Charges



LINCOLN INSTITUTE  
OF LAND POLICY

# Transfer Taxes and Municipal User Fees/Charges

## Property Transfer Taxes

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

## Object of taxation

- Transfer / Acquisition of the property
- Transfer of the title to property
- Sale by public auction



## Tax base

- Contract price: AUS, 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 % (2 % for relatives in AUS; 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

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

## Beneficiary

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

## Municipal Fees and Charges: Do They Compete with the Property Tax?

- Agricultural lands and buildings will be taxed in different (old) way
- Higher administrative costs mean higher tax???
- Historical consequences (restitution, status quo in real estate market, rent regulation)
- Possibilities to appeal against the tax base
- Competence of municipalities (6300 municipalities)

## Local Tax vs. Local Charge

- Too many different definitions
- Amount of money defined by law as a 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

## Local Taxes Sensu Largo

- PIT (shared or surcharge)
- CIT (shared)
- 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.)
- Etc.

## Limitations of charges in act

- YES – limited self government authonomy
- NO – full economic authonomy of local self governeemt
- Voluntary or compulsory?
- How: municipal by-law
  
- 8 charges in the Czech Republic (dogs, waste, 2x tourism, public places using, entrance, entry permit, evaluation of building land)



## Who is the taxpayer

- In the act or by the municipality?
- Possible correction components?

## What is the tax base

- In the act or by the municipality?
- Possible correction components?

## What is the tax rate

- In the act or by the municipality?
- Maximum rate?
- Minimum rate?
- Possible correction components?

## Administration

- State or local self government?
- What are the costs?
  - Mostly high costs compared to the revenue

## Solutions

- Choose „the best“ charges
- Remember other functions of the tax (repressive, stimulation)
- Replace local taxes administered by municipality for centrally administered taxes, if there is any possible surcharge
  - PIT, CIT, VAT, Excises
  - Property taxes
- For the Czech Republic:
  - Immovable property tax
    - Coefficients, especially local coefficient for higher revenue
    - Administered by state tax office
    - Abolish taxation of waste
  - Adopt tax on nuclear facilities
  - Adopt advertisement tax
  - Adopt just one tourist tax
  - Adopt general infrastructure tax
  - „Regional“ tax on motor vehicles

# Thank you

Michal Radvan, Assoc. Prof.

Faculty of Law, Masaryk University

[michal.radvan@law.muni.cz](mailto:michal.radvan@law.muni.cz)



LINCOLN INSTITUTE  
OF LAND POLICY