CONTENTS

From the Scientific Council ................................................................. 5

A Few Remarks on Michal Kalecki`s “Political Aspects of Full Employment”
Mateusz Guzikowski ................................................................. 7

The Austrian and Neoclassical Theory of the Interest Rate
Andrzej Jędruchniewicz ................................................................. 18

The Threat of Payment Gridlocks in Poland and Business Ethics
Katarzyna Kreczmańska-Gigol ....................................................... 34

Hybrid Legal Forms As The Structuring Instruments For Outbound Investments
Stephan Kudert, Paula Jarzyńska, Marcin Jamroży .......................... 47

Behind the G20 Strategic Transformation: from Washington to Pittsburgh
Marcin Menkes ................................................................. 64

Selected Elements of the Polish Tax System from the Entrepreneurs’ Perspective.
Research results
Joanna Szlęzak-Matusewicz ....................................................... 77

Summary ................................................................. 89
Ladies and Gentlemen,

We present you with the tenth edition of the ‘Journal of Management and Financial Sciences’. We hope that these articles will present a contribution to the development of economic thought and contribute to a fuller understanding of the complex economic issues. We wish you pleasant reading.

Janusz Ostaszewski,
Chairman of the Scientific Council and Dean of the Faculty

Ryszard Bartkowiak,
Vice-Chairman of the Scientific Council and Vice-Dean of the Faculty
1. Introduction

In his seminal paper of 1943 entitled “Political Aspects of Full Employment” Michal Kalecki presents a far gone scepticism about the political possibility of maintaining full employment in the long run. Although the economy can reach a ‘full employment mark’, mainly due to a government direct creation of demand (raising the effective demand level), this target can only be achieved in the short run, argues Kalecki. The reason for that claim is not as obvious as one may suppose.

Fiscal stimulus established by a government is a short term tool application which can improve the output and employment level in the economy only temporarily. Maintaining the full employment mark would require infinite government injections (raising the budget deficit) to the aggregate demand level that may lead to an increase in the level of public debt. There exists a possibility to keep the debt level in check, but it depends on the relationship between interest and economic growth rate. Kalecki argues that achieving a full employment level via fiscal stimulus is not difficult, but maintaining it in the long run is a severe challenge because it does not depend solely on the government.

The inability to hold the full employment level in the long run may be a result of capitalist institutions (i.e. lack in their efficiency). Hence, only the institutional change of capitalism combined with the macroeconomic policy of the government can affect the actual (lower than in the equilibrium) level of employment so that the economy experiences a persistent full employment mark in the long run.

The article is organized as follows. Section 2 presents different approaches to the concept of full employment. The third section deals with the framework delivered by Michal Kalecki. Section 4 focuses on the weaknesses of this concept mainly by presenting some objectives concerning public finance stability. Section 5 summarizes the article briefly.
2. The Ambiguous Concept of ‘Full Employment’

What does it really mean that a domestic labour market is described in terms of the full employment level? Does it mean that the labour demand is equal to the labour supply so that everyone who is ready to work finds it? It would be a serious intellectual abuse as it is known that the labour market may be in the equilibrium but simultaneously there is a positive rate of unemployment in existence (e.g. frictional unemployment and structural unemployment which are both defined as a ‘natural rate of unemployment’).

There is a range of definitions concerning the term of ‘full employment’. Let us – beside the one given above – cite here just two of them. The first one we should mention is given by Eisner (1996)1: “Full employment meant everyone working who wanted to work at a wage equal to but not necessarily more than his or her marginal product”. Let us look closer at this definition. Is it an appropriate one when we consider the mismatch between the labour demand and labour supply, or more explicitly: the difference in the nature of vacancies and available labour? Is it widely observable in the real world (real economy), that firms and employers behave themselves as if they were applying the rule of a diminishing marginal product of labour?

Another definition that has to be quoted here comes from Sawyer (1995). In his opinion “full employment does not mean a job for everyone of working age but that full employment implies some [time] limit on the length of frictional unemployment suffered by any one job seeker.”2 We have to stress here that labour supply can be dependent upon labour demand and, what is supported by empirical results, a long duration of unemployment leads to decrease in his or her individual labour supply.

Clearly, the concept of full employment is very difficult to be defined precisely mainly due to differences in economists’ approaches to the institutional system of the labour market. For sure we can state that both cited definitions are not as appropriate as the one given at the very beginning, although it is also imperfect3.

---


3 Kalecki did not state clearly what he reckons the full employment level to be. The closest definition that can describe the full employment is the lack of unused capacity.
3. “Political Aspects of Full Employment”

The key assumption of Kalecki’s model is a dual function of investments. It may be perceived as a source of capital stock in the economy or as a form of expenditure that accelerates the aggregate demand. The consumption of employers (capitalists) can also boost the economy, and hence raise the level of their profits. If effective demand does not grow at the same rate as the capacity, it may generate the unused capacity (underemployment) that will affect future decisions on investments, and as a consequence the level of profits. Therefore the main tool to achieve full employment it is to stimulate overall investment in the economy. This can come from either private or public investment, so it is reasonable to describe investment as a function of fiscal stimulus (i.e. fiscal policy).

Boosting the economy may require a government intervention through a rise in government spending. Although nowadays this tool is perceived as a simple way to raise the public debt, Kalecki states that if the rise in government expenditure were financed through the introduction of additional tax rate levied on capital (broadly: all forms of wealth), it would be possible to achieve full employment without any substantial problems for the domestic economy because this tax would not affect the income of capitalists as a class.

On the other hand, Kalecki describes budget deficit as a tool of bringing the demand back to its effective level. Hence, budget deficit could be used as a stimulus only to correct a deficiency in aggregate demand. He enumerates three government tools whose application may guarantee long-lasting full employment in the economy, namely: direct demand creation through a public investment programme (e.g. building schools, motorways, and hospitals) and/or subsidisation of consumption (e.g. by stimulating private investment), and a policy of redistribution (from high to low income, i.e. towards social groups that are described with higher propensity to consume).

Raising employment to make it close (or equal) to the full employment mark is beneficial both for employers and employees. The former benefit from higher profits, the latter from higher – relatively to the amount of unemployment

---

4 Conversely it can be described as a balanced growth path.

5 According to Keynes, the increase in government spending that is financed by borrowing (raising the public debt) can be beneficial to all who use the services delivered form the government (i.e. infrastructure, education, health care, etc.) financed by debt growth and for those who are currently looking for a job mainly due to multiplier effects that increase the aggregate demand for labor. If the raising expenditures can be covered by raising public debt – increasing present in favor of future consumption – the majority of taxpayers can be better off because rising employment requires lower spending for unemployment benefits and implies increase in tax income. This is an excellent example for pure Pareto improvement, because nobody has to pay for full employment policy with diminishing standard of living.
benefit – wages. One may state that both classes should, therefore, aim for the full employment level. But the capitalist class – as it will be shown later – is worse-off in the equilibrium because of loss in power.

Putting these considerations aside for a moment, we have to stress here that full employment is a quite accidental point in the business cycle. Not only because of the fluctuations in economic activity, but also due to some political problems concerning the achievement of this target that arise as an effect of the class struggle between employers (capitalists) and employees (working class). Kalecki emphasises that the following problems make full employment incompatible with capitalism (Kalecki 1943):

a) general dislike of government intervention, especially with respect to employment creation,

b) dislike of the specific composition of government expenditure, especially with public investment and subsidisation of mass consumption, and

c) dislike of the social and political consequences of the long term full employment⁶.

The first two obstacles mentioned above are intelligible – capitalists do believe that government intervention can lead to the crowding-out effect so that ‘healthy’ and productive (efficient) private investment would be crowded out by inefficient investment of the public sector. Only the third obstacle requires a brief explanation. If two antagonistic classes exist in the economy, namely capitalists (‘industrial leaders’ or oligopoly capitalists – as described by Kalecki) and workers, there is no reason for capitalists that the economy achieves the level of full employment because unemployment is perceived by them as a mean of control (a bogey) over the working class. Full employment is combined with a loss of the capitalists’ power in the struggle with workers, so that the former are forced to raise wages, and the latter can impose conditions and wages at the level favourable to them. In the economy where no involuntary unemployment (a so-called “permanent full employment regime”) exists, there is a feasible threat of strikes for wage increases and improvements in working conditions that can undermine the capitalist class self-consciousness due to their preferences – it is worth more for them to have discipline in the factory than higher profits, that clearly would be higher in the case of full employment. Rising new institutions (reform of capitalism) should allow for the rising power of the working class. Therefore, in Kalecki’s opinion it is not possible to combine capitalism with the full employment level without reforming the former.

⁶ As Kalecki argued, these so-called distributional conflicts are immanent for the full employment capitalism, and therefore enforce permanent reforms of the country specific institutional system.
As the result of the appearance of these obstacles Kalecki stresses the need for an institutional change because – in his opinion – government intervention may improve the market outcome only temporarily. In fact, there arises a need for a deep reform of the institutional system, including these of the socio-economic and political subsystems. Only the outbreak of this distributional conflict and new institutional system may guarantee holding full employment in the long run. Hence, it could be argued that Kalecki incorporates long-run dynamics more explicitly than Keynes (Sawyer 1985).

Let us refer here to an interesting model that is delivered by Kriesler and Halevi (2001). They consider a buffer stock employment model\(^7\) in the spirit of Kalecki’s theory. There exists a government in the economy, that may be perceived as an employer of last resort and the target of which is the mitigation of employment level fluctuations along the business cycle phases. They suggest it may be a solution for excessive unemployment in the long run, but they stress this does not mean the necessity of introducing such institutional reforms as mentioned by Kalecki, which are required to maintain full employment. There will be no changes in class relations that constitute the incompatibility of capitalism and full employment. Hence, their framework shows that there is the possibility of co-existence of capitalism and full employment in the long run. Although it may be easy to achieve full employment in their opinion, the maintenance of it will be a task of “overwhelming difficulty”.

4. A Few Remarks on the Kalecki Framework

In this section, I outline some remarks on the Michal Kalecki’s framework. My concern is especially focused on the fiscal policy and fiscal stability, although one may find some interesting points on the distributional conflict mentioned in the previous section.

1) Kalecki argues that an increase in the national debt level is not an obstacle and a burden on society as a whole since it is largely an internal transfer. Hence, rising national income would – on condition that there exists a progressive tax system – raise budget revenues. He stresses that if full employment level was once achieved and is maintained through

\(^7\) The buffer stock employment models treat employment like a stock of goods, with build up of inventories associated with economic downturns becoming the equivalent of unemployment. The underlying idea is that the government should “buy” up this excess stock by offering employment to the “surplus” labor during downturns, so that the government effectively acts as an employer of the last resort. These “stocks” are then returned to the private sector when the economy picks up (Kriesler, Halevi 2001).
budget deficit, public debt explosion is constrained by the rate of economic growth. Domar (1944) delivers a number of interesting examples of the influence of growth rate-interest rate relationship on the public debt and stability of public finances\(^8\). We have only to state here that if the growth rate exceeds the value of interest rate, the government is able to stabilise the public debt (as a fraction of GDP), and so that persistent deficit does not necessarily lead to a crash in public finances. Conversely, when the interest rate exceeds the rate of economic growth, there arises a threat of permanent instability in public finances with rising interest rates and persistent high inflation which both will contribute to lowering the rate of economic growth. So in the long run the final result of boosting the economy through government spending (deficit) depends on the relationship between the growth and the interest rate.

2) But there is a more interesting case concerning the budget deficit, namely the phase of the business cycle, during which it is used to bolster up employment. If the government decides to raise spending in the recession to achieve full employment, it may be perceived as an incentive for consumers to raise their spending and for employers to raise the demand for labour. In a quite different case, when the economy finds itself in a boom, raising spending by the government demonstrates the weakness of private investment to private savings, because government intervention is needed to sustain the aggregate demand, thus full employment. The only result of raising aggregate demand in a boom is a rise in the inflation rate.

3) Assuming – according to Kalecki – that in the economy the increase in government expenditure is equal to the raise in tax income\(^9\), there will be both GDP and employment growth observed without necessity of raising the public debt. Assuming that there exist only two groups (unemployed who are the target group of government’s policy and employed), increasing taxes can be perceived by the employed as a tool of redistribution policy aimed at those who become employed. Therefore, there will be no improvement in a Pareto sense, because – although total consumption remains unchanged – the former will consume less and the latter more, as compared with the situation of no government intervention. Hence, there is no possibility that the full employment policy is free of charge.

---

\(^8\) A simple presentation of Domar’s framework can be found in: Carlin, Soskice (2006).

\(^9\) This describes a well-known idea of balanced budget multiplier (see: Peston 1987).
4) We have to draw one more distinction. It is possible that the government reaches the full employment level, although there is a lack in aggregate demand. If in the economy there is a low private investment observed, low government expenditures combined with low tax increases allows the economy to move towards full employment but it requires large budget deficits to maintain this in the long run. The second possibility we have to consider is that the government raises expenditures along with raising taxes excessively, compared to the level that will secure full employment. In this case, there is a large probability that the benefits gained from the government will be distributed more widely than the costs of financing them through taxpayers. Hence, there are different dilemmas of the redistributive policy. Of course, the optimal choice requires an optimisation criterion: if it is current consumption, the optimal solution for the government is to choose larger deficits; if it is future consumption, a low level of budget deficit (and public debt) is desired.

5) After the first oil crisis, that manifested itself in a large increase in the inflation rate, governments established a new macroeconomic policy that seemed to be an appropriate response to the rising unemployment rate. Although they implemented the recommendations of Kalecki and Keynes implicitly, there was no improvement in labour markets amongst European countries. Once considering the reasons for this defeat, it is worth noting and stating that most government spending, that was launched, consisted of unproductive social expenditures (i.e. unemployment benefits, disability pensions, etc.) which did not contribute to the aggregate demand so that it could be possible to reach full employment. There should be at least two channels of interaction between spending and growth considered in the spirit of Kalecki’s theory. First, raising social expenditures contributes to the increase in consumption, and – as a consequence – increase in the demand for labour. This is clearly the demand-side approach. Secondly, increasing social spending may not contribute to the aggregate demand if it were a technological (supply-side driven) shock. It can only mitigate negative results arising from growing unemployment by an increase in consumption. If the economy does not restructure (adapt to changes in the global environment, so that it could regain its competitiveness), social spending growth may be counterproductive, i.e. they may contribute to the economic stagnation (and unemployment hysteresis) and – instead of raising employment – high unemployment. Therefore, raising government
spending (mainly: social transfers) may be broadly conceived as a way to high unemployment\textsuperscript{10}.

6) Sawyer (1995) states that “Kalecki characterised the level of economic activity in capitalist economies as demand constrained, whereas in planned socialist economies the level was supply (resource) constrained”. Today we ought to make a different distinction. In times of independent national banks the main role of government is to arrange and hold the efficiency of markets along with interference in the market at the lowest level (a so called “limited state” paradigm). Hence, it is useful to stress that the microeconomic activity of the government should be constrained to the supply-side measures, implementation of which can increase market efficiency (e.g. expenditures for education and R&D; removing obstacles for starting one’s own business; lowering the employment protection legislation that can contribute to a higher demand for labour and – as a consequence – higher employment close to ‘full employment’). When we take into consideration the macroeconomic policy, we can state that governments are more passive than a few decades ago because of establishing and introducing to the macroeconomic policy the ‘independent central bank’ paradigm. Central banks are responsible for monetary policy and even if the government launches a new spending programme to boost the economy, they can respond easily to the threat of inflation by increasing the interest rates. Central banks implementing a farsighted monetary policy can boost the economy and contribute to the rise in employment. The government can only mitigate the negative results of being unemployed by paying out unemployment benefit and offering the possibility of training to match one’s qualification to changes in the labour demand.

7) The increase in aggregate demand – in the Kalecki framework – may be an effect of the government investment policy aimed at building more schools, hospitals and motorways (similar to the spending programme launched during 1930s and 1940s in Nazi Germany). Although it can be perceived as a reasonable response to the fall in the aggregate demand, the raising activity of the government may lead to the crowding out of private investment. This type of government activity is especially harmful when it affects the private sector. The well-known term – named after the title of von Mises’ book – “The Omnipotent Government” is applicable

\textsuperscript{10}Glyn (1995) gives two excellent examples to support this thesis, namely: the fiscal expansion during F. Mitterand’s term, and the Swedish experiment during the late 1980s and 1990s. Another paper by Laski (2004) examines the fiscal expansion in Germany after the first oil shock.
not only for the past but may be observed in many poor African or Asian (especially the CIS) countries nowadays. Kalecki thinks, and we have to follow his argument, that capitalists – as a social class – believe that government intervention can lead to the crowding-out effect so that ‘healthy’ and productive (efficient) private investment could be crowded out by the inefficient investment of the public sector. Hence, the government’s intervention deranges the competitive equilibrium that might have been reached as a result of a market clearing process. To encapsulate, there has always existed in the economy a spectrum of investment possibilities, ones which were rejected by the private sector due to their inefficiency, creating a niche for government production and the creation of exaggerated demand.

8) We have to emphasise here one more dimension of persistent full employment. If the economy does not achieve it (so that the effective output is below the potential output), the effective rate of unemployment is above the natural rate. If the economy is below its potential output level, the unemployment rate lowers the pressure on prices and wages – it protects the economy against the price-wage spiral. On the other hand, if in the economy there is full-employment level observed, the actual intensity of work and productivity of labour may be lower than without full employment because dismissals do not act as a bogey. Employees may demand higher wages which can contribute to a higher inflation rate and – in the medium run – to stagflation.

5. Conclusions

It seems difficult to achieve full employment, especially under globalisation, wage migration and labour market imperfections. Pollin (2008) states, that it is possible but only through comparable levels of demand injections into the domestic economy through a controlled public policy. The most effective and egalitarian way to do this is by launching public investments targeted carefully at location-specific high employment investments.

However, one may reasonably state that nowadays the demand-side tools are (or should be) not desired to boost the economy, because of the independent central banks. Therefore, the concern and the main task for governments nowadays – in the age of independent central banks – seem to be assuring labour market

\[\text{Similar effects on the equilibrium allocation will have introduction of subsidies to mass consumption.}\]
flexibility so that full employment could be achievable, without direct demand creation. Using its supply side tools (for instance lowering the level of employment protection legislation, changing the labour code to enable employers to employ and dismiss easily) rather than raising the aggregate demand, the government can contribute to higher employment (i.e. to lower involuntary unemployment) and because of such a policy get closer to the full employment level (measured as a decrease in the natural rate of unemployment).

The framework delivered by Kalecki shows, however, that there may arise some obstacles making achievement of this desired level impossible. Although the economy might grow faster after reaching the full employment mark, this could lead to higher inflation (due to the working class imposing on the capitalist class conditions and wages at the level favourable to them). The independent central bank therefore would be forced to raise the interest rates, so that the economy would slow down in the medium run. Therefore, we are entitled to state, that nowadays the economy should strive for the level of employment close\(^\text{12}\) to the full employment mark so that the probability of high inflation appearance could be minimised.

**Bibliography**


\(^{12}\) The full employment level in the economy is nowadays, mainly due to labor market imperfections mentioned earlier and synergy between labor market institutions unattainable.


The Austrian and Neoclassical Theory of the Interest Rate

1. Introduction

There are not many categories in economics that are explained in the same way and whose perspectives are accepted by all major schools. The interest rate belongs to such categories. It has always inspired a particular theoretical and practical interest. Attempts at explaining its origins have been made since the time of ancient Greece, where philosophers approached interest mainly from a moral perspective. The significance of the interest rate has considerably increased together with the development of the general theory of economics and economic development in Europe. The existence of the interest rate has most often been sought in capital productivity. Also other concepts have emerged, including the important theory of time preference. Governments were most of all interested in the interest rate as a tool of economic policy to which the theory of John M. Keynes was a response.

This is a theoretical study and its main objective is to present the theory of the Austrian school that explains the sources of interest as well as the comparison between these theories with the concepts of interest rates by the major representatives of the neoclassical school. When it comes to the theories of the Austrian school, Böhm-Bawerk’s theory is discussed as this economist created the entire idea of interest based on time preference. The discussion includes the criticism of some elements thereof, the concept itself is modified, i.e. the concept of the interest rate as elaborated by the modern Austrian school is presented.

2. Böhm-Bawerk’s Theory of the Interest Rate

Austrian economists (Menger, Böhm-Bawerk, Wieser, Mises, Hayek, Rothbard, Huerta de Soto, Machlup, Salerno, Kirzner, Hazlitt and others) find the origins of their theory in the works of the Spanish scholastics of the 15th and 16th centuries (Francisco de Vitoria, Domingo de Soto, Juan de Medina, Luis de Molina and
others) who continued the thoughts of Saint Thomas Aquinas at the University of Salamanca, analysing the issues of e.g. private ownership, value, price system, money and interest rate [see: Schumpeter 1986].

The interest rate level is one of the most important economic categories in economy. The Austrian theory of interest rates is based on the theory of Eugen von Böhm-Bawerk presented in *The Positive Theory of Capital* published in the German language in 1889. The author begins with the criticism of the theories created earlier by presenting them in the work entitled *Capital and Interest. A Critical History of Economic Theory* published five years earlier. He rejects the explanation of interest based on the theories: 1) connected with capital performance (Smith, Say, Malthus), which was the main theory of the classical school; the economists of this school argued that capital is an independent production factor; its involvement in the production process increases the performance of other factors, which finally leads to the increased value of the final good; therefore, the capital for this activity should be rewarded with interest; it is a cost, just like pay and land rent, that determines the natural value of the produced good; 2) Senior’s abstinence theory according to which interest is the remuneration for abstaining from the present consumption; just like pay is the reward for the labourer for abstinence from their free time; 3) exploitation (Proudhon, Marx); this theory is based on the claim that only work creates value; it means that capital is a factor derivative from work which is a primary factor, so it is increased in the consequence of taking over some of the workers’ labour by capitalists, i.e. added value; interest is therefore the reward of capital generated from taking over a part of the added value earlier produced by labourers [see: Marx 1957]; 4) others which are of lesser importance, e.g. “numerous colourless theories in the older German literature” [Böhm-Bawerk 1924].

Böhm-Bawerk distinguished two kinds of interest: monetary (market) and pure (originary) interest. The monetary interest is the price of money on the credit market. It consists of the originary interest, risk premium, capital management remuneration (Mises referred to this factor as the entrepreneurial component which results from uncertainty with regard to the possible fluctuations in the society’s time preference or other incidents against which one cannot be insured [Mises 2007] and bonus for the expected change in the purchasing power of money. The last factor can take a positive or negative value, depending on whether one expects inflation or deflation.

Pure interest is the main subject for Böhm-Bawerk when explaining the essence and causes of interest. The starting point begins with the fundamental statements for this theory according to which the present goods are more precious than the same goods in the future. This difference is coined *agio* [Böhm-Bawerk
The phenomenon called time preference is the measure of the difference between the present satisfaction and the same satisfaction in future [Endres 1991]. Greater time preference means that an individual appreciates present goods more than future ones. The decrease in this preference, in turn, demonstrates that future goods are more valuable to an individual. Theoretically, one can imagine two extreme situations: infinite and zero time preference. However, this would be impossible in practice. When analysing the reality, we deal with people acting at present, and so aiming at the improvement of their future position. This means that they will want to consume goods after a certain time. Biological issues are a different reason. In order to live, human must eat and warm their bodies. These, some of the simplest activities, require some time. Mises claims that we must understand that if satisfaction in the nearest future is not more important for humans than the same satisfaction in the distant future, they will never consume or find satisfaction [Mises 2007]. The social time preference rate is the resultant of time preference rates for particular individuals [Rothbard 2007].

According to Böhm-Bawerk, the subjective difference between the value of the present goods and the future goods, i.e. *agio*, is the cause of the interest rate. In other words, the interest rate is the market price at which present goods are exchanged for the same goods in the future. The Austrian theory of percentage is referred to as the time theory or temporal theory. But what does *agio* result from? The answer to this question is the basic issue in the Austrian school in this field of economics. Böhm-Bawerk distinguishes three main causes of interest:

- economic,
- psychological,
- technical ones.

The first cause results from Gossen’s First Law, i.e. the law of diminishing marginal utility, which is elementary for the entire subjective and marginal approach. When explaining interest on the basis of the utility of the last monetary unit, Böhm-Bawerk continues the thoughts of the school’s master, Menger [Endres 1991]. In the theory of the interest rate, this law refers to the income of people spent on consumption. “*Some people are living below subsistence levels while others expect to be better off in the future; both groups will prefer present over future goods*” [Blaug 2000]. This means that in the various analysed situations people expect higher income in the future. They believe that their situation will improve with time, so they are ready to pay interest for the consumption of present goods. Increased present consumption will bring them greater utility than the increased future consumption they have to give up. This situation is true only for dynamic economics as time preference can only exist in this kind of economy.
Those who criticise this reason claim that it is insignificant in the stationary condition. The Austrian school rejects this state by assumption as they find it incompliant with the reality. The exchange between the present consumption and the future consumption will aim at the following relation [Blaug 2000]:

$$\frac{MU_t}{MU_{t+1}} = \frac{p_t}{p_{t+1}} = \frac{MU_{t+1}}{MU_{t+2}} = \frac{p_{t+1}}{p_{t+2}} \ldots = \frac{(1 + r)^2}{1 + r} = \ldots = \frac{(1 + r)^n}{(1 + r)^{n-1}} = 1 + r,$$

where:
- $MU$ – marginal utility of good,
- $p$ – price of good,
- $t$ – time,
- $r$ – interest rate.

The second reason for the existence of interest involves the underestimation of the future by individuals and concentration on the present period. Böhm-Bawerk mentions three reasons for this situation: 1) lack of people’s sufficient imagination; 2) people’s weak will; 3) short time and the uncertainty of life. The second cause was immediately criticised by Menger and Wieser who claimed that a healthy principle for all people at a normal development level is to assess the present equal to the future [Wieser 1889]. Despite this criticism, this cause is significant for the Austrian school even though it is the least important of the three. People’s motivations concerning the given conduct can be rational or irrational. Mises asserts that goals and motifs of activity should not be the subject of evaluation in economics. No one can guarantee that each human can act rationally and sufficiently analyse the future, which would be in contrast to reality. It is a subjective approach, so it is an inseparable and characteristic feature of Austrian economics. Even though the number of such people is insignificant in the normal world, they exist and should be taken into consideration. They will have high time preference and in this way they will have an influence on the level of the interest rate [cf. Endres 1991].

Many economists have arguments against deficits in imagination and extravagance and those are how to balance them. They point out that one of the strongest motifs for economisation is to leave property to children [cf. Becker 1990]; save for a rainy day, as protection against the lack of possibility of earning in the future [cf. Marshall 1925].

The above two factors (economic and psychological ones) explain the existence of interest from the perspective of loans for the purchase of goods for consumption.
3. Roundabout Methods of Production and Capital Theory

The third reason for the existence of interest is the most original contribution of Böhm-Bawerk and the entire Austrian school to the capital theory. It analyses interest which results from the demand for loans for the purchase of goods for production. The cause is based on the technical superiority of present goods over the future goods and, according to Böhm-Bawerk, it is independent of the first two reasons. The problem of capital is a key issue here. According to Menger’s division, labour and land are primary (natural) factors while capital is a secondary (intermediate) factor resulting from the application of labour and land. This means that the capital value can be increased or decreased, depending on the needs of market entities. The production of final goods (of a lower order) requires the use of three production factors, and so the adoption of roundabout production methods, i.e. the application of interim stages. The change of capital in the production process of these goods means the adoption of more or less roundabout production methods [Montgomery 2006]. The increase in capital intensity leads to the temporary prolongation of the production process and increased roundaboutness. The problem can be presented in a graphic form as a triangle [see: Garrison 2001]. However, in this paper the use of capital in production will be demonstrated with the use of Böhm-Bawerk’s original rings (figure 1). The last (largest) ring means final goods – interim production stages, a dot in the middle of the bull’s-eye denotes primary production factors while the arrow suggests the direction of production and capital value.

Figure 1. Böhm-Bawerk’s roundabout production methods
Increased capital intensity (extended arrow) of the production of final goods leads to: 1) a prolonged period of waiting for these goods; 2) a greater number of interim stages (more concentric rings) and, most importantly, 3) obtaining a higher number of final goods (increasing the last ring) than in the case of lower capital. What is important, a higher number can be produced with the same labour. “That roundabout methods lead to greater results than direct methods is one of the most important and fundamental propositions in the whole theory of production.” [Böhm-Bawerk 1891]. The extension of production roundaboutness leads to an increase in the total production of lower-order goods. However, successive capital increase makes the production increase diminish. Therefore, the law of diminishing the marginal productivity of capital occurs here. It should be emphasised that the total demand for interim goods is much greater than the total demand for final goods. With an increase in interim stages, the ratio of production demand to consumption demand is also increased [Hayek 1975].

The third technical reason for interest is also based on time preference. The rule that present goods are valued more than future ones also refers to production goods. Net capital productivity itself creates a future discount in the value dimension, regardless of such factors as needs, supply and deficient perspectives [Blaug 2000]. The disposal of present goods allows for their immediate application as capital in the production process. Then they generate a greater product in the future than the use of the same quantity of goods in the future. This refers both to direct and roundabout production. The reason for that is the diminishing capital productivity due to the prolonged production period [Ravier 2011].

For Böhm-Bawerk, the technical cause is independent of economic and psychological causes. It is also the reason to which he attached the greatest importance in the practical determination of the interest rate. In his model, he concentrated on investment loans by businesses and neglected consumption loans. Also the entire capital finally consists of labourers’ maintenance costs. In this case, it means that the interest rate is determined by the marginal productivity of prolonging the average production period in the economy. The constant increase in capital intensity would lead to the interest rate coming to zero [see: Böhm-Bawerk 1891]. Therefore, it is a principle based on the marginal productivity of capital, especially taking time into account. Capital productivity is understood objectively here. This objective productivity is in distinct contrast with one of the basic characteristics of the Austrian schools, i.e. subjectivism. Later, Austrian economists noticed this contradiction and removed it.

Another problem in Böhm-Bawerk’s theory is the average production time in the economy. The number of interim stages is decisive for the total production
efficiency. However, the production of each final product requires a different number of these stages, i.e. the time necessary for obtaining the product, counting from the moment of executing the investment. In the analysis of the entire economy, with the multitude of final goods, Böhm-Bawerk used the concept of an average production period. It was understood as a mean of interim production stages for all lower-order goods. The shortened model and calculation of the average period is described by [Blaug 2000].

The main accusations concerning this perspective of the average production period involve counting it from the very beginning, i.e. from the initial factors, and over a specific period, usually in years. They involve successive objective factors which have been removed by the Austrian school. Capital goods are interim stages of the production period. The production period has its subjective beginning and a few subjective interim stages. “The analysis is not based on the concept of an average production period, so it is resistant to the criticism of this concept” [Huerta de Soto 2009]. From the perspective of the actual activity, there is no point going back infinitely. “The duration of the period necessary in the past for manufacturing production goods available today is of no importance. These capital goods are valued only due to their utility in satisfying future needs. An average period of production is an empty concept” [Mises 2007].

4. Contemporary Austrian Theory of Interest

The interest rate is not the price of money for the Austrian school. The notion of interest appears in two forms in this school: 1) the one by Mises for whom interest is a ratio of today’s prices of two goods; the first one is available today while the other one will be available in the future [Mises 2007]; 2) the one by Rothbard who specified interest as the price of today’s goods in the category of future goods [Rothbard 2007]. Both express the same in essence, yet it seems that the latter is more approachable and understandable, which is important for the popularisation of the school.

The contemporary Austrian theory of pure interest is to a large extent based on the theory of Böhm-Bawerk which has been modified so as to eliminate the elements that added objective characteristics to it. Thus, it is the theory based on time preference. The main rule presented above is the subjectively higher value of the present goods rather than the value of future goods. There are many people in the whole economy and each of them has a different, individual time preference. Some of them value today’s goods highly, so they will be ready to give them up as soon as they are offered a high reward in the future. Others have a smaller time preference. They can be satisfied with a smaller reward. The
existing differences in subjective time preferences of individuals are synonymous with the possibility of a favourable exchange of present goods in the economy.

**Figure 2. Interest rate of balance in time**

![Interest rate of balance in time](image)

Source: own elaboration based on [Rothbard 2007].

The interest rate is the price determined on the free market by all buyers and sellers of present goods. Figure 2 is the graphic presentation of this issue. If the interest rate is higher than $i_1$, the supply of present goods will be higher than the demand for these goods. In this situation, people’s business activity leads to competition and reduction of the interest rate to the balance level. The reverse situation will occur if the interest rate is lower than $i_1$. Then there will be a deficit in present goods.

The supply of present goods is created by individuals with a relatively smaller time preference. They are consumers who economise and expect the higher value of goods in the future. Their decision on the distribution of funds intended for current consumption and savings depends on the subjective evaluation with regard to the value in time. They give their savings to businesses to use them in their business activity. The supply of present goods involves the entire production structure. Therefore, investors also employing staff are providers of these funds. While working full-time, employees give up conducting their business activity. They do not want to cope with uncertainty or wait for the fruit of their activity. They expect present goods in the form of money for work. Businessmen who have an individual time preference offer salaries for labourers today in return for the ownership of goods manufactured in the future.
The demand for present goods is mainly created by the owners of primary production means (labour and natural resources) and capital goods [Hayek 1975]. Entrepreneurial owners do not want to wait to invest funds in the future but decide to initiate production at the present time. Just like in the case of Böhm-Bawerk, their decisions are not the result of objective capital productivity in time but of subjective expectations, and so, of the considered possibilities in the conditions of constant uncertainty with regard to the future profits from the initiated production [Stringham 2007]. In the contemporary Austrian concept of interest, both the supply of savings (present goods) and the demand for them do not depend on time preferences [Rothbard 2007].

Pure interest rate is not the quantity that can be observed directly into the real economy. It is a component of money interest to which Rothbard also attributes the following components: related to entrepreneurship, price and connected with the terms of trade relation that results from the differences in the rate of changes in the prices of final products and production factors. Monetary interest is associated with the money market. The Austrian school emphasises the fact that the loan market is only a small portion of the market in which present goods are exchanged for future goods.

“Regardless of the external form taken by the interest rate, one must remember most of all that as the market price or the social time preference rate plays a fundamental role in the contemporary society in coordinating the behaviours of consumers, savers, investors and producers” [Huerta de Soto 2009]. Thus, it plays a role in the factor of inter-period and inter-sector coordination. The interest rate can harmonise the activities of all individuals efficiently only when it is a free-market rate. This is the continuation of the thinking of the late scholastics [see: Chafuen 2007].

5. The Neoclassical Theory of the Interest Rate

As the name suggests, the Neoclassical school is the continuation of the Classical school. It had the greatest influence on the development of economics when it was compared to the other two subjective and marginal schools. This is mainly visible in the theory of money, interest and monetary policy.

When analysing the problem of the interest rate in the economy, classical economists base their thoughts mainly on the achievements of David Hume in this respect. Hume made considerable progress in economics with his theory of money. For classics, interest is the reward for capital performance as an independent production factor [Landreth, Colander 1998, Bartkowiak 2008]. Hume distinguished a nominal rate and a real rate. The real rate was the most
important for the economy. It was determined on the capital market (Figure 3). Demand for capital is created by businessmen interested in investing while the supply is created by households that economise. An increase in savings, i.e. free funds, caused a decrease in the interest rate while the greater appetite of investors to initiate and expand their activity led to increased interest rates.

**Figure 3. Interest rate according to classics**

![Diagram of interest rate according to classics](image)

Economists of the neoclassical school tried to combine the elements of subjective economics by Menger, Jevons and Walras with the elements of objective classical economics. Alfred Marshall was the most important representative of this approach. In the interest theory, he combined the approach based on capital productivity with Senior’s abstinence theory. Capital productivity creates demand for it. It is an element of objective economics which is based on real, historical costs of creating value. The supply of capital is created by people’s savings. They expect a higher value of consumption in the future rather than at present. For consumers, interest is the reward for waiting [Marshall 1925]. According to Marshall, it is a production cost for businesses and it includes efforts and sacrifices made in relation to waiting. For savers, the price of demand for savings becomes a reward for waiting. This price is interest on capital. Interest is also the equivalent of services generated by capital [Grabowski 1966]. This means that the interest rate is created by capital. People receive pure interest for waiting. The gross interest on the other hand includes insurance against the risk of a debtors bankruptcy and remuneration for the bank management.
From the Austrian perspective, this notion of an interest rate is unacceptable. Subjective time preference of people is not an issue here and it is a considerable drawback of this theory. The interest rate is not used here, as in the Austrian school, to determine the value of the present capital good by discounting the expected future flow of profits from this good. It seems that the Austrian school does not appreciate the role of capital in creating interest. People with lesser time preference borrow money and expect that in future they will receive remuneration for that, i.e. interest. However, one must realise that this interest will not come out of nowhere. Finally, it must be really generated in the future by the capital used. The mere flow of time will not generate remuneration. It would be an over-interpretation to claim that capital determines the interest rate. The pure interest rate is determined by time preference and the capital allows for generating goods as remuneration.

In the neoclassical theory of interest, Irving Fisher’s concept published in the full version in 1930 in *The Theory of Interest* occupies the leading position. At first, it should be mentioned that Fisher is thought to have distinguished the nominal and real interest rate. Even though the author had considerable doubts whether people envisage the purchasing power of money, it has, today, been briefly concluded that the nominal rate is the sum of the real interest rate and the expected inflation (the Fisher effect) [see: Duwendag, Ketterer, Kösters, Pohl, Simmert 1995].

When explaining the existence of interest, Fisher often referred to Böhm-Bawerk’s theory. He wanted to create a full theory that would explain interest wholly and in an understandable way. “According to Schumpeter, unlike any other work, it teaches us how to satisfy the need of both a specialist and a simple reader, without referring mathematics to footnotes or additions, and how to lead a lay person from the strongly built foundations to the most important conclusions with the use of rational summaries and meaningful examples” [Schumpeter 1986].

Just like the Austrians, Fisher does not define interest as the price of money. Its purchasing power is this price. The American economists try to prove that interest results from the combination of subjective and objective factors. The analysis of subjective stimuli is based on Böhm-Bawerk’s model. He claims that the income possessed today is worth more for consumers than the future income. Therefore, the interest rate is the price of the exchange of the present goods for the future ones. Each consumer has their preference concerning the distribution of consumption in time. The impatience rule, which is determined by the value of the expected income, distribution of income in time, uncertainty of income, relation with children, habits, thrift, extravagance, ability to predict and human habits, is decisive for that [Fisher 1930]. The present income is more
valuable as it is more certain and rare and it makes it possible to obtain goods immediately to satisfy needs.

The objective reason for interest is connected with the investment potential, as Fisher calls it the rule of capital productivity. It results from technical and production capabilities of the investment and is independent of the market interest rate. Each capital investment is characterised by a different rate of return which is referred to by Fisher as a rate of a surplus of revenues over expenses. The analysis is based on the calculation of the present value of the expected future revenues obtained from the investment by discounting them at the determined interest rate and the comparison of this value with today’s value of the costs of executing a given investment [Blaug 2000]. The present value of future revenues amounts to:

\[ PV = \frac{\pi}{(1 + r)^t}, \]

where:
\( PV \) – present value,
\( \pi \) – profit,
\( r \) – interest rate,
\( t \) – time.

The American economists analyse multiple investment possibilities, i.e. possibilities with a varied rate of surplus. In the sense of microeconomics, the investment will be executed if the rate of discounted surplus is higher than the market interest rate. It is the marginal rate of the surplus of revenue over expenses. The difference between the marginal capital performance and the value of the interest rate constitutes the power which makes the resources of capital goods increase or decrease [Lerner 1944]. This analysis of the problem is static. In the attempt to make this issue dynamic, Lerner introduced the concept of marginal investment performance, used, among other things, to consider the prolongation of the production period in the economy [see: Lerner 1944]. In the macroeconomic sense, the investment curve is an ordered set of investments with varied levels of profitability. According to Fisher, interest is the result of separate psychological and technical factors. In the entire economy, the market interest rate equalises the time preference rate which is connected with impatience, with the rate of the surplus of revenues over investment costs. This means that interest is determined by supply and demand on the capital market.

Although there are psychological factors connected with time preference inherent in this theory, it is also criticised by the Austrian school. The problem
of Fisher’s concept lies in treating the interest rate as an internal discount rate with which the expected income flow is equal to the historical costs of producing a given capital good [see: Stringham 2007]. This approach is also characteristic of Keynesianism. “It should be pointed out that the marginal rate of surplus of revenue over expenses is the same category as Keynesian marginal rate of capital performance. Both actually denote the internal rate of return” [Grabowski 1966]. The Austrians reject the approach to the issue of performance in economics from the perspective of historical costs [Montgomery 2006].

Knut Wicksell was an important economist of the Swedish school for the development of the science on interest, also for the development of Austrian economics. He was famous for making a distinction between the natural and monetary interest rate and for presenting the accumulation mechanism in the economy upon reducing the money rate [see: Wicksell 1965]. The natural rate is not connected with the money market but with real business processes [Brzoza-Brzezina 2003]. Thus, its source is the objective productivity of the manufacturing process and more precisely the difference between the marginal capital productivity and marginal productivity of present primary factors, i.e. labour and land. In the state of a balanced economy, the natural interest rate meets the following conditions:

1) it is equal to the rate on the money market,
2) it equalises demand for investments with a supply of savings,
3) it maintains the general level of prices at a stable level.

Frank Knight analysed the problem of interest and capital as the process of gaining balance by the economic system. He accused other economists claiming that it is impossible to determine interest as the remuneration of capital from its marginal productivity. The generation of capital goods requires the simultaneous activity of labour, land and other available capital goods. Therefore, one cannot distinguish the contribution of separate factors into the produced goods. Capital goods cannot be treated separately, either. Therefore, it is impossible to allocate to them the individual remuneration equal to marginal productivity [Knight 1934]. This is not possible as far as capital is concerned but can be achieved when investments are analysed, i.e. when statistics are changed into dynamics. For Knight, the interest rate is a result of marginal investment productivity. It is determined for a given moment of time.

Knight’s concept of capital, which was also supported and used by John Bates Clark, was criticised mostly by the Austrian school. They treated capital as a homogeneous, everlasting fund of values non-exhausted by time. It constantly and automatically creates the flow of income increasing the fund, i.e. interest. They detach capital and interest from time preference. Such phenomena as production and consumption occur simultaneously [Clark 1956].
For the Austrians, capital is the subjectively determined market value of capital goods. This value is determined by individuals who purchase and sell capital goods on the free market. Thus, capital is not a homogeneous and everlasting fund of values [Ravier 2011]. The capital is only homogeneous in the sense that it is counted in money as an economic value. Also capital goods are homogeneous for Knight and Clark. For the Austrian economists, the heterogeneity of these goods is the foundation. All capital goods are difficult to process and the closer they are to the final stage of consumption, the more difficult they are to process [Huerta de Soto 2009]. Capital is not fixed, either. In order to be used in production, each capital good must be complementary with other goods participating in a given manufacturing process. When this condition is not fulfilled, such a good is not used, so it has a market value equal to zero. The capital is then decreased. Also the choice between consumption and savings affects the value of capital. Economisation is a condition of creating capital while reduced consumption is the condition of economising. “If the substitution of a solution to a problem with a statement making no sense can be called an elementary mistake, this mistake is the idea of capital maintained automatically, which means that as soon as a certain value of capital has been generated, the necessity to reproduce it is not an economic problem” [Hayek 1936].

6. Conclusion

Böhm-Bawerk’s theory of interest resulted from the time preference people have about goods. The law of diminishing marginal utility has been used to prove that present goods have a value greater than future goods. Thus, interest is the price of the present goods in relation to the goods received later. Böhm-Bawerk justifies the existence of interest to three causes: economic, psychological and technical ones, which result from the objective capital productivity in time.

The contemporary Austrian school accepts the two first causes but, according to one of the characteristics of this school, it removes the objective elements from the technical cause. They are substituted by the subjective expectations of businessmen concerning the possibilities of using capital. Using this perspective, the pure interest rate counterbalances the supply of savings, i.e. present goods, with the demand for these goods. It is combined with the theory of capital and economic cycles.

The neoclassical explanation of interest is mainly based on the marginal capital productivity and it is criticised by the Austrian economists. Neo-classics identify the interest rate with an internal discount rate for which the expected flow of income is equal to the historical costs of generating the given capital good.
This cost is considered invariable and defined in advance. For the Austrian school, in turn, interest is used to determine the present variable value of a capital good by discounting the expected, subjectively determined profits from this good.

**Bibliography**

5. Böhm-Bawerk E. von, Kapitał i zysk z kapitału. Dział pierwszy. Historja i krytyka teorji zysku z kapitału, t. 1 i 2, Kraków 1924 i 1925.
The Threat of Payment Gridlocks in Poland and Business Ethics

1. Introduction

The article analyses the payment habit of large companies in Poland and assesses them from the ethical perspective. Ethics is a branch of philosophy that deals with moral values. It searches for the foundations of an ethical code and creates the foundations of moral standards. Ethics refers to the whole of principles and standards of conduct prevailing in a given epoch and environment, and ethical behaviours are the ones compliant with ethical imperatives – moral. Business ethics is a branch of applied ethics and is identical to the ethics of economic life. Business ethics is the whole of the principles and standards of conduct obliging economic entities to be regarded as acceptable and moral. The analysis of payment habits of large companies is to serve as a model for the assessment of their moral character. The immoral behaviours of entities are the ones which are not acceptable according to the ethical code: wrong behaviour resulting in negative effects for the participants of economic life. The payment habits that are a deliberate activity detrimental to other economic entities are corporate immoral behaviours. Payment habits affect payment gridlocks in the economy having an adverse impact on the entities operating on the market. Payment gridlocks result not only from the debtors’ liquidity problems but also to a large extent from the corporate payment habits and unethical corporate conduct.

The article consists of four major sections. The first section discusses the significance of payment dues and the related risk. The second section deals with the issue of payment gridlocks in the economy as an effect of the delayed settlement

---

2 J. Bocheński, Zarys historii filozofii (Outline of the history of philosophy), PHILED, Kraków 1993, p. 25.
3 W. Kopaliński, Słownik wyrazów obcych i zwrotów obcojęzycznych z almanachem (Dictionary of foreign words and phrases with an almanac), Bertelsmann Media, Warsaw 1999, p. 159.
4 Etyka biznesu w perspektywie humanistyczne (Business ethics from the humanistic perspective), ed. G. Szulczewski, Oficyna Wydawnicza SGH, Warsaw 2011, pp. 10–11.
of financial liabilities by many debtors simultaneously. The third section describes the growing importance of payment gridlocks for companies in the time of crisis. The fourth section analyses the results of a survey conducted among financial managers in large corporations in Poland with regard to corporate payment habits. It focuses in particular on what causes the overdue payments, which allows for the assessment of the ethical aspect of the corporate settlements of financial liabilities.

2. Liabilities as an Effect of Trade Credit

The significance of liabilities for companies is reflected by the share of these liabilities in the total assets. In 2010 the share of long-term liabilities in fixed assets amounted 3.2%, while the share of short-term liabilities in circulating assets amounted 43.9%\(^5\). The share of total liabilities in total assets amounted to 18.9%\(^6\).

Trade credit is one of the basic sources of corporate liabilities. The major reasons why companies grant trade credits include customers’ expectations, an opportunity to raise the volume of sales due to deferred payments as well as the customary standards within which the sector the company operates\(^7\). The supply of trade credit is correlated with the supply of money measured with monetary aggregates\(^8\). In the period of a lower supply of money on the market, companies raise the supply trade credit, which results in a higher value of liabilities on account of deliveries and services. Granting trade credits is an alternative to bank deposits, which are a form of allocation of monetary surpluses.

The most important reasons why companies make use of trade credits include the opportunity to raise turnover thanks to the deferred payment, which allows for purchases also when the company does not possess any funds. Besides, trade credit is a comfortable way of financing, works automatically and does not require from the purchaser going through a long and complex procedure as in the case of many other methods of financing and the price of trade credit is relatively low in comparison with other forms of financing\(^9\). In the period of

---

\(^5\) GUS (Central Statistical Office), Bilansowe wyniki finansowe podmiotów gospodarczych w 2010 r. (Financial balance results of economic entities in 2010), Warsaw 2011.

\(^6\) Own materials on the basis of: GUS, Bilansowe wyniki finansowe podmiotów gospodarczych w 2010 r. (Financial balance results of economic entities), Warsaw 2011.

\(^7\) Results of survey conducted by the author among 174 companies in the years 2009–2010.


\(^9\) Ibid. It is worth mentioning that the perception of trade credit as a cheap source of financing results among others from the lack of knowledge in the business environment of the calculation of trade credit cost. Many entrepreneurs, especially from the SME sector perceive trade credit as a free
a small money supply on the market the demand for trade credit is growing. The level of corporate liabilities on account of deliveries and services to compensate for a more difficult access to bank credits. Thus, it may be concluded that the supply of trade credit increases the supply of money in the economy\textsuperscript{10}.

3. The problem of payment gridlocks in the economy

The problem of payment gridlocks is inseparably connected with the existence of liabilities, as when the corporate liability arises an active credit risk appears, i.e. the probability of corporate loss as a result of the customer’s default or delayed payment\textsuperscript{11}. The factors affecting the rise or decline in customers’ crediting risk include\textsuperscript{12}:

- economic situation,
- the situation of the sector in which the debtor operates,
- procedures concerning trade credit granted to customers by creditors,
- debtor’s credibility and solvency,
- customer’s liability management quality.

The significance of payment gridlocks for the corporate growth is growing among others due to the deterioration of corporate payment morality, paying too little attention to business ethics, economic crisis and the related lost liabilities by the debtors themselves\textsuperscript{13}.

Creditors’ bankruptcies are the most severe effects of payment gridlocks. Bankruptcies themselves are not a negative phenomenon and in the modern economy may be regarded as a normal phenomenon and have a purifying function\textsuperscript{14}. It is inevitable to go bankrupt for the companies that use their resources

\textsuperscript{10} D. Zawadzka, Znaczenie ekspansji kredytu handlowego dla polityki monetarnej (Significance of trade credit expansion for the monetary policy), op. cit., p. 349.


\textsuperscript{14} M. Rybak, Etyka biznesu a upadłość przedsiębiorstw w Polsce (Business ethics and corporate bankruptcies in Poland), in: Bankructwa przedsiębiorstw. Wybrane aspekty instytucjonalne (Corporate
ineffectively, whose offer is not well adjusted to customers’ expectations, who select risky sources of financing of their operations and at the same time cannot conduct repair alterations. Bankruptcy is a method to eliminate weak entities from the market. However, the phenomenon of bankruptcy is also connected with negative economic and social effects for the whole economy as the collapsing companies operate in cooperation with other entities. Frequently, the effects of bankruptcy concern not only the collapsing entity but give rise to financial problems of debtors’ creditors. Customers that cannot recover liabilities from their debtors may go bankrupt themselves. Then, we have to do with the domino effect. In this way, the bankrupt’s creditors may be eliminated from the market, otherwise they should not be exposed to it. The stronger connections of the company with the customers, the higher the risk is of corporate bankruptcy resulting from the customer’s bankruptcy. That is why some sectors are more exposed to bankruptcy than others. They include the construction industry, automotive industry and the real property sector. According to the Coface report of 2011, there was a rise in corporate bankruptcies from 655 in 2010 up to 723 in 2011, with most bankruptcies in the construction sector, which had 149 corporate bankruptcies, i.e. a rise of 49% over 2010\textsuperscript{15}. It is worth noting that the rate of growth in bankruptcies in the whole economy in 2011 in comparison with 2010 amounted to 10.38%.

The negative effects of the financial crisis pointed to in the report \textit{European Payment Index 2009}, are: reduced sales, decline in solvency and the rise in overdue payments on the part of customers as well as the reduction in the duration crediting on the part of suppliers.

The costs of overdue liabilities in the creditor company include\textsuperscript{16}:

- the costs of frozen funds:
  - decline in the value of money over time,
  - costs of acquiring of liability financing sources,
  - lost benefits as an effect of the lack of opportunity to invest or allocate the financial surplus which would appear after the exchange of liabilities into monetary funds,
- the costs of recovery operations:
  - remuneration of people employed in the debt recovery departments,
  - overtime of people dealing with recovery additionally.

\textsuperscript{15} Internet resources as of 10 January 2012, www.coface.pl

– costs of servicing of recovery operations (telephones, letters, meetings etc.),
– costs of outsourced services (in favour of debt recovery companies, legal offices, economic enquiry companies etc.),
– court costs and other charges (e.g. bailiff’s),
• the costs incurred with every transaction in favour of the State Treasury:
  – VAT paid on goods and materials necessary to effect sales,
  – VAT on the amount of sales,
  – income tax on profit (“paper” profit),
  – other compulsory costs like excise, concessions etc. necessary to conduct activity, and in the case of overdue liabilities not resulting in income.

4. Payment gridlocks during an economic crisis

A negative domino effect scenario may appear especially in the period of economic crisis, when the access to the external sources of financing on the market is limited. The growing level of liabilities and extended period of liability turnover result in the necessity to acquire additional sources of liability financing. According to the “Survey among the chairpersons of credit committees”, which is a survey conducted cyclically by the National Bank of Poland, already at the end of 2008, banks tightened the criteria of granting bank credit and raised credit fees\textsuperscript{17}. During the crisis the risk of running a business is growing due to a lower demand and the risk connected with the bankruptcy of customers. Additionally, the accessibility of bank credits is on the decline. For example, at the end of 2008 banks in Poland limited the accessibility to corporate credits in response to the worsening macroeconomic forecasts, a growing risk connected with corporate financing, the situation of foreign parent companies, the situation on the Interbank market and difficulties with their own capitals. The limited accessibility to bank credits makes companies delay the settlement of their liabilities to their suppliers, which from the creditors’ perspective means delays of the recovery of liabilities.

Such behaviours are confirmed by the survey conducted by the author in 2009 among 90 companies\textsuperscript{18}. More than half of the examined companies stated

\textsuperscript{17} Narodowy Bank Polski (National Bank of Poland), Sytuacja na rynku kredytowym, wyniki ankiety dla przewodniczących komitetów kredytowych, I kwartał 2009 (Situation of the credit market, results of the survey for the chairpersons of credit committees, 1st quarter of 2009), NBP, Warsaw 2009, p. 3.

\textsuperscript{18} K. Kreczmańska-Gigol, Wpływ kryzysu na dostępność kredytu bankowego dla przedsiębiorstw na polskim rynku oraz ich skłonność do korzystania z substytutów kredytu w zależności od wielkości przedsiębiorstw (The impact of crisis on the accessibility of bank credit for companies on the Polish market and their tendency to make use of credit substitutes depending on the company size, in:
that the accessibility of bank credits in the period of crisis declined (see Figure 1). The most frequently mentioned effect of the problem with bank credit acquisition was the shortening of the contractual trade credit offered by the suppliers, i.e. the shortening of the contractual period of liability settlement (see Figure 2).

**Figure 1. The Change in the accessibility to credits in the period of crisis as assessed by the examined companies (% of respondents)**

![Pie chart showing: no response 17.78%, increased 2.22%, remained unchanged 26.67%, decreased 53.33%]

Source: K. Kreczmańska-Gigol, Dostępność źródeł finansowania i ich wpływ na strukturę kapitału w przedsiębiorstwie (Accessibility of the sources of financing and their impact on the corporate capital structure), author’s own research, SGH in Warsaw, Warsaw 2009, typescript copy, p. 22.

In response to this, debtors delayed more their liability settlements to suppliers, which is reflected in the rise in the share of overdue liabilities from 13.81% in 2008 up to 20.66% in the first half of 2009. It is worth mentioning that according to the report ”Portfolio of liabilities of Polish companies, January 2012” the portfolio of irregular liabilities in the portfolio of Polish companies amounts to 23.5%19. The results of the survey conducted by the author in 2009 indicate that the problem which became more important after the appearance of the crisis phenomena is still present on the Polish market.

---

19 P. Białowolski, Portfel należności polskich przedsiębiorstw, styczeń 2012 r. (Portfolio of liabilities of Polish companies, January 2012), survey report: KPF (Conference of Financial Companies) and KRD (National Debt Register).
During the crisis, when the access to the bank sources of financing deteriorates and companies find it more difficult to sell off stocks, the demand grows for the net circulating capital as a source of financing of stocks and liabilities. Companies which face problems with the acquisition of financing extend the period of the trade settlement turnover in an unjustified way, shortening the cycle of cash conversion and reducing the demand for net circulating capital. If this phenomenon refers to numerous companies, payment gridlocks become more intensive.

Figure 2. Major indicators of the impact of crisis on the use of trade credits by the examined companies (in percentages of responses; any number of replies could be given)

![Bar chart showing the impact of crisis on trade credits](chart.png)

Source: K. Kreczmańska-Gigol, Dostępność źródeł finansowania i ich wpływ na strukturę kapitału w przedsiębiorstwie (Accessibility of the sources of financing and their impact on the corporate capital structure), *op. cit.*, p. 31.

In January 2012 in Poland only 10% of companies did not have any difficulties with liability recovery, and the share of these companies declined
from about 20% from July 2011, i.e. within half a year\textsuperscript{20}. It means that nearly 90% of companies feel the effects of payment gridlocks in the Polish economy, and over 27% of companies are afraid of the rise in their scale in the future.

5. Corporate payment habits and business ethics in Poland in the light empirical research

The most frequent reasons for the delays of liability settlement are indicated by the companies in Table 1. The most important reason for payment delays is a planned extension of trade credit duration, sometimes referred to as the policy of liability settlement. This means that the debtor assumes in advance that repayment will not be on time even if it is possible and there are no reasons for the delay. Debtors can afford to behave in this way when they are not afraid of any effects of payment delay. The effects for the debtors should include some financial burdens like delay penalty interest, payment of contractual penalties in favour of the creditor, less favourable payment terms of the next deliveries, shortening of the duration of the trade credit granted by the supplier, lower limits of the trade credit or the switch from credit payment to cash payment or prepayment. It is essential that the payment delay consequences should be clearly discernible for the debtors. However, the research conducted by the author in 2009 and 2010 indicate that only 13% of the examined companies always calculate delay interest to their debtors and 6% always collect the calculated interest from their debtors\textsuperscript{21}. As indicated before, there is an interdependence between a planned extension of the trade credit duration by the debtor and the economic situation. The debtors, under the conditions of a worse economic situation and a higher risk, delay payments to suppliers, consciously shortening in this way the cycle of cash conversion in the company, which leads to the reduction in the demand for the operational activity financing sources the access to which is more difficult in the period of recession.

Temporary payment problems are closely connected with the lack of the inflow of liabilities and result from payment gridlocks in the economy. It should be expected that the reason for the payments occurs more often in the period of crisis, when companies find it more difficult to acquire funds. The missing funds are to cover the financial gap resulting from the extension of the cash conversion cycle following the extension of the liability turnover cycle. In 2006 the financial insolvency of debtors was the reason for 33% of payment delays.

\textsuperscript{20} Ibid.

\textsuperscript{21} The results of the author’s own survey conducted in the years 2009 and 2010 on a group 174 companies on the liabilities and commitments management.
Table 1. Most frequent reasons for payment delays in Europe

<table>
<thead>
<tr>
<th>Reason for payment delays</th>
<th>Frequency of occurrence (in %)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planned extension of trade credit duration</td>
<td>35</td>
</tr>
<tr>
<td>Temporary payment difficulties</td>
<td>33</td>
</tr>
<tr>
<td>Administrative reasons</td>
<td>16</td>
</tr>
<tr>
<td>Argument with creditor</td>
<td>5</td>
</tr>
<tr>
<td>Other reasons</td>
<td>11</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
</tr>
</tbody>
</table>


Administrative reasons include for example a long cycle of circulation of documents, delayed submission of invoice to the debtor or the debtor’s organisation of the payment management process. Administrative reasons for payment delays may incriminate either the debtor or the creditor who has not settled all formalities. There is no direct interdependence between the economic situation and crisis phenomena on the one hand and the intensity of delays of liability inflow resulting from administrative reasons on the other. Similarly, it is not possible to find such interdependences in the case of delays connected with the arguments between creditors and debtors.

Payment habits of European companies have been presented as a background of the corporate payment habits in Poland. In March 2012, during a conference held by the members of the Association of Polish Corporate Treasurers there was a survey among the participants on liability settlement.

The first question the respondents were asked was: “Do you think that liabilities should be settled on time?” All the respondents replied positively. Thus, they thought that liabilities should be settled on time.

Another question dealt with the liability settlements within the company the respondent worked for: “Does your company happen to delay the settlement of its liabilities?” 77% of the respondents stated that their companies did delay the settlement of their liabilities. Another question referred to the reasons for delayed settlement of liabilities by the companies employing the respondents. The responses given are shown in Table 2. Interestingly, in large corporations represented by the respondents the last reason mentioned as a reason for delayed liability settlement was the financial insolvency. Thus, payment habits of large corporations differ from payment habits among companies in Europe presented

---

22 A survey conducted on a group of corporate treasurers representing 31 corporations operating in Poland.
in Table 1. Large corporations, whose position is as a rule stronger than their customers- creditors, are not really afraid of consequences of delayed settlements of liabilities from their customers.

**Table 2. Reason for delayed liability settlement**

<table>
<thead>
<tr>
<th>Reason for payment delays</th>
<th>Frequency of occurrence (in %)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>General payment policy</td>
<td>32</td>
</tr>
<tr>
<td>Technical and formal reasons</td>
<td>29</td>
</tr>
<tr>
<td>Arguments with creditor</td>
<td>29</td>
</tr>
<tr>
<td>Administrative process</td>
<td>23</td>
</tr>
<tr>
<td>Insolvency</td>
<td>19</td>
</tr>
</tbody>
</table>

* The results do not result in 100% because some respondents indicate more than one reason

Source: own materials on the basis of survey results.

Table 2 indicates that corporations are driven primarily by the willingness to follow the corporate liability settlement policy. Such priorities may have a significant impact on payment gridlock in the economy in the period of crisis. Then, the suppliers have bigger difficulties with solvency resulting from a slower stock turnover, which contributes to the extension of the cash conversion cycle and increased financial gap. Additionally, in companies there will be an extended liability turnover cycle due to the delayed liability settlements by the debtors who do not have solvency problems but implement their own goals, for example the reduction in the demand for net circulating capital through the shortening of cash conversion cycle. This may worsen the financial problems of suppliers who have difficult access to bank financing sources. The habit of delayed liability settlement by corporations who do not have solvency problems is an unethical behaviour, which occurs in the Polish economy on a large scale.

The time of liability settlement most frequently indicated by the respondents is in between 14 and 30 days (over 48% of respondents). Slightly over 45% of the companies represented by the respondents settle their liabilities over 30 days, and the least, i.e. about 6.5% below 14 days.

All the respondents stated that their customers should settle their liabilities on time. This indicates a certain dissonance between the expectations from customers and payment habits within the examined corporations. However, taking into account the fact that the position of a treasurer is usually found in large corporations, the expectations from the customers are connected with a strong position of the creditors themselves. However, the position of customers of the examined companies who are their creditors is usually weaker. The problem of
large debtors’ delayed payments to small companies which are their creditors refers not only to the Polish economy but also the economies of other countries\textsuperscript{23}.

6. Summary

The period of crisis raises the risk of running a business as well as the risk of bankruptcy. Sales decline as a result of crisis, and in the first phase of crisis it is accompanied by the increase of stocks and the extension of the period of their turnover. It causes the extension of the cash conversion cycle and the appearance of a financial gap in a company. The deterioration of the economic situation results in a limited access to bank financing sources, which considerably aggravates the solvency problems of economic entities, which search for the sources of financing of the financial gap. One of the ways is to extend the liability turnover cycle. In this way companies troubled with solvency problems compensate for the loss of bank sources of financing.

Apart from the payment delays caused by debtors’ solvency problems, regardless of the economic situation, there are payment delays resulting from liability settlement policy of the entities which enjoy a good financial liquidity. When their creditors have no problems in finding external sources of financing, i.e. in the period of a good economic situation this kind of behaviour more rarely cause substantial creditors’ problems. However, the phenomenon becomes dangerous in the face of more difficult access to external sources of financing necessary to liquidate a financial gap that appeared as a result of the extension of the cash conversion cycle. The payment delays of on the part of debtors may lead to intensified payment gridlocks in the economy and uncontrolled bankruptcies of many related companies, and such bankruptcies are not economically justified and are harmful to the whole economy. The payment delays of large economic entities to smaller creditors are regarded as an important problem not only in Poland but also in other countries. The delays of liability settlement by debtors who do not suffer from solvency problems are unethical business activities. Ethical customers in the period of intensified solvency problems of other companies resign from their rights in order to strengthen their ties with customers and help them survive a difficult recession period. It may be exemplified by the debtors who in the face of insolvency of their creditors shorten the payment period of their liabilities and settle them before the deadline. In the majority of cases it is enough for the entrepreneurs to behave ethically following the established

principles of cooperation in order to protect customers from solvency problems and to minimise payment gridlocks in the economy.

Bibliography


2. Białowolski P., Portfel należności polskich przedsiębiorstw, styczeń 2012 r. (Portfolio of liabilities of Polish companies, January 2012), survey report: KPF (Conference of Financial Companies) and KRD (National Debt Register).


5. Etyka biznesu w perspektywie humanistyczne (Business ethics from the humanistic perspective), ed. G. Szulczewski, Oficyna Wydawnicza SGH, Warsaw 2011.

6. GUS (Central Statistical Office), Bilansowe wyniki finansowe podmiotów gospodarczych w 2010 r. (Financial balance results of economic entities in 2010), Warsaw 2011.


8. Kopaliński W., Słownik wyrazów obcych i zwrotów obcojęzycznych z almanachem (Dictionary of foreign words and phrases with an almanac), Bertelsmann Media, Warsaw 1999.


11. Kreczmańska-Gigol K., Wpływ kryzysu na dostępność kredytu bankowego dla przedsiębiorstw na polskim rynku oraz ich skłonność do korzystania z substytutów kredytu w zależności od wielkości przedsiębiorstw (The impact
of crisis on the accessibility of bank credit for companies on the Polish market and their tendency to make use of credit substitutes depending on the company size, in: Nowe wyzwania w zakresie ekonomii i polityki gospodarczej po kryzysie subprime (New challenges in the area of economy and economic policy after the suprime crisis), ed. J. Ostaszewski, Oficyna Wydawnicza SGH, Warsaw 2010.


Hybrid Legal Forms as the Structuring Instruments for Outbound Investments

1. Introduction

The choice of a legal form by an investor is a constituent decision which depends on a number of criteria. It is the taxation and the liability which are here of essential importance. The analysis of direct investment in the target state – as in the example of Poland – will be undertaken from the perspective of a German investor being a natural person. That is why the term “foreign income” is used for the income derived from Polish sources and the term “domestic income” – for the income derived from sources in German territory.

The tax and commercial-law treatment of organisations in Poland corresponds at most to the one in Germany. Various forms of organisations are available under commercial law. In particular, these are partnerships: registered partnership, limited partnership, professional partnerships, limited partnership in shares\(^1\), and companies: a limited-liability company, a joint-stock company. Partnerships are associations of two or more persons operating a business under their own name – they are not considered separate legal entities but can acquire rights in their own name, incur obligations, sue and be sued. Companies are legal persons, and the shareholders are not liable for the companies’ debts. However, in order to establish a company, the shareholders must contribute share capital to the company. In order to operate, companies need to appoint members of their authorities (a management board, and in some cases a supervisory board and/or an audit committee).

\(^1\) According to the German commercial law the limited partnership in shares (KGaA) is a company and therefore it is intransparent for tax purposes.
From the tax point of view one should take into consideration both the domestic tax law and the European or International tax law. Poland is a signatory to bilateral Treaties for the Avoidance of Double Taxation (DTT) with more than 80 countries all over the world. In particular, Poland has concluded the Double Tax Treaties (DTT) with all EU-Member States\(^2\), except for Liechtenstein. Double Tax Treaties are international agreements entered into between governments for the allocation of fiscal jurisdiction\(^3\). The Double Tax Treaty, in principle, enables the granting of an exemption or taxation at a reduced rate on certain receipts such as interest, royalties, dividends, or alternatively offsetting tax paid in the country of residence against the tax payable in the country of residence, in this way preventing double taxation.

The following paper deals with the issue of the tax optimal choice of a legal form by a foreign investor. In the paper the hypothesis to be examined is that it is possible to limit the liability of an investor for his contributions and at the same time to very closely approach the benchmark taxation level. The analysis provides answers to the question of how in the case of outbound investments of in particular medium-sized investors the tax advantages of partnerships can be combined with the liability advantages of companies. For that they are different variants of hybrid legal forms which shall be analysed here and evaluated on the basis of the two mentioned optimisation criteria. The analysis is undertaken from the perspective of a German middle-sized investor who decides on an outbound investment in Poland. The static model is based on the partial tax calculation where the results will be clarified graphically. The progression effect will be made explicitly part of this model. Additionally, the article will also point to the risks which appear as a result of qualification conflicts and the foreseen legislation amendments.

### 2. Exemption versus Liability Limitation

When an investor decides on an investment abroad (outbound investment), it is primarily the question concerning the optimal legal form that must be answered. Generally, he disposes of the following investment alternatives: companies, partnerships (or permanent establishment) and hybrid legal forms. It is a number

---

\(^2\) See in particular Agreement between the Republic of Poland and the Federal Republic of Germany for the avoidance of double taxation in respect to taxes on income and on capital of 14 May 2003.

\(^3\) The Polish Double Tax Treaties are based on the Model Convention drafted by the Organization for Economic Cooperation and Development (OECD), which has been revised on a regular basis – lately in 2010.
of criteria which are relevant for his choice\(^4\). It is in particular two criteria which are of essential importance:

- as a rule, personal liability limitation to contributions. It is in particular for investments in the countries the language of which is not known to the investor and with the legal system of which he is not acquainted that the limitation of liability to equity is of considerable meaning\(^5\). For that the form of a company is advantageous whereas partnerships fail under this criterion (general partnership) or fulfill it only to a limited extent (limited partnership),
- as a rule, one-time taxation at source. It is the form of a partnership that should be chosen from the tax perspective provided that its transparent taxation in a target state (here: Poland) combined with the tax exemption in a state of residence (here: Germany) prevents the problem of the recapture taxation. Polish and German partnerships are transparent entities, and that means that their partners are taxed individually on their share of the profits. The problem of the recapture taxation always arises when companies pay out their profits to an investor – a natural person. In such a case the dividend is subject to personal income tax, if applicable under the crediting of the foreign source tax. According to the Polish Corporate Income Tax Act, companies having their seat or place of management in Poland (the Polish tax residents) are subject to tax liability on their world-wide income, irrespective of the source of that income (unlimited tax liability).

Trying to combine the tax advantages of a partnership with the liability limitation of a company the hybrid legal forms may present an aim-meeting structuring instrument.

Such structures are partnerships with limited liability, in particular limited partnerships with a general partner as a company (Sp. z o.o. S.K.), and partnerships limited by shares (SKA), and also silent partnerships or trustee relationships. The structuring instruments to be examined below are Sp. z o.o. S.K. and silent companies. The alternative of SKA is excluded from the analysis due to as yet the uncertain tax situation of SKA and the projected significant changes in the manner of its taxation while the Anglo-Saxon trusts are unknown to the Polish legislator.

\(^4\) See D. Schneeloch (2006), Chapter II.
2.1. Optimisation Criteria and Model Assumptions

The following assumptions aim at drafting and comparing of the taxation of some hybrid legal structures. The optimisation criteria are the tax transparency in the state of residence of an investor (here: in Germany) and at the same time the liability limitation. It is the outbound investment in the form of a general partnership (spółka jawna) established in an EU-Member State (here: Poland\(^6\)) that should serve as a tax benchmark investment. The benchmark case is a general partnership – widely regarded as a model partnership – which is subject to one-time taxation. In the existing literature, it has been shown repeatedly that partnerships are more tax-favourable in terms of taxation than companies. In order to stay realistic it is imputed that the investor, in addition to the income obtained from outbound activities, receives also domestic income. This assumption has been taken for granted as, first of all, in practice such investors make decisions for investments abroad which are already active in the home country and, secondly, as it is the only way in which the progression effect can be allowed in the model.

Additionally, it is also assumed that the business activity generates positive income. Just as it will be imputed that it will be active income such as generated from manufacturing or trade. In order to complete the model structure, it is additionally assumed that at the determining of income, due to the tax law of the respective states, the differences may not arise (identity of tax base).

2.2. Benchmark Case

The German investor D is a partner of a Polish general partnership. If the general partnership (Sp. j.) obtains profit, it will be treated by both countries as tax transparent. That means that it is not the partnership that is subject to taxation but the partners with their profit share. The tax rate amounts to 19% (PIT) of a natural persons’ income from business activities (on application\(^7\)) or to 19% (CIT) of a legal persons’ income. For the natural person as an investor the tax burden in Poland amounts to:

\[
T^p_{\text{PIT}} = t_{\text{PIT}} \cdot I_F. \tag{1}
\]

At the Convention level it is Poland that due to Article 7 par. 1 DTT D/PL obtains the right to taxation and Germany, due to Article 24 par. 1 letter

\(^6\) See the overview of the tax treatment of the legal forms in Poland in e.g. St. Kudert, M. Jamroży (2010), p. 68.

\(^7\) The choice of the 19% proportional PIT rate is to be filed with the competent head of fiscal office by 20 January of the tax year (or by the date preceding the date of starting the business activity, though not later than as at the date of generating first revenues). Otherwise the progressive tax scale (18%, 32%) with a marginal tax-free basic amount (ca. 700 €), applies, see Article 9a par. 2 PIT Act.
a DTT D/PL exempts the profit share of the German investor with progression (exemption method)\(^8\). The existence of a permanent establishment in Poland would be, generally, claimed as a result of being the partner in the Polish partnership. Taking into account the transparency of the Polish partnership, in the case of the German partner, the partnership’s income attributable to a Polish permanent establishment of each partner would be subject to income tax in Poland. As a rule, the German partner’s income from sharing the interest in profits of the partnership would be taxed on the current basis according to the business profits regime (pro rata to the partner’s share in the partnership profit, or in equal parts if not agreed otherwise).

That means that the foreign income of the investor which may be taxed in the State of source (here: Poland) has to be taken into account when determining the tax to be imposed on the domestic (here: German) income. The taxable base for this “particular” tax rate is:

\[ I^P_W = I^D + I^F. \]

The particular tax rate results from the division of the tariff income tax due on the world income by its taxable base.

\[ t^P_W = \frac{T_{ES}^\text{Tariff}(I^P_W)}{I^P_W}. \quad (2) \]

The income tax due results from the multiplication of the German taxable base by this particular tax rate:

\[ T^P_{ES} = t^P_W \cdot I^D. \quad (3) \]

Furthermore, the German domestic income from the business activity will be taxed with the trade tax (\textit{Gewerbesteuer}). The tax can be counted by the multiplication of the income subject to trade tax by the trade tax measure factor (\(m\)) and the multiplier (\(H\)). The tax base of the trade tax will be decreased by the tax-free amount (\(FA_{GewSt}\)).

\[ T_{GewSt} = t_{GewSt} \cdot \max\{0; I^D - FA_{GewSt}\} \quad (4) \]

with \(t_{GewSt} = m \cdot H\)

---

Additionally, a fictitious trade tax will be credited against the personal income tax (ESt). The creditable amount is the minimum of four variables: the factually paid income tax (ESt), the factually paid trade tax (GewSt), relief maximum amount and credit maximum amount. The relief maximum amount is a fraction of the income tax that is attributable to the income subject to trade tax. In the benchmark case the fraction 1 amounts to:

\[ \text{Rel Max}^p_{\text{GewSt}} = I_D \cdot T^p_{\text{ESt}}. \]

The credit maximum amount is 13.3% of the trade tax base:

\[ \text{CredMax}^p_{\text{GewSt}} = 0.133 \cdot \max \{0, I_D - FA_{\text{GewSt}}\}. \] \hspace{1cm} (5)

Finally, the amount of the fictitious credit can be defined as follows:

\[ \text{Cred}^p_{\text{GewSt}} = \max \{0, \min \{T^p_{\text{GewSt}}, T^p_{\text{GewSt}}, \text{Rel Max}^p_{\text{GewSt}}, \text{CredMax}^p_{\text{GewSt}}\}\}. \] \hspace{1cm} (6)

The total tax burden results from Equation 7. The first summand presents the Polish taxation of the foreign income, whereas the other summands combine the taxation of the income obtained in Germany.

\[ T^p_{\text{total}} = T^p_{\text{PIT}} + T^p_{\text{ESt}} + T^p_{\text{GewSt}} - \text{Cred}^p_{\text{GewSt}}. \] \hspace{1cm} (7)

This structure will be defined, for tax purposes, as the benchmark. However, a disadvantage to this is that there is no liability limitation. Below this are hybrid structures that should be presented. They must satisfy the criterion of the liability limitation and should at the same time correspond to the tax burden of the benchmark. The potential tax overcharge of a hybrid structure can be interpreted as the premium for liability limitation.

3. Partnerships as Hybrid Structuring Vehicles

3.1. Limited Partnership with a Limited Liability Company as General Partner (Sp. z o.o. S.K.)

Sp. z o.o. S.K. is a hybrid legal form which may combine the tax advantages of a limited partnership with the liability limitation of the limited-liability company\(^9\). Its tax and commercial-law treatment in Poland corresponds at most to the one

in Germany. In the meantime the legal structure of the Sp. z o.o. S.K. has been established in Polish practice and this legal form is very often chosen by new investment engagement of German entrepreneurs.¹⁰

**Variant 1:**

The German investor D incorporates a Sp. z o.o. S.K. in Poland. He contributes to the Polish limited partnership as a limited partner to 99% and his Sp. z o.o. – to 1%. The structure is shown by illustration 1.

**Figure 1. Sp. z o.o. S.K.**

When the limited partnership obtains income, it is treated as transparent for tax purposes. So D pays 19% PIT on his profit share in Poland and in Germany it is exempt from tax with progression as the limited partnership conveys a permanent establishment to their partners. The profit share of the Sp. z o.o. from the limited partnership will be correspondingly levied with a 19% CIT in Poland. For this reason, Poland, like the benchmark case, has the income of both tax subjects with the 19% rate taxed and Germany in principle has it exempted.

¹⁰ For proof see e.g. the register of members of the German-Polish Chamber of Commerce and Industry in Warsaw, http://www.ihk.pl/index.html?id=202
The tax burden in Poland can be learned from Equations 8 and 9. The profit share of the limited partner from the limited partnership will be marked as $\lambda^{SK}$ whereas $0 < \lambda^{SK} < 1$ is.

$$
T_{PIT}^{SK} = \lambda^{SK} \cdot t_{PIT} \cdot I_F.
$$

(8)

$$
T_{CIT}^{SK} = (1 - \lambda^{SK}) \cdot t_{CIT} \cdot I_F.
$$

(9)

When the Sp. z o.o. pays out to D its low-taxed share (as in the example), Poland collects the withholding tax on the dividend which, due to Article 10 paragraph 2 letter b DTT D/PL is limited to 15%. The certificate of residence of D in Germany must be presented to the Sp. z o.o. which pays out the dividend\textsuperscript{11}.

$$
T_{WTH}^{SK} = (1 - \lambda^{SK}) \cdot (1 - t_{CIT}) \cdot t_{WTH} \cdot I_F.
$$

(10)

Germany taxes this dividend due to the so-called part income proceedings (\textit{Teileinkünfteverfahren})\textsuperscript{12} and allows crediting the Polish withholding tax against the German income tax. This recapture taxation can be interpreted as a premium for the full liability limitation of the investor. It is low when, as in Variant 1 assumed, the profit share of the Sp. z o.o. from the limited partnership is not considerable. The amount of the total tax obligation also depends on $\lambda^{SK}$. The higher $\lambda^{SK}$, the lower the profit share of the Sp. z o.o. from S.K. and lower the recapture taxation at the investor’s level.

Furthermore, the German income from business activity will be taxed with the income tax (ESt). Due to the progression effect the particular tax rate applies. The tax base for the calculation of this particular tax rate is presented in Variant 1 as follows:

$$
T_{W}^{SK} = I_D + \lambda^{SK} \cdot I_F + 0.6 \cdot (1 - \lambda^{SK}) \cdot (1 - t_{CIT}) \cdot I_F.
$$

(11)

This particular tax rate is established in a manner analogous to Equation 1. The income tax due will be quantified as follows:

$$
T_{ES}^{SK} = t_{W}^{SK} \cdot (I_D + 0.6 \cdot (1 - \lambda^{SK}) \cdot (1 - t_{CIT}) \cdot I_F).
$$

(12)

The German income tax (ESt) will be decreased by the crediting of the Polish withholding tax on the dividend. The tax credit results from the minimum


from the withholding tax, the domestic income tax and the credit maximum amount. The credit maximum amount is:

\[
CredMax_{WHT}^{SK} = \frac{0.6 \cdot (1 - \lambda^{SK} ) \cdot (1 - t_{CIT}) \cdot I_F}{I_D + 0.6 \cdot (1 - \lambda^{SK} ) \cdot (1 - t_{CIT}) \cdot I_F} \cdot T_{ESR}^{SK}.
\]

The tax credit amounts to:

\[
Cred_{WHT}^{SK} = \max\{0; \min\{T_{WHT}^{SK} \cdot T_{ESR}^{SK}, CredMax_{WHT}^{SK}\}\}.
\] (13)

Further on, due to Equation 4, the domestic business activity income is subject to trade tax. In order to determine the fictitious credit of trade tax against the income tax, the relief maximum amount must be determined:

\[
RelMax_{GewSt}^{SK} = \frac{I_D}{I_D + 0.6 \cdot (1 - \lambda^{SK} ) \cdot (1 - t_{CIT}) \cdot I_F} \cdot (T_{ESR}^{SK} - Cred_{WHT}^{SK}) .
\]

The amount of the fictitious credit of the trade tax against the income tax will be calculated in an analogous manner to Equation 6.

By the summing up of the respective cost components the total burden\(^{13}\) of the presented vehicle is obtained:

\[
T_{total}^{SK} = T_{ PIT}^{SK} + T_{CIT}^{SK} + T_{WHT}^{SK} + T_{GewSt}^{SK} - Cred_{WHT}^{SK} - Cred_{GewSt}^{SK} .
\] (14)

The difference in the total tax burden between the benchmark and the cross-border Sp. z o.o. S.K. is presented as follows:

\[
D^{SK} = T_{total}^{SK} - T_{total}^{p}.
\] (15)

If the difference is positive this means that the cross-border Sp. z o.o. S.K. shows a higher tax burden than the benchmark. The tax burden difference has been graphically presented assuming that \(\lambda^{SK} 99\%\) and \(H = 400\%\) and it is presented in Fig. 2 at domestic and foreign income up to 10.000 EUR, and in Fig. 3 up to 100.000 EUR.

The analysis of tax-effect relationships is also shown on the graphs below. The graph is merely a reflection of the mathematical modeling of tax effects. Nevertheless, this can be helpful to recognise directly the tax consequences for any combination of foreign and domestic income.

\(^{13}\) The integration of the solidarity surcharge (Solidaritätszuschlag) will be waived in the calculations.
Figure 2. Tax burden difference between the cross-border Sp. z o.o. S.K. and the benchmark at $I_D$ and $I_F \leq 10.000 \, €$, $\lambda^{SK} = 99\%$, $H = 400\%$

Figure 3. Tax burden difference between the cross-border Sp. z o.o. S.K. and the benchmark at $I_D$ and $I_F \leq 100.000 \, €$, $\lambda^{SK} = 99\%$, $H = 400\%$
Within both illustrated scopes the difference is positive that is the benchmark is always better in the tax aspect than the cross-border Sp. z o.o. S.K. (Variant 1). The run of the difference function needs to be explained. It should be noted that within the scope up to 10,000 EUR that at increasing domestic income from 0 on the difference initially becomes greater, and then falls again. This means that in the determined income intervals the burden difference between both alternatives decreases.

The tax burden of the benchmark approximates the tax burden of the Sp. z o.o. S.K. This approximation of these two functions results from the progression effect. This effect is a result of the fact that by the general partnership (Sp. j.) the total foreign income is included in the calculation of this particular tax rate, whereas in case of the Sp. z o.o. S.K it is only part of the foreign income attributed to the limited partner which is fully taken into consideration. The part of the income that is due to the general partner is decreased by the Polish CIT and further, due to the German part the income proceedings (Teileinkünfteverfahren), will be considered only to 60%. For that this particular personal tax rate (ESt), in case of the general partnership (Sp. j.), is regularly higher. If the tax base for the German personal tax (ESt) is high to the same extent or only minimally higher, it can happen that the tax rate effect overcompensates the tax base effect, and the due German personal tax rate (ESt) in the case of the general partnership (Sp. j.) is higher than the one concerning the Sp. z o.o. S.K. In such a case the total burden of the latter remains always higher due to the excess credit of the Polish withholding tax on the dividend, however, the burden difference becomes, owing to it, smaller. In the case of the increasing domestic income the tax burdens diverge more again. However, by each change of the progression zone the difference function shows a bounce down which results from the fact that in case of the benchmark the world income has already reached the amount which causes the change in the next tariff bracket whereas it still comes to no change of the tariff progression zone concerning the Sp. z o.o. S.K.

As it can be learned from both Fig. 2 and 3, the additional burden towards the benchmark is relatively low. At the level of both domestic and foreign income of respectively 100,000 EUR each the additional burden amounts to merely 170 EUR. This can be interpreted as a premium for the legal liability advantage.

As an alternative a construction is possible by which a German limited liability company (GmbH) would participate in the Polish limited partnership S.K. (modification of Fig. 1). In this case the difference in the tax burden in comparison with Variant 1 is only the taxation of the dividend. As the German GmbH would pay out the dividend to a German investor, the Polish tax body would not tax it. If the participation is allocated by the German tax body to the
so-called business-connected property in Poland, the dividend would be exempted (Article 7 paragraph 1 in connection with Article 24 paragraph 1 letter a DTT D/PL). It is at least questionable whether zero-taxed income would be generated. Provided Germany would still tax the dividend (on the basis of the teleologically reduced protection of the DTT), the total burden would not change in comparison with Variant 1.

3.2. Silent Partnership

In some countries it is not possible or not target-aimed to structure as a limited partnership with a limited liability company as general partner. The reasons may be manifold.

- partnerships are partially taxed as untransparent, in particular in East and South-European states. The distribution of profit shares will be then, as a dividend, subject in the target state to the withholding tax which is not credited in Germany\(^{14}\),
- it is also to suppose that the rate of personal income tax in a target state could be considerably higher than the rate of corporate income tax and then the construction is of no use from the tax perspective,
- the legal form of a partnership could fail as a result of the lack of acceptance on the side of market participants,
- the foreign investors, owing to the potential commercial-law restrictions, may engage only in the form of a company.

For the above the outbound structuring should take place in form of a company in which the presented problem of the recapture taxation is to overcome. For that an atypical silent partnership is suitable as a structuring vehicle\(^{15}\). A silent partner is one who still shares in the profits and losses of the business, but who is ordinarily uninvolved in its management; these partners usually provide capital. The silent partnership is neither visible in the commercial register nor identifiable through the partnership name. However, an atypical silent partner is not only participating in the capital gains and losses, but also holds a stake in the partnership’s assets. The investor has controlling and co-determination rights.

**Variant 2:**

D establishes an Sp. z o.o. (company) in Poland and participates in it as a silent partner in the manner that the essential profit of the Sp. z o.o. will be transferred to the silent partner as remuneration. D is entrusted with the


\(^{15}\) See the letter of the Federal Ministry of Finance of 28 December 1999, p. 1121.
same controlling rights as the limited partner of the limited partnership (S.K.). Furthermore, D participates both in the profit of the Sp. z o.o. and – in the case of termination of his silent participation – in the hidden reserves as well as in the goodwill. From at least the German point of view under such conditions a partnership would be established in which the Sp. z o.o. and D would participate as partners.\footnote{See the letter of the Federal Ministry of Finance of 16 April 2010, recital 2.2.1.2 and recital 2.2.3.}

**Figure 4. Atypical silent partnership**

At first the profit of the Polish Sp. z o.o. will be subject to the Polish CIT (19%). However, by an appropriate structuring the profit is low. The taxation of the profit of D from the silent participation is unclear on the other hand, because there are no legal provisions in the Polish tax law that regulate the silent partnership. The silent partnership as such is no partnership in Poland but a civil-law relationship which can be shaped freely to a large extent. However,
there is a clear tendency in the advance rulings of the Polish tax organs that the structure is not to be classified as the partnership for tax purposes\textsuperscript{17}. For that reason Poland would levy the remuneration of D with a 20% withholding tax (gross) as capital income. The receipts-related expenses are not deductible.

It is the same when Poland applies Article 7 paragraph 1 DTT D/PL to the profit share and not Article 11 DTT D/PL concerning interest that Poland may tax the profit in total. Contrary to Article 11 paragraph 2 DTT D/PL, due to point 2 of the Protocol to DTT D/PL the source state is entrusted with a full-range right to taxation in the event of rights and claims connected with profit participation.\textsuperscript{18} Provided the profit from the Sp. z o.o. is transferred to a quite relevant extent to the silent partnership, the taxation would take place which is like the taxation of an Sp. z o.o. S.K. in Variant 1 (with a high $\lambda$). It is merely the profit share that remains in the Sp. z o.o. which, by paying out to D, is subject to the Polish withholding tax and to the part income proceedings in Germany (as it is also deemed as a business connected property\textsuperscript{19}). The resulting taxation corresponds to the taxation of the Sp. z o.o. S.K., but the difference is that the tax rate on profit share of the silent partner amounts not to 19% but to 20%. Assuming that by the use of the atypical silent participation the profit may be attributed to the largest extent to a German investor, just as in the event of an Sp. z o.o. S.K., it may be referred to in Fig. 2 and 3. The structuring as an atypical silent partnership would mean a slightly higher taxation.

A tax risk can appear, due to Article 16 Nr. 60 CIT Act, in the Polish thin capitalisation rules. The rules apply, in particular, to shareholder loans. In case the loan reaches 3 times the share capital of the company, the interest on the exceeding amount is treated as non-deductible expenses. The notion of “loan” should be interpreted broadly as under the Polish tax law it shall mean any agreement within which the lender agrees to transfer to the borrower a specified amount of money, and the borrower agrees to return the same amount of money;

\textsuperscript{17} So that the Tax Chamber in Poznań of 15 July 2008. On the other view the Tax Chamber in Bydgoszcz of 10 June 2008.

\textsuperscript{18} By emphasizing the business position of the silent partner (e.g. enterprise risk and – initiative), also within the scope of the contract shaping, it is also the qualification as the income from business activity that can be reached. In case Poland qualifies the remuneration as the income from business activity, the income would be taxed with a 19% rate. At the Convention level Poland would apply in this case Article 7 paragraph 1 DTT D/PL (business profits) and would take advantage of the full taxation right. Germany considers an atypical silent partnership as a partnership (§ 20 paragraph 1 No. 4 of the German PIT Act). As a result, the profit share of D would be exempted by the tax organ in Germany under the progression, due to Article 7 paragraph 1 in connection with Article 24 DTT D/PL.

\textsuperscript{19} See D. Nitschke, in: Blümich, (2011), UmwStG § 20 recital 62.
as such the loans shall also mean the issue of debt security or deposit\textsuperscript{20}. For that it is justifiable to argue that the silent participation will be treated as the loan, and the result will be that the remuneration of the silent partner (treated as interest) falls under the Polish thin capitalisation rules\textsuperscript{21}.

4. Conclusion

The starting point and optimality criteria for outbound investments of a German investor were the liability limitation and the transparent taxation with exemption in Germany (no recapture taxation). In the analysis some types of hybrid forms were compared with the benchmark and assessed.

By the establishment of a limited partnership with a limited liability company as the general partner (Variant 1) or of an atypical silent partnership in a target state (here: in Poland) it is possible to limit the liability of an investor to his contributions. At the same time, it is possible to reach the taxation which is very close to the benchmark.

Anyway, an atypical silent partnership involves risks which include the applicable tax rate, the deductibility of the business expenses and the thin capitalisation rules. For the above, an Sp. z o.o. S.K. appears to be a structuring vehicle which fulfills, in a practical way, both optimisation criteria.

Investors dispose of other alternatives of hybrid vehicles such as the limited partnership in shares or trustee relationships. It is to be verified whether in a specific case the criteria of the liability limitation and transparent taxation may be met.

Index of symbols

<table>
<thead>
<tr>
<th>Symbol</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>$C_{\text{GewSt}}$</td>
<td>the fictitious trade tax credit</td>
</tr>
<tr>
<td>$C_{\text{MaxWTH}}$</td>
<td>credit maximum amount of withholding tax</td>
</tr>
<tr>
<td>$D$</td>
<td>difference between the total tax burden of the respective variant and the benchmark</td>
</tr>
<tr>
<td>$I_F$</td>
<td>foreign income</td>
</tr>
<tr>
<td>$I_D$</td>
<td>domestic income</td>
</tr>
<tr>
<td>$RelMax_{\text{GewSt}}$</td>
<td>maximum amount of trade tax relief</td>
</tr>
<tr>
<td>$I_W$</td>
<td>worldwide income</td>
</tr>
<tr>
<td>$FA_{\text{GewSt}}$</td>
<td>tax-free amount of trade tax</td>
</tr>
<tr>
<td>$H$</td>
<td>trade tax multiplier</td>
</tr>
<tr>
<td>$SK$</td>
<td>the Polish Sp. z o.o. SK</td>
</tr>
<tr>
<td>$m$</td>
<td>trade tax factor</td>
</tr>
</tbody>
</table>

\textsuperscript{20} Article 16 paragraph 7b of the CIT Act.

\textsuperscript{21} If the remuneration of the silent partner is qualified as share profit, there is no threat of the application of the thin capitalization rules as there is no “loan”.
\(P\) partnership
\(T_{\text{ESI}}\) the German personal income tax burden
\(T_{\text{Tariff}}\) the tariff personal income tax due in Germany
\(t_{\text{PIT}}\) the Polish personal income tax rate
\(T_{\text{PIT}}\) the Polish personal income tax burden
\(t_{\text{GewSt}}\) the German trade tax rate
\(T_{\text{GewSt}}\) the German trade tax burden
\(t_{\text{KSt}}\) the German corporate tax rate
\(T_{\text{CIT}}\) the Polish corporate tax rate
\(t_{\text{CIT}}\) the Polish corporate income tax burden
\(t_{\text{WHT}}\) withholding tax rate
\(T_{\text{WHT}}\) withholding tax burden
\(t_{W}\) the particular personal income tax rate
\(\lambda\) profit share of the German investor

**Bibliography**


**Administration Instructions:**

3. Tax Chamber in Bydgoszcz of 10.06.2008, ITPB3/423-139/08/MK.
5. Tax Chamber in Warszawa of 5.07.2011, IPPB5-423/453-11/2-AJ.
1. Introduction

A considerable part of the progress achieved by man – be it technological advancements or socio-political innovations – is driven by necessity. Thus, a crisis is often a change catalyst. The collapse of the Bretton Woods monetary system in 1971 and the oil crisis of 1973 constituted a driving force behind meetings within the G4 framework\(^1\). If in the ’70s evolution from the G4 to G7 grouping reflected the importance of each state in the global economy, the original setup gradually became obsolete. This was particularly striking in the ’90s, when a series of financial crises shook large parts of Asia and Latin America, regions whose capacities to participate in the international economic debate were considerably limited. One attempt to renew the G-group dynamics was the stillborn idea of the “Heiligendamm Process”\(^2\). Although some called for the enlargement of the group, another stimulus was indispensable.

Since 1999, finance ministers and central bank governors have been meeting within the Group of 20. The 2008 crisis was a turning point as the G20 leaders held their first summit in Washington. Then in September 2009, “in the midst of a critical transition from crisis to recovery [and] to turn the page on an era of irresponsibility”, they redefined the rules of international economic governance. Since the reform process was far from complete, they agreed to launch the Framework for Strong, Sustainable and Balanced Growth: “a compact that commits us to work together to assess how our policies fit together, to evaluate whether they are collectively consistent with more sustainable and balanced growth, and to act as necessary to meet our common objectives”. One year later the G20 was acknowledged as the premier forum for international economic cooperation.

---

\(^1\) On the G7/G8 and G20 evolution: G. Smith, G7 to G8 to G20: Evolution in Global Governance, CIGI G20 Papers no. 6, May 2011.

\(^2\) The name after a German town, where a G8+5 summit was held. The larger group included Brazil, China, India, Mexico and South Africa.
Without consultation with third states, not to mention with other UN members, the eight governments decided to share power in the field of global economic governance with eleven others. Was the change from the G8 to the G20 a deliberate decision, or rather a new global economic balance, which diminished if not deprived the eight of the capacity to shape global economic policies alone, dictated such a shift?3 Perhaps the G8 could only choose between adaptation to a changing geo-economic and geopolitical reality or the loss of its raison d’être. Since the forum was never formally endowed with specific competences, nor are acts they adopt legally binding, the G8’s legitimacy has yet to be acquired through efficiency. Accordingly, since effectiveness constitutes a litmus test for legally non-binding cooperation, the G8 runs a huge risk from the enlargement of a forum that is supposed to address major differences between various economic systems. Leaders need to balance the perils of being overwhelmed with an ever-expanding agenda “as the global financial crisis subsides and the current focus on financial and macroeconomic issues increasingly shifts to technical matters unsuitable for discussion at the leadership level.”4

The bottom line is the common goal of global stability, which may only be sustained in the long run with the cooperation of major economies. Yet, the coordination of policies requires refrain from national-interest-driven strategies, the reason for which cooperation is needed in the first place. The mere awareness of this fact does not solve the problem. Furthermore, unless the G20 acquires legitimacy domestically, even a declaratory compromise will not free leaders from the political pressure to drop unpopular reforms5. The situation thus resembles a prisoner’s dilemma: all would be better off if everyone cooperated, yet leaders may be tempted to adopt protectionist stances no matter what the others do. This is an acute problem given that austerity measures, which are necessary to solve the indebtedness crisis, provide sound grounds for populism and political manipulation. The eventual backfire of a self-centred policy (repetitiveness of the game), as well as experiences beggar-thy-neighbour policies, which led to the Great Depression, weigh in favour of a cooperative strategy. The greater

3 Among issues where cooperation (and not merely invitation as observers) of emerging economic powers was indispensable, the example of macroeconomic imbalances is very telling, in particular between the U.S. and China. See: P. Guerrieri, La governance multilaterale e gli squilibri dell’economia globale, in: P. Guerrieri, D. Lombardi (eds.), L’Architettura del mondo nuovo. Governance economica e sistema multipolare, il Mulino, Bologna 2010, pp. 39–59.
5 Accordingly, see the insistence of the French establishment about the popularisation and educational aspects during it’s G8/G20 presidency: K. Postel-Vinay, La présidence française du G20 en perspective, G20: les enjeux de la présidence française, Ragards sur l’actualité, Mai 2011 (371), pp. 8–19.
the success of this cooperation, which is much desired by the participants who have already carried substantial organisational and political buy-in costs, the more likely it will be to subsequently provide policy-makers with backing at the implementation stage.

This paper first describes the general context of recent changes, drawing differences between cyclical economic downturns and the issues particular to the 2008 crisis, which requires different solutions. In this context, the second part of the paper consists of an analytical review of the G20 cooperation, which has moved from being a centre for crisis management towards one of policy coordination. The conclusions synthesise both legs of the research.

2. Major Factors Behind the Crisis

While it is somewhat unclear when the “era of irresponsibility” began, as put bluntly by President Obama at the London summit, everything occurred right under the eyes of the most advanced economies. In October 2007, the G7 requested a Financial Stability Forum (FSF) to scrutinise the causes that produced the market distortions earlier that year and to set out recommendations for increasing the resilience of the markets and institutions. In April 2008, five months before the fall of Lehman Brothers, the FSF published a comprehensive report on Enhancing Market and Institutional Resilience, calling for action in five areas.

Trying to capture the reasons behind it and the modes in which the global economic governance changed, a chain of events that were sparked in 2008 on the U.S. mortgage market appears to be the most intuitive departure point for an analysis. Yet, in order to comprehend why the current crisis acquired such a size it is necessary to look further.

As for the economic context, cyclical booms and busts are a commonly acknowledged phenomena associated with the free-market economy. As much

---

6 See remarks concerning various aspects of the vertical and horizontal governance networks, including the partial transfer of political responsibility for unpopular decisions upon supranational bodies, while gaining support at the implementation stage from other participants, thus mutually boosting their credibility, A.-M. Slaughter, A New World Order, Princeton University Press, Princeton 2004, passim.

7 Those included: the strengthened prudential oversight of capital, liquidity and risk management; enhancing transparency and valuation; changes in the role and uses of credit ratings; strengthening the authorities’ responsiveness to risks; robust arrangements for dealing with stress in the financial system. FSF, Report of the Financial Stability Forum on Enhancing Market and Institutional Resilience, April 7, 2008.


as one may wish to skip periodic economic downturns, or at least minimise their impact, they constitute an auto-correction feature of the market. A prudential policy reduces the negative impacts of the downturns by preventing an overheating of the economy, thus reducing the amplitude of the business cycle. The question is, at which point do economic indicators not reflect the growing productive capacities of the economy but instead become a warning of yet another crisis? The growing indebtedness in the U.S. mortgage market was long noted by the Federal Reserve, but it was unable to assess its significance10.

From an international trade perspective, another major feature of the current crisis – current account imbalances – is not per se problematic. Imbalances ought to trigger adjustment mechanisms, such as changes in interest rates and real exchange rates to harness any excess in domestic economic output11. Also, both the idea that countries that provide reserve assets to the international financial system might adjourn the necessary adjustments (that is, the stimulation of domestic savings) to finance their deficits with debt instruments issued in their domestic currencies and the unsustainability of such conduct in the long run have been broadly discussed12. Somewhat similar to the exacerbation of business cycles, the longer such adjustments are delayed through the manipulation of currency exchange rates, leading to an internal misallocation of resources, the more painful the adjustment to follow. The auto-correction feature reflects the functionality of the system and not a disease in it.

The combination of these cyclical events with market and regulatory failures led, however, to a catastrophic downturn. The conditions particular to 2008 included13 relatively low interest rates and low economic indicators, which led to the under-pricing of financial risks and a credit boom; poor regulatory and supervisory standards (including the emergence of the so-called NINJA creditors – no income, no job/assets), which allowed for a considerable increase in leverages;

---

12 For instance see: J. Stiglitz, Globalization and its Discontents (W. W. Norton, 2003) and Making Globalization Work (W. W. Norton, 2007). Greenspan noted, however, that the debate was mistakenly narrowed to the external aspects of the roaring U.S. deficit, op. cit.
and failures in domestic markets that were matched by the accumulation of huge global imbalances, partly because of a delay in current accounts adjustments (either through the reserve-assets system in the U.S., or by the accumulation of stunning amounts of foreign reserves by China and other East Asian countries). The abundance of capital and low investment yields created a demand for high-quality, low-risk assets, which created space for speculative financial products (and to some extent, fraud), including collateralised debt obligations (CDOs), off-balance special purpose vehicles (SPVs) and structured investment vehicles (SIVs). The investment risks were under-priced and the global imbalances between savings and investments became unsustainable.

In September 2008, the U.S. Federal Reserve revised its strategy towards investment banks suffering irrecoverable losses in the subprime mortgage market and allowed the bankruptcy of Lehman Brothers. The fall of the investment giant led to a banking panic, the bust of the interbank market and the cessation of credit activity. The banking-turning-financial crisis turned into a full-blown economic crisis and gradually spilled over to other countries. European financial institutions, which suffered losses on the U.S. market, were compelled to de-leverage. As the private sector lost both liquidity and confidence in the states’ capacity to service their current deficits, which was reflected by rocketing spreads, peripheral members of the European Monetary Union were deprived of access to capital markets. The crisis in the EU therefore evolved into an indebtedness problem. At the outset of the G20 initiative, we thus witnessed an unstable economy in which various countries were emerging from the crisis at different paces but faced a crisis of confidence in the markets, which were uncertain whether the momentum would be used for political compromise and the necessary reforms.

3. Towards a Holistic Vision of Governance

The major breakthroughs in global economic governance occurred at the first three G20 leaders’ summits in Washington, London and Pittsburgh. The group transformed from a financial war room into a steering committee. The first summit adopted short and medium term responses. The second adopted principles of crisis management. The third established a framework for a durable recovery.

14 In February 2008, seven months after investments giant Bear Stearns acknowledged that two of its subprime funds had lost a major part of their assets and that the bad securities considerably exceeded the bank’s capital, the Fed, instead of letting the bank declare bankruptcy, pushed for its sale to J.P. Morgan Chase instead. The latter paid $2 per share of the bankrupt firm, which had been valued at $169.33 on the NYSE on 17 January 2007.

The focus shifted from functional to systemic targets, gradually introducing the concept of macroeconomic coordination.

3.1. Washington

In November 2008, at the height of the crisis, the first G20 leaders’ summit acknowledged that the combination of the problems previously indicated created “system vulnerabilities”\(^{16}\). Although the politicians were still reluctant to directly address the topic of international governance, the necessity of macroeconomic coordination to prevent the synergy effect of local economic problems peered out from between the lines. The summit statement acknowledged merely that “major underlying factors to the current situation were, among others, inconsistent and insufficiently coordinated macroeconomic policies”. The leaders admitted, however, that intensified international cooperation and setting common principles for reform were necessary. They declared a reform of international financial institutions “so that they can more adequately reflect changing economic weights in the world economy in order to increase their legitimacy and effectiveness”.

These principles of reform included strengthening transparency and accountability, enhancing sound regulation (issues such as regulatory regimes, prudential oversight and risk management), promoting integrity in the financial markets, reinforcing international cooperation, and reforming international financial institutions. An Action Plan was adopted. For each of the plan’s five points, it stipulated immediate actions that were to be taken by 31 March 2009 and also subsequent medium-term measures. Short-term actions included the development of recommendations to mitigate pro-cyclicality (including valuation and leverage, bank capital, executive compensation and provisioning practices) by the IMF/FSF and the strengthening of the regulation of credit rating agencies (CRAs). Cooperation between financial market regulators was to be enhanced. Boosting international cooperation was to begin with the establishment of supervisory colleges for all major cross-border financial institutions. Arguably, the most tangible result was the provision of liquidity and the strengthening of the capital of financial institutions.

3.2. London

In April 2009, leaders agreed to establish the Financial Stability Board (FSB)\(^{17}\) as a successor to the FSF. Realising its short-term commitments, they tripled the amount of resources available to the IMF to $750 billion ($250 billion in new SDR


allocations and a further $500 billion via New Arrangements to Borrow), provided Multilateral Development Banks with an additional $100 billion for lending to low-income countries (and a total of $300 billion in the subsequent three years) and called for a global effort to ensure the availability of at least $250 billion in support for trade finance (the leaders themselves declared $3–4 billion in voluntary contributions to the IFC Global Trade Liquidity Pool, which was to amass $50 billion for trade financing, with the remaining $200 billion to be gathered from the private sector). In total $1.1 trillion in support for credit, growth and jobs was thus promised.

The medium-term agenda was broadened. It was agreed that by June 2009, the remaining supervisory colleges for significant cross-border firms would be established, thus completing another point of the Washington Action Plan. For the purposes of prudential regulation, the Basel Committee on Banking Supervision was requested to publish guidelines on the harmonisation of a definition of capital and to review the levels of capital and recommendations for stronger liquidity buffers by 2010. The former translated into the establishment of the European System of Financial Supervision; the latter paved the way for the Basel III adoption.

The G20 leaders also endorsed principles on pay and compensation structures in significant financial institutions to encourage prudent risk-taking and the pursuit of long-term goals. It also took a strong stance against tax havens and non-cooperative jurisdictions, which endanger financial stability. The IMF, together with the FSB, were to launch an Early Warning Exercise to identify and report on the build-up of macroeconomic and financial risks and the actions needed to address them. The leaders called on all jurisdiction to adhere to the international standards on taxes, anti-money laundering efforts and the combating of the financing of terrorism. On the last point, the recent denouncement in 2011 by Poland of the double taxation treaty with Cyprus, and current works on subsequent denouncements, does not appear accidental.

While these reforms focused on the medium-term perspective, they did not alter actual institutional setups.

18 G20 London Summit Communiqué, The Global Plan for Recovery and Reform; G20, Declaration on delivering resources through the International Financial Institutions, 2 April 2009.
20 The idea of regular EWE’s was presented by the G20 in November 2008. An EWE assesses “low-probability-but-high-impact risks to the global economy and identifies policies to mitigate them”. Therefore, it is not about predicting risks, but rather identifying system vulnerabilities. See: IMF, Factsheet. IMF-FSB Early Warning Exercise, April 13, 2011, http://bit.ly/uAEdj (access 7.11.2011). In April 2009 in Washington, a “dry run” of the EWE was presented to the IMFC (Progress Report on the Actions to Promote Financial Regulatory Reform Issued by the U.S. Chair of the Pittsburg Summit – 25 September 2009).
21 G20, Declaration on the Strengthening of the Financial System.
3.3. Pittsburgh to Cannes

At the Finance Ministers and Central Bank Governors’ summit in London on 4–5 September 2009, a lead-up event to the Pittsburgh summit, the parties acknowledged that the concerted policy actions yielded much-needed results and had allowed the prevention of a further decline in global demand and a slight improvement in the financial markets. Progress on the Washington–London agenda included delivering on the financial declarations. The leaders gathered in Pittsburgh carried on with the 2008 IFI governance reforms, including the World Bank reform and the IMF quota review (a shift of at least 3% and 5% of the voting power respectively to under-represented countries).

Yet, the most important action at the summit was the shift from being an emergency board to being a true steering committee by expanding the agenda beyond the legacy of the “2008 crisis” financial market reforms. It was the first time that, within the Framework for Strong, Sustainable, and Balanced Growth, the topic of imbalances was addressed directly. While the predominantly Chinese opposition prevented a call for the alignment of foreign exchange rates, the imbalances problem is referred to in a variety of ways, from a generic development notion, through public and private demand, to current accounts imbalances. Monetary policies consistent with price stability (that is anti-inflationist) should be planned in the context of “market-oriented exchange rates”. The leaders announced the establishment of the Mutual Assessment Process for individual policies and their impact on the global economy.

4. Concluding Remarks

Crisis cycles are inherent to our economic system and allow it to readjust to imbalances that grow over time. What is alarming, however, is their growing frequency over the last half-century and their scale. The easiest explanation would be to blame a “perfect storm” of regulatory failures and market anomalies.

---

In that case, crisis management could be restricted to short and medium-term actions to restore capital liquidity and trust in the financial markets. Although such a solution is intellectually and politically less demanding, if the root causes of the current situation reach deeper – stem from financialisation of social life, a thorough review of the economic model, including the principles of international cooperation would be indispensable. Given Occupy Wall Street/Indignados movements, the moderate success of European technocratic response to public concerns, or overthrow of subsequent “crisis governments” (including Spain, France, Italy or Greece) agenda shall include development and labour, food, and social security issues.

The advanced economies were compelled to share their privileged position in international politics with the major emerging markets. Given that the dominant international institutions had been shaped by the former, which cannot prevent a transition of power, the only alternative would have been the emergence of new organisations established by the latter. Depending on whether there is a democratic or undemocratic development scenario for emerging economies, they could be well different from what we are accustomed to.

Governance reform thus consists of two parts. In the short run, cooperation is necessary to handle the crisis. Although less-developed capital markets suffered less over the last several years, the export profile of emerging markets means that the current situation also poses a grave risk to them. For the newly admitted G20 members, it may be disappointing how quickly their readiness to take their share of the responsibility for the global economy is tested. From the longer perspective, this calls for the re-equilibration of the international monetary system and a reform of international financial institutions.

While the immediate tendency in setting the G20 agenda was to deepen cooperation, clearly seen in the field of regulatory and supervisory principles, in 2009, as the imminent threat of a financial system breakdown lessened, the agenda began expanding. Building on the London summit’s Communiqué, the leaders formulated a much more-detailed appeal to finance ministers and central-bank governors to agree on issues such as capital requirements and mitigation the pro-cyclicality, over-the-counter derivatives, securitisation markets, hedge funds and CRAs. The issues only signalled in Washington (macroeconomic coordination) were directly addressed in Pittsburgh, and the points apprehended at the first (exchange rates) are now being put on the table (the G20 finance ministers’ Paris summit).

It is from this broader perspective that the 2012 Cannes summit could have been welcomed with much optimism and relief\(^\text{27}\). First, it addressed the fears of a trade-off between legitimacy and efficiency\(^\text{28}\). In accordance with the David Cameron report “Governance for growth, Building consensus for the future”\(^\text{29}\), the leaders took steps to gain the former by boosting the later. For instance, IMF/FSB surveillance will be enhanced, while the IMF Special Drawing Rights basket will be reviewed in 2015. Second, several points on which the reform agenda was deemed to be too narrow were addressed. For instance, the criticism of Basel III for not addressing the root-causes of the crisis shall decrease as the “too big to fail” concept is dropped and remuneration practices that favour excessive risk-taking are curtailed. The summit even managed to directly address certain critical issues, such as the exchange rate flexibility of the Chinese. Third, a strategic vision prevailed as the leaders endorsed and encouraged the further development of imbalance indicators in the new *Action Plan for Growth and Jobs*. The very title also reflects a commitment to the social aspect of the reform agenda. The institutionalisation of the FSB and presidency *troika* should be equally much welcomed.

By late 2009, when the financial crisis was deemed to be nearly contained, the G20 cooperation risked rupture. Then, the situation again deteriorated, mainly in the European Monetary Union, and yet for quite some time the parties did not show the same willingness to find common solutions. It appeared as if the international stage was either in a state of harmony in which international organisations and diplomacy played their roles or in turbulence, in which case only temporary crisis-management emerged. It seems, however, that due to the globalisation process, such a dichotomy cannot be accepted. Although it is inherent to human nature to yearn for stability, be it absolute peace or grave crisis, which paradoxically gives a sense of security, strengthening such a mirage could be deadly. It is exactly such an attitude that allows decision-makers to postpone necessary reforms. To this extent, the gradual transition of the G20 over its first three summits from an *ad hoc* crisis group to one with true political leadership should be welcomed. This allows for the belief that the most important and yet most difficult points, including macroeconomic coordination, are not empty words\(^\text{30}\). A public awakening gives additional hope to these ends.

---


constitute a political counter-balance for consolidated interests, make the reforms possible and the protesters should not be satisfied with palliatives. Now, the key to deliver on these promises is to engage in a public debate in which it enables to realise the previous declarations, on the one hand, and on the other, may constitute a driving force for further developments. Playing with those hopes may, however, prove deadly for the much needed cooperation forum. In early 2012 one may apprehend that the agriculture agenda is being shaped without taking due account of the new “G-members” concerns, while the initiative of a labour summit was unjustified. Given the relation between G20’s efficiency and legitimacy failure of two summits, and arguably even more importantly disillusionment of parts of the social society demanding “humanisation” of globalisation, may threaten the original, financial forum.

After all, as David Cameron said introducing his governance report, “the answer is not to be found in elaborate new institutions and global architecture. We have the machinery that we need already. What we need above all is the most precious and intangible commodity – political will”.

**Bibliography**

**Articles, monographies:**


---

31 Somewhat worrying is, however, media coverage from the G20 summits, which does not necessary allow to transfer political capital from the international summits to domestic constituencies, C. Bradford, Overview of the Pittsburgh G20 Summit: From G20 Ascendancy to G20 Effectiveness, 1 October 2009, CIGI, http://bit.ly/Ky5jew (access 23.05.2012).


33 The majority of the issues discussed by the ministers stems from domestic political decisions and financial situation and not from international cooperation; in truly international issues (including social dumping or protectionism practices) ministers did not offer any better solutions than those adopted within the ILO. Finally repetitiveness of the employers, employees and governments postulates – both at domestic and various international planes – entails the risk of marginalising its importance. Instead of protecting labour interests thru integration of labour and financial policies (given possible synergy effect), both summits respectively demand greater social protection and harsh austerity, M. Menkes, Global governance w obszarze praw człowieka II generacji – prawa pracownicze i bezpieczeństwo socjalne (Global Governance and the II Generation of Human Rights – Workers’ Rights and Social Security) – international conference „Wpływ standardów międzynarodowych na rozwój demokracji i ochronę praw człowieka”, Polish Parliament, Warsaw, 22-23 April 2012 (a conference publication expected in 2013).


Documents:


12. Meeting of Finance Ministers and Central Bank Governors, United Kingdom, Communiqué, 7 November 2009.

Internet resources:
Selected Elements of the Polish Tax System from the Entrepreneurs’ Perspective. Research results

1. Introduction

The performance of business activity includes a number of non-business duties, for example activities related to the social insurance contributions, para-budgets and also taxes. This last duty, as it results from the research conducted by independent non-governmental organisations, is one of the most serious problems which entrepreneurs face not because of the amounts due but because they are the source of risk on which a single entrepreneur has no impact.

According to the World Bank, Polish entrepreneurs take nearly two full weeks a year or 40 8-hour working days to effect the payment of taxes. In this respect, Poland is rated 121 out of 183 classified countries in the whole world. In Europe, we are outperformed even by Bulgaria and Moldova, and it is worse only in the Czech Republic, where entrepreneurs need more than 500 hours to cope with the fiscal bureaucracy. In view of the report Doing Business 2011 prepared by the World Bank, the submission of VAT declarations takes 10 hours every month on average, and the settlements with the Social Insurance Office consumes another 130 hours on an annual basis.

The tax systems of the rated countries have been simplified in the recent years, while in Poland the situation has been the opposite. The complexity and frequent changes in the regulations or the lack of uniform interpretation in the area of tax law application make the taxpayer act under the conditions of uncertainty. And when acting under the conditions of uncertainty, the entrepreneur is not inclined to make any long-term decisions, including investments. Having to act under the conditions of high tax risk, the taxpayer incurs additional costs, including the costs of interest and financial penalties as a result of the incorrect application of the tax law.

Spending such a long time on doing work connected with tax duties can be directly translated into the corporate finance, i.e. it reduces effectiveness

1 For example: www.lewiatan.org
2 www.worldbank.org
and competitiveness. The time devoted to completing the forms and submitting them to the respective offices could be otherwise better used for example to win new contracts. It refers not only to the companies employing a dozen or several dozen staff, but also those self-employed forced to deal with complex accounting on their own.

Such bureaucracy results from the complicated tax system. The reasons may be found primarily in the frequent changes of regulations. The law on income tax from physical persons has been amended over 60 times in the last 10 years. The quality of the new law leaves much to be desired. The quality of the Polish law deteriorates as a result of ad hoc changes made due to the fiscal rather than economic considerations. The changes in the system made through fragmentary improvements of particular solutions may improve these solutions themselves but make the tax law as a whole increasingly incoherent.

The aforementioned considerations have given rise to the survey conducted among entrepreneurs. It was aimed at the presentation of a subjective assessment of the respondents on their settlements with the taxman and also their knowledge of the tax solutions which should improve these settlements with the taxman. The survey was anonymous. It was conducted among micro and small entrepreneurs from the largest Polish towns in the form of a telephone interview on the basis of the questionnaire prepared by the author. It was conducted in August 2011. In the course of the survey 100 telephone conversations were made. The present article presents the selected results concerning the Polish tax system as perceived by the examined entrepreneurs.

2. Subjective Assessment of the Polish Tax System

The Polish tax system is by no means simple. However, entrepreneurs are most sensitive to it, as they are obliged to pay income taxes, VAT and local taxes. Besides, it should be borne in mind that employment is connected with an entrepreneur’s duties as a taxpayer. The enormous work to be done by entrepreneurs is a heavy burden not only because they have to devote much time to accomplish them but also due to the fact that these duties are frequently unclear and regulations complicated so that they are not really able to cope with these duties.

For this reason they outsource their tax duties. Other entities deal with them; most often they are accounting firms. Nearly half of the respondents ask

---

3 Polish companies spend 325 hours annually on activities connected with paying taxes. Fiscal bureaucracy reduces competitiveness and effectiveness, „Gazeta Prawna” of 17 August 2011.
these entities to handle their accounts. Large companies, in particular capital companies employ their own accountants. It is worth noting that the same number of companies settle taxes on their own (Figure 1).

**Figure 1. Person responsible for taxes in the company**

<table>
<thead>
<tr>
<th>Responsibility</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outsourced accounting service</td>
<td>49%</td>
</tr>
<tr>
<td>Accountant employed in the company</td>
<td>25%</td>
</tr>
<tr>
<td>I myself</td>
<td>23%</td>
</tr>
<tr>
<td>Family's or friends' help</td>
<td>3%</td>
</tr>
</tbody>
</table>

Source: own materials.

Irrespective of the person responsible for taxes in a company, every entrepreneur has to possess a minimum knowledge of the basic tax principles, rates, possible reliefs and deductions etc. Therefore, it may be assumed that the entrepreneurs who do not settle their taxes on their own have no idea of tax duties imposed on them. On the contrary, entrepreneurs unanimously agree that the Polish tax system is not simple. A fourth of the examined entrepreneurs regard the Polish tax system as very complicated and nearly half as complicated (Figure 2). Only 9% of the examined entrepreneurs are satisfied with taxes in Poland considering the present system to be optimal. Interestingly, as many as 19% of entrepreneurs perceive it as simple. This result may come as a surprise in view of the research done by other organisations or the report made by the World Bank quoted before. However, there is a thesis to be raised in this situation that the response was given by those entrepreneurs who are not involved themselves in tax settlements at all, and the whole work in this area is done by their accountant or an external accounting firm.
3. The Tax System as a Barrier to Entrepreneurship

Apparently, it is the unclear and complicated tax law that sets the barrier to corporate growth. More than a third of the entrepreneurs present this idea (Figure 3). Fewer entrepreneurs (24%) think that frequent changes in the tax law are not in favour of entrepreneurship.
It is worth noting that the tax law is one of the most frequently changing fields of law. Entrepreneurs are unable to keep pace with the changes. Before they can get accustomed to the newly introduced law, they have to adjust to the successive new regulations. It is also a source of great tax risk connected with the incorrect application of law, which may result in interest or fines. Another source of tax risk is the fact that the tax regulations are not clear. A good example is the question taxing partners being shareholders of public limited partnerships with income tax. Divergent judicature, tax law interpretation issued by chambers of commerce and also different doctrines have become a reason for the company shareholder’s uncertainty with regard to the tax obligation. Eventually, the general interpretation solved this problem\(^5\). Entrepreneurs had to wait for it for several years as it became effective only after the problem had been considered by the Supreme Administrative Court\(^6\).

Entrepreneurs are also dissatisfied with the tax rates. 22% of the respondents think that the income tax rates are too high. Nearly the same (21%) are not satisfied with the VAT rates, which are certainly connected with the rise in VAT rates at the beginning of 2011. It should be noted that the VAT dues do not have any direct impact on business operations as this kind of tax is neutral and should not affect costs incurred by entrepreneurs in their business activity. However, there are situations in which VAT affects corporate finance directly. It occurs when VAT cannot be deducted, e.g. in the case of VAT on car fuel purchases, VAT on catering service purchases and also in the case of financial problems resulting from payment gridlocks. The granting of trade credits by entrepreneurs is sometimes a prerequisite for making sales. It does not exempt the entrepreneur from the duty of VAT settlement prior to the customer’s payment. In this context the height of VAT rates is undoubtedly significant for entrepreneurs.

The analysis of the height of income tax rate from legal persons indicates that it is not high. In comparison with other European Union member countries, Poland is rated 7 as far as the rate of income tax itself is concerned (Figure 4). Countries like Cyprus, Bulgaria, Romania or Ireland are rated higher. Poland does not differ from our neighbours with regard to the amount of the tax rate. In Hungary, Slovakia and the Czech Republic the tax amounts, as in Poland, to 19%. However, there are countries where entrepreneurs have to give away a considerably larger part of their revenue to the taxman. In France, Belgium or Malta over a third of gross revenue should be given away in the form of tax.

\(^6\) NSA Resolution of 16 January 2012 (file code no.II FPS 1/11).
Figure 4. CIT rates in the UE member countries (2011)

It should be remembered that over the course of the last years, the income tax rates have been reduced in the European Union countries. The same tendency has also been observed in Poland. In 1992 the CIT rate in Poland came up to as much as 40% (see Figure 5), while at present 19%.

Figure 5. CIT rates in Poland in the years 1992–2011

Source: own material on the basis of the European Commission data.

Source: www.mofnet.gov.pl
Among the European Union countries the biggest declines were noted in Bulgaria, Cyprus and Germany. These countries reduced rates by nearly 50%. From the point of view of taxpayers it is a satisfactory trend. Countries from outside the European Union show a different trend. For example, the CIT rate in Australia has remained at the same level of 30% for 10 years. It is similar in the United States and Japan, where the rate reaches nearly 40%.

Entrepreneurs participating in the survey complain about the complicated and unclear tax law. There is, however, a question: which tax is the most troublesome for them. It appears that the tax which, as a matter of principle, should be the most logical tax construction is at the same time the most serious problem which the entrepreneurs face. Nearly half of the respondents (43%) think it is the tax on goods and services. It may result from the fact that the VAT rules are based on the Law on goods and services as well as other regulations of lower standing. Besides, taxpayers may also refer to the EU directives which are given priority in application before the domestic acts. The abundant judicature of the European Justice Tribunal should also be remembered.

The income tax from legal persons follows VAT on the list of the most troublesome taxes (26%) and income tax from physical persons (22%) – (Figure 6). In this case the biggest problem is the cost of revenue. Entrepreneurs are not aware of which expenses can be included in their tax calculation. It may primarily result from the imprecise stipulations of the Law as well as contradictory interpretations given in this area by the Finance Minister.

Figure 6. The most troublesome settlements for the taxpayer

![Pie chart showing the percentages of different tax settlements]

Source: own materials.

---

7 www.oecd.org
Nevertheless, interpretations should constitute the source of tax security. This survey confirms that the institution of individual interpretations enjoys a relatively high interest (Figure 7). Every third examined taxpayer applied for the release of this kind of document. 40% of respondents do not exclude this solution. On the one hand, the interest in interpretations is a positive phenomenon as it indicates that the taxpayers know the tax law and apply it in practice. On the other hand, however, it may lead to a bitter conclusion that the tax law in Poland is so complicated that for 34% of entrepreneurs it is not sufficient to analyse the current legal acts. They require the explanation from the Finance Minister himself, as in real terms it is the Minister who is responsible for releasing these documents.

**Figure 7. Applications for individual interpretations so far**

<table>
<thead>
<tr>
<th>Response</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, I have submitted such an application</td>
<td>34%</td>
</tr>
<tr>
<td>No, but I do not exclude the possibility of submitting such an application</td>
<td>40%</td>
</tr>
<tr>
<td>No, and I do not intend to submit such an application</td>
<td>25%</td>
</tr>
<tr>
<td>I do not know what the application for individual interpretations is</td>
<td>1%</td>
</tr>
</tbody>
</table>

Source: own material.

The Finance Ministry data reveal the variety of doubts which taxpayers have. As a result of them in 2009, 28,000 individual interpretations were released, over 70% of which (exactly 20192) were the applications submitted within the economic activity. It means that on every working day on the average there were more than 110 enquiries arriving to the taxman, 80 of which were submitted by entrepreneurs. The majority came from the smallest, micro and small firms, whose applications amounted to nearly 80% of all the applications for individual interpretation submitted by entrepreneurs.

---

8 Finance Ministry data.
The persons who received the interpretation and followed its guidelines are protected: they cannot bear criminal tax liability, and interest for delay will not be calculated, they may also be exempted from the tax duty. It should be remembered, however, that there is no duty to follow the released interpretation, which is only treated as the information about the opinion of the taxation office with regard to a given problem. It means that, if the persons applying for the interpretation do not agree with its guidelines, they may still make a decision concerning the tax which they regard to be accurate.

The submission of the application is not connected with high costs. The fee amounts to 40 zlotys, which appears to be a symbolic value in comparison with those in other European countries. According to the data of the Finance Ministry in Sweden the fee amounts from 450 to 9,000 zlotys, with large firms and organisations to pay the most; in Portugal 10,000 – 42,000 zlotys and in Hungary 14,300 to over 114,000 zlotys.

4. The Desired Changes within the Tax System

What should the tax system be like according to the examined entrepreneurs? First of all: simpler. 42% of the respondents pointed to this answer. This means that there should be fewer regulations and those imposed should be constructed in such a way that an average citizen can understand them. It is unacceptable to refer to one situation in different regulations or even different legal acts.

According to the entrepreneurs the tax law should not be changed so often. For a fifth of the respondents this factor is essential with regard to the improvement of the quality of running businesses. They have the same opinion on tax reliefs. 21% of the respondents think that they should be available to taxpayers. As a matter of fact, there is only one relief for entrepreneurs: for the purchase of new technologies. Due to the restrictive regulations only few entrepreneurs make use of it. It is interesting what respondents say about lowering the tax rates. Despite the fact that when answering an earlier question about barriers to the development of entrepreneurship, 22% of the respondents stated that high taxes set the barrier to the development of entrepreneurship in Poland, actually only 16% of them want them to be reduced. It may indicate that it is not the barrier which hampers the development of enterprises in Poland, even more so that the tax rates, as shown before, are not high in comparison with other European Union member countries.
5. Conclusions

Entrepreneurs are not satisfied with the present tax system in Poland. This is the conclusion to be drawn when analysing the results of the survey conducted by the author. They think that it is too complicated and may even pose a barrier to the development of entrepreneurship. If the time spent to cope with the tax duty can be regarded as a measure of complexity of the tax system, Poland is rated in the leading position. Instead of developing their companies, entrepreneurs have to deal with matters which, as a matter of principle, do not generate profit, i.e. taxes. Why does it happen in this way? Because no involvement in this area of activity will expose the entrepreneurs to high costs in every situation, connected primarily with the incorrect application of income tax regulations. Wrongly applied regulations may result in lowering the tax base. This, in turn, may give rise to tax arrears which cause penalty interest and also penalties originating from the penal tax code.

Entrepreneurs secure themselves against this situation asking the Finance Minister directly how to behave in a concrete legal and tax situation. This institution of individual interpretations is at the moment one of the most important instruments the tax risk of security. The number of the submitted applications is bigger and bigger every year. On the one hand, it may point to the better awareness of the duty of involvement in tax issues on the part of entrepreneurs. On the other hand, however, it shows that the Polish tax law is not clear and the number of matters requiring an individual interpretation is growing.
According to the surveyed entrepreneurs the simplification of tax regulations should reduce the tax risk. Entrepreneurs are also in favour of the tax law stability. Annual tax regulations amendments lead to the situation of uncertainty among entrepreneurs directly translated into their finance.

Bibliography

   Polish companies spend 325 hours annually on activities connected with paying taxes. Fiscal bureaucracy reduces competitiveness and effectiveness, „Gazeta Prawna” of 17 August 2011.
2. NSA Resolution of 16 January 2012 (file code no.II FPS 1/11)
4. www.lewiatan.org
5. www.mofnet.gov.pl
6. www.oecd.org
7. www.worldbank.org
Summary

Mateusz Guzikowski

A Few Remarks on Michal Kalecki’s “Political Aspects of Full Employment”

The article deals with the seminal paper of Michal Kalecki entitled “Political Aspects of Full Employment”. In the following sections I briefly explain how ambiguous the term of a “full employment level” might be, deliver the basics of Kalecki’s concept and discuss the strengths and weaknesses of the above idea in detail. Thus, I came to the conclusion that nowadays the demand-side tools (stressed by Kalecki) are (or should not be) not desired to boost the economy, because of the independent central banks. The concern and the main task for governments nowadays seem to be assuring labour market flexibility so that full employment could be achievable, without direct demand creation that can lead to a wage-price spiral. Using its supply side tools (for instance lowering the level of employment protection legislation, changing the labour code to enable employers to employ and dismiss easily) rather than raising the aggregate demand, the government can contribute to higher employment (i.e. to lower involuntary unemployment) and because of such a policy get closer to the full employment level (measured as a decrease in the natural rate of unemployment).

Andrzej Jędruchniewicz

The Austrian and Neoclassical Theory of the Interest Rate

This research is theoretical in nature. Its main objective is to present the Austrian school’s theories of interest and to compare them with the concepts offered by the leading neo-classical economists.

Böhm-Bawerk’s theory of interest was built upon people’s time-preference on commodities. It states that present goods are higher in value than future goods. So, the interest is the price of today’s goods in relation to goods to be obtained later. The rationale behind this difference in value is threefold: economic, psychological and technical reasons. The contemporary Austrian school emphasises the subjective nature of these three motives.

The neo-classical explanation of the interest rate is primarily based on the marginal productivity of capital but it is criticised by the Austrian economists. Neo-classical economists equate the interest rate with the internal rate of return (discount rate) which makes the present value of expected future income flows equal to the historical costs of the production of a given capital good.

Katarzyna Kreczmańska-Gigol

The Threat of Payment Gridlocks in Poland and Business Ethics

The article discusses the issue of corporate payment habits and business ethics. The payment habits have an impact on payment gridlocks in the economy, which adversely affect the entities operating on the market. Payment gridlocks result not only from the debtors’ liquidity problems, but also to a large extent from the corporate payment
habitats and ethics represented by entrepreneurs. This article describes the significance of the settlement of liabilities for business companies and related risks. It focuses in particular on what causes the overdue liabilities as well as their importance in the time of crisis. It analyses the results of a survey conducted among financial managers in large corporations in Poland with regard to corporate payment habits.

Stephan Kudert, Paula Jarzyńska, Marcin Jamróży

**Hybrid Legal Forms As The Structuring Instruments For Outbound Investments**

The paper deals with the choice of a legal form by a foreign investor from a tax perspective. The analysis of direct investment in the target state – as in the example of Poland – is undertaken from the point of view of a German investor being a natural person. It is the liability limitation and the transparent taxation with the exemption in Germany (no recapture taxation) which are optimality criteria for the outbound investments of an investor. In the analysis some types of hybrid forms have been compared with the benchmark (this is a Polish general partnership) and assessed. By the establishment in particular of a limited partnership with a limited liability company as the general partner or of an atypical silent partnership in Poland it is possible to limit the liability of a German investor to his contributions and, at the same time, to reach the taxation which is very close to the benchmark.

Marcin Menkes

**Behind the G20 Strategic Transformation: from Washington to Pittsburgh**

Business cycles are now a commonly accepted pattern of economic activity. Reasons beyond current economic cross were, however, far more complicated. They included both systemic failures and coincidence of occurrences, which resulted in tremendous scope and intensity of the crisis. Both circumstances of current economic crisis have an impact on response policies available. Whereas simultaneous event that led to an economic downturn required a tactical response, a strategic vision is indispensable for systemic reconstruction. The role of the G20, the most important global economic policy coordination platform, evolved accordingly: from a crisis committee to a true economic governance centre. Article analysis transformation of the G20 since 2008 in light of specific factors and general features of the current economic crisis.

Joanna Szlężak-Maturewicz

**Selected Elements of the Polish Tax System from Entrepreneurs’ Perspective. Research results**

The performance of business activity includes a number of non-business duties, for example activities related to contributions to the social insurance, para-budgets and also taxes. This last duty, as it results from the research conducted by independent non-governmental organisations, is one of the most serious problems which entrepreneurs face not because of the amounts due but because they are the source of risk on which a single entrepreneur has no impact.
The aforementioned considerations have given rise to the survey conducted among entrepreneurs. It was aimed at the presentation of a subjective assessment of the respondents on their settlements with the taxman and also their knowledge of the tax solutions which should improve their settlements with the taxman. The survey was anonymous. It was conducted among micro and small entrepreneurs from the largest Polish towns in the form of a telephone interview on the basis of the questionnaire prepared by the author. It was conducted in August 2011. In the course of the survey 100 telephone conversations were made. The present article presents the selected results concerning the Polish tax system as perceived by the examined entrepreneurs.

The survey indicates that entrepreneurs are not satisfied with the present tax system in Poland. They think that it is too complicated and may even pose a barrier to the development of entrepreneurship. Wrongly applied regulations may result in lowering the tax base. This, in turn, may give rise to tax arrears which cause penalty interest and also penalties originating from the penal tax code.