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Tax-based forms of state aid in Poland as compared to other EU states

INTRODUCTION

State aid is a special form of state intervention falling within the category of allocation and redistribution activities. The instruments of state aid, like the whole tax system, are key tools used to eliminate income and social inequalities. The beneficiaries of the aid obtain material benefits in the form of resources originating from taxes or in the form of regulatory liabilities. The resources constituting the basis of granting the aid are in turn reassigned from other areas of socio-economic life. In light of the above, a hypothetical opportunity cost should be taken into account as part of the decision-making process in terms of choices (Piechowicz, 2016).

Tax-based forms of offering state aid constitute a necessary part of the state fiscal policy. Apart from the standard allowances and exemptions, constituting parts of the tax structure, there are special forms of allowances and exemptions falling into the category of state aid, the latter being of an entirely different nature. The tax preferences forming part of state aid do not, however, comprise part of the structure of any kind of tax, but instead are institutions of general tax law and may concern all taxes (Sosnowski, 2014).

In light of the above, exhibiting the available forms of tax-based state aid has become the main objective of the study and the basis for taking up the research area in question. In this paper the structure of state aid in Poland, as compared with other EU member states, will be presented, with an emphasis on tax instruments. Tax preferences are a significant form of state aid in Poland, and their importance in the structure of state aid provided differs in the respective EU states (Sychała, 2019).

The added value of the paper is in the provision of current knowledge concerning the sources of tax-based forms of state aid.

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This paper discusses the theoretical aspects of state aid, followed by a presentation of the tax-based forms of state aid available in Poland. The following research methods have been used: descriptive analysis, quantitative analysis and comparative analysis. The statistical data has been drawn from the Consumer Protection Offices on state aid granted to Poland, the latter data being transferred to the European Commission and forming the basis for the EU papers under *State Aid Scoreboard* available in the Eurostat database.

INDICATIONS FOR AND FORMS OF GRANTING STATE AID

State aid is regulated in articles 107–109 of the Treaty on the Functioning of the EU (TFEU). Although the treaty lacks a precise definition of state aid, this is not an oversight on the part of the European legislator, but rather a conscious choice whose purpose is to state within as broad a scope as possible the level of control exerted by the EU institutions over the aid granted to enterprises by the member states (Nicolaidis, Kekelekis, Kleis, 2008).

In accordance with article 107 par. 1 of the TFEU, what should not be aligned with the rules of the common European market is aid that would infringe on the exchange between member states that at the same time would result in assigning some enterprises or some industries a privileged status, thereby disrupting competition, or the risk of doing so. Art. 107 par. 1 TFEU indicates the conditions that have to be simultaneously met in order for this aid to be considered state aid (Biondi, Eeckhout, Flynn, 2005). If the aid is characterised by all the features stated below ('indications'), then it should be considered state aid not in accordance with the rules of the common European market, and thus banned (Jankowska, Marek, 2009). These features are:

- granted by the state or originating from state resources,
- granted on conditions more favourable than those available on the market,
- of a selective nature, i.e. offering preferential treatment to a selected enterprise or the manufacture of specific goods,
- disruptive of competition or threatening the same,
- impacting the trade exchanges between the EU member states.

In art. 107 part 1 of the TFEU, a general ban on granting state aid in the EU member states is introduced (Donzelli, 2019). However, two groups of exceptions exist. The first one involves categories of aid which have been considered to be in accordance with the internal market under the law. These are (TFEU art. 107, par. 2): social aid granted to individual consumers and aid related to repairing damage caused by natural disasters or other extraordinary events, including aid granted to some regions of the Federal Republic of Germany concerned by the division of Germany. The second group of exceptions are categories of aid that may be considered to be in line with the rules of the common market based on the decision of the European Commission. They include (TFEU, art. 107, par. 3):

regional aid, horizontal aid, sectorial aid, aid supporting culture and maintaining cultural heritage, aid devoted to realising projects of a European wide scope or preventing serious destabilisation of the economy of any member state as well as other categories of aid on the application of the European Commission.

In line with the guidelines of the European Commission, one may distinguish four groups of forms of state aid (Ecorys, 2019). Within each, there is an additional active subgroup constituting the direct movement of public funds to enterprises (1), and a passive subgroup for negative aid consisting of lowering the inflows to the budget or local government units (2). In economic practice, a fifth group of aid (E) comprises other forms of state aid not included within any other category (European Commission, 2001). The classification of forms of state aid is presented in Table 1.

Table 1. Classification of forms of state aid

Group	Subgroup	Forms of state aid
A	A1	grants
		reimbursements
		compensation
		loan interest subsidy (granted directly to the entrepreneurs)
	A2	tax or levy exemption
		tax deduction
		foregoing the collection of tax or fee
		foregoing the collection of interest on tax arrears
		a one-off amortization
		foregoing the collection of the execution cost or the cost of the proceedings
B	B1	equity participations in the form of introducing capital to the company
	B2	equity participations in the form of the receivables converted into stocks or shares
C	C1	preferential loans
		loans provisionally redeemed
		interest-rate subsidies (granted to banks)
	C2	the postponement of the date of payment of tax or fee
		an arrangement for the payment of tax or fee in instalments
		an arrangement for the payment of interest or collection costs in instalments
D	D1	the deferment of the date of payment of the interest or collection costs
		guarantees and credit guarantees
E		other forms of state aid

Source: (Spychała, 2014).

The subject of this paper is the tax-based forms of state aid. These occur under subgroup A2 (tax exemptions) as well as subgroup C2 (tax deferment), and thus form an example of passive state aid, signifying a complete or partial exemption of the beneficiary from the commitments incurred (Spychała, 2013).

Table 2. Forms of state aid in Poland in the years 2010–2019

A form of state aid	The worth of state aid granted in PLN mln (excluding aid in transport)										
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2010–2019
Groups-in general, including:	21235.5	17466.9	18054.9	18154.6	20138.1	16169.9	19936.7	31003.1	21746.5	24384.3	208290.5
Group A, including:	19397.3	16998.3	17188.5	17810.8	18954.1	14868.4	19729.3	30522.9	21225.0	23898.6	200593.2
– A1 group	16447.9	14900.1	15347.1	15667.7	16358.0	12017.8	16994.4	27835.7	18413.7	20966.2	174948.6
– A2 group	2949.4	2098.2	1841.4	2143.1	2596.1	2850.6	2734.9	2687.2	2811.3	2932.4	25644.6
Group B, including:	190.2	278.1	128.4	51.1	724.6	772.8	38.3	396.7	210.3	63.8	2854.3
– B1 group	190.2	278.1	128.4	51.1	251.1	772.8	38.3	396.7	210.3	63.8	2380.8
– B2 group	0.0	0.0	0.0	0.0	473.5	0.0	0.0	0.0	0.0	0.0	473.5
Group C, including:	338.6	183.7	736.1	289.9	408.7	86.8	34.0	81.6	235.4	120.7	2515.5
– C1 group	338.4	179.9	736.0	289.9	399.9	86.8	34.0	81.6	235.3	120.6	2502.4
– C2 group	0.2	3.8	0.1	0.0	8.8	0.0	0.0	0.0	0.1	0.1	13.1
Group D	4.7	6.8	1.9	2.8	50.7	441.9	135.1	1.9	75.8	301.0	1022.6
Group E	1304.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2	1304.9
A form of state aid	The structure of state aid granted in % (excluding aid in transport)										
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2010–2019
Groups-in general, including:	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Group A, including:	91.3%	97.3%	95.2%	98.1%	94.1%	92.0%	99.0%	98.5%	97.6%	98.0%	96.3%
– A1 group	77.5%	85.3%	85.0%	86.3%	81.2%	74.3%	85.2%	89.8%	84.7%	86.0%	84.0%
– A2 group	13.9%	12.0%	10.2%	11.8%	12.9%	17.6%	13.7%	8.7%	12.9%	12.0%	12.3%
Group B, including:	0.9%	1.6%	0.7%	0.3%	3.6%	4.8%	0.2%	1.3%	1.0%	0.3%	1.4%
– B1 group	0.9%	1.6%	0.7%	0.3%	1.2%	4.8%	0.2%	1.3%	1.0%	0.3%	1.1%
– B2 group	0.0%	0.0%	0.0%	0.0%	2.4%	0.0%	0.0%	0.0%	0.0%	0.0%	0.2%
Group C, including:	1.6%	1.1%	4.1%	1.6%	2.0%	0.5%	0.2%	0.3%	1.1%	0.5%	1.2%
– C1 group	1.6%	1.0%	4.1%	1.6%	2.0%	0.5%	0.2%	0.3%	1.1%	0.5%	1.2%
– C2 group	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Group D	0.0%	0.0%	0.0%	0.0%	0.3%	2.7%	0.7%	0.0%	0.3%	1.2%	0.5%
Group E	6.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.6%

Source: based on own study (Consumer Protection Office UOKiK, 2011–2020).

The total value of the state aid granted to Poland in the years 2010–2019 demonstrated a growth tendency. A decrease in relation to the previous year occurred only in 2011, 2015 and 2018 (Table 2), which was related mainly to the decrease in the worth of the regional investment aid granted to Poland in the form of grants within projects co-financed from EU funds. Aid in the form of grants (group A1) is the most important source of state aid granted to Poland. This kind of aid in the years of 2010–2019 constituted 84.0% of the total aid value, mostly connected with the granting of EU subsidies within the regional aid provided for the lesser developed areas of the EU.

In the years 2010–2019, the value of tax credits (group A2) as well as tax deferments (group C2) constituted, for the period, a total of 12.3% and 0.06% respectively of the total state aid granted within that period. Within aid in the form of tax preferences one may observe some changes. In the case of tax credits, its share in the structure of aid granted decreased from 13.9% to 12.0%, a decrease by 1.9 percentage points. Moreover, the high share of this group in the total state aid in 2015 (17.6%) resulted from a significant decrease in aid granted in the form of subsidies in that year. In the case of tax deferment, subject to a decrease in both the value of aid granted as well the share of this form of aid in the structure of aid in general, this type of aid was of marginal importance in the structure of state aid granted in Poland.

Nonetheless, tax-based state aid was the second most important form of state aid granted in Poland in the years of 2010–2019. Other forms of state aid were of marginal significance. For the whole research period, the state aid granted in the form of equity participation (group B) constituted 1.4% of the total state aid, aid in the form of “soft loans” (preferential loans) constituted 1.2%, and aid in the form of bailments and warranties constituted 0.5%. Moreover, in the first and last year of the period, state aid in other forms was granted as well (group E), connected with aid granted to the manufacturers of electrical energy in the form of compensation on account of the wilful termination of long-term sales contracts for power and energy.

TAX-BASED INSTRUMENTS OF STATE AID IN POLAND

State aid in the form of tax instruments may be granted in Poland within the scope of one of the following four possibilities: the activity of an economic entity being conducted in a special economic zone, based on the New Investment Support Act, based on the Act on Taxes and Local Fees, or based on the Tax Ordinance Act.

A special economic zone (SEZ) is an administratively separated, uninhabited part of Poland in which an economic activity based on the rules specified in law may be carried out (Act of 20 October 1994, art. 2). SEZs were instituted in the 1990s as a form of incentive for foreign enterprises, allowing them to locate their investments in weaker developed areas of Poland, in economic terms (Litwińczuk, 2013). The above incentives, primarily in the form of revenue tax exemptions, are forms of state aid.

State aid granted in SEZs can be considered regional investment aid in accordance with the internal market based on the treaty on the functioning of the EU (TFEU, par. 107 subpar. 3, letter a). In relation to state aid, there are intensity limitations specified on the map of regional aid (Cabinet Regulation, 30 June 2014). The greatest benefit obtained as a result of placing an investment in a zone is the exemption of revenue obtained from personal income tax or corporate income tax in an amount equivalent to a multiple of the discounted amount of the investment expenses incurred in the zone as well as the rate of aid allocated to a given region. The basis for obtaining a tax exemption is the zone permission, which specifies the conditions forming the basis for specifying the extent of aid (e.g. the minimum value of an investment and the date of its ending, or the number of employees employed in SEZs) (Act of 20 October 1994, art. 16).

It is worth noting that the tax-based state aid granted to enterprises conducting business activities in SEZs have an expiring character, as the zones will function only until 31 December 2016 (Cabinet Regulation, 23 July 2013). However, from 10 May 2018, the New Investment Support Act should allow enterprises to obtain state aid in the form of tax instruments, analogous to the SEZs, yet with no territorial limitations and for a longer period of up to 15 years (Act of 10 May 2018, par. 5 and 13). One may thus conclude that, based on the above act, the area of the whole of Poland has been acknowledged to form a special economic zone, which is likely to encourage foreign investors to establish their businesses in Poland. State aid related to the activity of enterprises in SEZs will be replaced with aid granted to entities based on the New Investment Support Act.

Another source of tax-based state aid in Poland is the Act on Taxes and Local Fees, within which many solutions which allow the granting of state aid were included. The regulations mentioned above may be divided into two groups (Litwińczuk, 2013): regulations allowing the passing of varied tax rates and local fees (Act of 12 January 1991, art. 5, 10 and 19) and regulations allowing the introduction by way of resolutions of additional targeted exemptions (Act of 12 January 1991, art. 7, 12 and 19).

The Municipal Council may in principle specify the rate of taxes and local fees at will in relation to the respective subjects of taxation, with one reservation – without exceeding the maximum rates indexed on a yearly basis by the Minister of Public Finance and issued by way of an announcement. Moreover, the Municipal Council has the right to vary the rates (e.g. on property tax – based on location, the kind of development, the manner of putting to use or the technical condition as well as the age of the buildings (Act of 12 January 1991, art. 5). However, the introduction of such a differentiation must still abide by the regulations concerning state aid.

It is well worth noting that the Municipal Council's resolution in which rates without any kind of differentiation were introduced should not be considered to be any kind of basis for granting state aid, even when those rates are lower than the maximum rates (Litwińczuk, 2013). The premise of selectivity is thus met. The specified rates charge all taxpayers equally within the area of a specified *gmina*

(district). On the other hand, the introduction of varied rates in a *gmina* may constitute an act of granting state aid. Such aid is granted in the form of *de minimis* aid.

Additionally in the Act on Taxes and Local Fees, it has been stipulated that the Municipal Council, by way of a resolution, has the opportunity to introduce subject exemptions differing from those specified in the tax regulations (Act of 12 January 1991, art. 7, 12 and 19). An additional exemption may not be a general exemption which would concern all taxpayers (Litwińczuk, 2013). Based on the occurrence of the premise of selectivity, each subject exemption that differs from that stipulated in the Act on Taxes and Local Fees shall constitute state aid.

State aid in the form of tax instruments may also be granted based on the Tax Ordinance Act. One such option is complete or partial discontinuation of tax collection based on a Minister's regulation relevant for public finances, for those cases justified by public interest or an important interest of the taxpayer (Act of 29 August 1997, art. 22). The second group of instruments constituting state aid granted based on the Tax Ordinance Act are exemptions in the repayment of commitments consisting of (Act of 29 August 1997, art. 67a): deferment or arrangement for the payment in instalments of tax or tax arrears together with the interest, or redeeming the tax debt together with the interest for the delay and an extension fee. It is well worth noting that all the instruments enumerated are discretionary, and that the tax authority, in issuing a relevant decision, should be driven by public interest or an important taxpayer's interest. The above notions are, however, unclear, have not been defined in any regulations, and it is the duty of the tax authority to state their relevancy (Litwińczuk, 2013).

Table 3. State aid in the form of tax instruments in Poland in the years 2010–2019

Item	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2010-2019
The worth of state aid granted (in PLN mln)											
Tax aid granted within:	2949.6	2102.0	1841.5	2143.1	2604.9	2850.6	2734.9	2687.2	2811.4	2932.5	25657.7
– special economic zones	840.7	1003.0	1278.9	1655.7	2074.6	2116.4	2053.2	2013.5	2438.1	2468.9	17942.9
– taxes and local fees	43.0	50.3	50.7	39.3	34.8	41.7	47.5	49.6	61.7	80.0	498.7
– Tax Ordinance Act	2065.9	1048.7	511.9	448.0	495.5	692.5	634.2	624.1	311.6	383.7	7216.1
The structure of state aid granted (in %)											
– special economic zones	28.5%	47.7%	69.4%	77.3%	79.6%	74.2%	75.1%	74.9%	86.7%	84.2%	69.9%
– taxes and local fees	1.5%	2.4%	2.8%	1.8%	1.3%	1.5%	1.7%	1.8%	2.2%	2.7%	1.9%
– Tax Ordinance Act	70.0%	49.9%	27.8%	20.9%	19.0%	24.3%	23.2%	23.2%	11.1%	13.1%	28.1%

Source: based on own study (Consumer Protection Office UOKiK, 2011–2020).

For the 2010–2019 period, PLN 25.7 billion in state aid was granted in the form of tax instruments (Table 3). The vast majority of the aid, 69.9%, was in the form of income tax exemptions granted to entrepreneurs locating their investments in SEZs. The Tax Ordinance Act was the source of 28.1% of the tax aid granted by value in the research period. Only 1.9% of the tax state aid was granted based on the Act on Taxes and Local Fees. The aid granted in the research period based on the New Investment Support Act was of marginal significance due to its novel character; however, a systematic growth in its share in the structure of state aid granted should be expected.

It is worth noting that the structure of aid granted in the form of tax instruments changed dramatically over the research period. In the whole research period, the significance of state aid having its source in the Act on Taxes and Local Fees was low, while in 2010 the aid granted based on the Tax Ordinance Act dominated, constituting as much as 70% of the total aid granted in that year. In 2011 the share of aid granted in SEZs and aid granted based on the Tax Ordinance Act were on a similar level. Since 2012, among all the forms of tax-based aid, state aid granted in SEZs has been dominant, reaching 86.7% of the total tax-based aid granted in 2018. The growth in the value and share of the tax-based aid granted in SEZs in the total of tax-based aid resulted mainly from the increase in the investment activity of enterprises in SEZs, which transferred into a higher level of income obtained from zonal activity. The increase in income (the tax base), in turn, contributed to the increase in the value of the theoretical income tax, which would have had to be paid had it not been for the possibility of taking advantage of state aid in the form of a tax exemption.

TAX-BASED STATE AID IN THE EU STATES

In the years 2010–2019, within the EU states, state aid of EUR 798.6 bn was granted, which constituted 0.84% of the EU's GDP (Table 4). Both the amount of aid granted and its GDP ratio were characterised by their large differentiation across different states. The highest amount of state aid in the research period was granted to beneficiaries in Germany (EUR 259.7 bn, which constituted 32.5% of the value of aid granted in the EU), France (17.3%), Great Britain (8.2%) and Poland (6.2%). The least state aid in its nominal dimension was granted in Malta (EUR 0.9 bn, which constituted 0.1% of the whole aid granted in the EU).

Taking into account the significance of state aid in the respective states as measured by their ratio to GDP, the highest percentage shares were registered in Hungary (1.8%) and in the Czech Republic (1.6%). A share above the EU average was observed in: Denmark (1.6%), Croatia and Germany (1.5% each), Lithuania (1.3%), Malta and Finland (1.2% each), Poland, Estonia, Latvia and Bulgaria (1.0% each), as well as Sweden and Slovenia (0.9%). The least significant state aid was registered in Ireland, which amounted to as little as 0.2% of the GDP.

Table 4. Value and structure of state aid granted in the EU states in the years 2010–2019

State	The value of state aid in 2010–2019		The structure of state aid granted in 2010–2019 (as %)									
	in EUR mln	as % GDP	Introducing capital	Grants	Warranties	Soft lending	Tax deferral	Tax exemption	Other			
European Union (28)	798644.57	0.84	7.2	68.1	1.7	6.1	0.1	14.3	2.6			
Belgium	18760.20	0.79	4.8	58.2	0.3	3.9	0.1	31.9	0.8			
Bulgaria	4561.70	0.99	0.0	22.0	0.7	0.1	0.0	1.1	76.1			
Czech Republic	17285.00	1.60	4.3	58.0	0.2	2.7	0.0	7.5	27.4			
Denmark	28135.80	1.55	1.4	90.5	0.1	4.0	0.3	3.3	0.4			
Germany	259688.40	1.45	5.8	81.7	3.2	0.5	0.0	8.7	0.1			
Estonia	1241.00	1.02	0.0	93.5	3.0	0.1	0.0	0.7	2.7			
Ireland	5548.90	0.16	8.5	61.4	2.1	0.8	0.0	27.1	0.1			
Greece	14356.60	0.30	0.4	40.1	0.1	57.1	0.1	2.0	0.2			
Spain	28592.20	0.34	0.7	64.3	7.3	5.6	0.3	21.7	0.2			
France	138011.70	0.79	9.3	53.7	0.2	14.9	0.0	18.0	4.0			
Croatia	2470.40	1.54	0.0	63.3	0.6	15.4	0.0	0.4	20.3			
Italy	37233.70	0.31	5.7	56.9	2.1	25.0	0.0	7.0	3.2			
Cyprus	976.10	0.46	0.0	94.3	0.0	0.0	0.0	5.4	0.3			
Latvia	4704.00	1.00	0.0	95.6	0.9	0.4	0.6	2.5	0.0			
Lithuania	2208.90	1.27	0.0	70.5	0.0	0.0	0.2	7.0	22.4			
Luxembourg	1162.30	0.24	0.0	94.0	0.0	0.0	0.0	0.0	5.9			
Hungary	15873.50	1.83	0.7	83.1	0.6	0.4	0.4	14.8	0.0			
Malta	920.10	1.22	10.3	22.0	1.4	6.4	0.0	44.3	15.5			
Netherlands	19219.00	0.35	0.4	74.7	1.9	0.9	0.9	21.0	0.1			
Austria	15166.20	0.46	9.7	85.5	1.2	1.3	0.0	2.2	0.1			
Poland	49592.97	1.03	1.4	84.0	0.5	1.2	0.0	12.3	0.6			
Portugal	8632.00	0.45	4.4	26.5	0.3	16.4	0.8	42.3	9.3			
Romania	7491.90	0.55	24.0	52.0	0.5	0.7	0.0	0.1	22.7			
Slovenia	3421.80	0.88	2.2	81.6	0.8	7.3	0.1	8.0	0.1			
Slovakia	2467.00	0.48	0.8	64.6	0.0	0.0	0.5	30.6	3.6			
Finland	14078.50	1.16	14.0	78.4	0.9	0.5	0.2	5.9	0.2			
Sweden	31125.00	0.91	43.1	21.9	0.1	3.5	0.0	31.2	0.1			
United Kingdom	65719.70	0.38	6.8	60.6	0.5	1.6	0.1	29.2	1.2			

Source: based on own study (Eurostat, 2021).

Based on the form of aid, European Union grants were dominant (68.1% of the value of the aid granted in the years 2010–2019). Another significant source of state aid involved tax-based preferences (14.4%). Other forms of aid were of marginal significance. The structure of state aid based on the form of its granting exhibited a high variety across the states. In 23 out of 28 EU states the aid granted in the form of grants dominated, and were of the highest significance in Latvia, Cyprus, Luxembourg, Estonia and Denmark (over 90% of the value of all the state aid granted in those countries). Tax-based aid dominated in Malta (44.3%) and Portugal (42.3%). It is well worth noting that the EU considers state aid in the form of tax preferences to be one of the most harmful ones; therefore, it should be gradually limited (Sosnowski, 2014). Tax preferences increase the costs of tax collection, cause excessive complexity in the tax regulations and erode the tax base, which reduces the potential for a reduction in tax rates for all taxpayers and results in the need to increase the fiscal burden due to incomplete feeding of the budget with tax revenues.

Apart from Malta and Portugal, mentioned before, state aid in the form of tax-based preferences took second place among the forms of state aid in 15 EU states. The least significant was tax aid in Luxembourg, Romania, Bulgaria and Croatia. In Poland the share of tax-based state aid within the state aid structure was 12.9%, i.e. below the European average, placing Poland among the seven states with the lowest significance of tax-based aid. This may result from the fact that in Poland, considered to be one of the least developed regions of the European Union, state aid in the form of grants was clearly dominant, including grants financed from the EU funds devoted to realising the cohesion policy and regional growth.

CONCLUSIONS

The paper presents the forms of taxation of state aid available in Poland alongside their significance within the structure of aid granted in the European Union. State aid in the form of tax-based instruments is currently granted based on the Tax Ordinance Act, the Act on Taxes and Local Fees as well as the Act on Special Economic Zones, and, since 2018, based on the New Investment Support Act.

Tax preferences are a significant form of state aid granted in Poland, as they are the second (after grants) form of state aid, in terms of their fiscal value. However, while in the research period such grants constituted as much as 84.0% of the value of aid granted in Poland, the share of aid granted in the form of tax preferences (groups A2 and C2) amounted to only 12.3% of the whole. Moreover, in the research period, the share of tax aid in the structure of the state aid granted decreased from 13.9% in 2010 to 12.0% in 2019.

The importance of state aid in the form of tax-based instruments differs across the respective EU states. In most of them tax preferences are the second, in terms of value, form of state aid; however, their share within the structure of the aid granted varies to a large extent (from 0% in Luxembourg to 44.3% in Malta). State aid in the form of tax preferences constituted 14.4% in the European Union in the research period, and its share was slightly higher than in Poland.

The subject of state aid, including its tax-based forms, appears to be especially intriguing as well as significant in contemporary tax studies. The above considerations, the research and the results may thus constitute the basis for undertaking more extensive research in this area.

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Summary

The paper presents the structure of state aid in Poland as compared with other EU member states, with an emphasis on tax instruments. Tax preferences are a significant form of state aid in Poland, and their importance in the structure of state aid provided differs across the EU states. The added value of the paper is to provide current knowledge concerning the sources of tax-based forms of state aid. The theoretical aspects of state aid are discussed and the tax-based forms of state aid in Poland presented. The empirical research was based on the following research methods: descriptive analysis, quantitative analysis and comparative analysis. The statistical data has been drawn from the Consumer Protection Offices on state aid granted to Poland, the latter data being transferred to the European Commission and forming the basis for the EU papers for the State Aid Scoreboard available in the Eurostat database.

Tax preferences are a significant form of state aid granted in Poland, as they constitute the second most important (after grants) form of state aid, in terms of their financial value. The importance of state aid in the form of tax-based instruments differs across the EU states. In most of them tax preferences are the second most important, in terms of financial value, form of state aid. However, their share within the structure of the aid is to a large extent varied. The subject matter of state aid, including particularly its tax-based forms, seems to be especially intriguing as well as significant in contemporary tax studies.

Keywords: state aid, tax preferences, special economic zones, European Union.

Podatkowe formy pomocy publicznej w Polsce w porównaniu z pozostałymi państwami Unii Europejskiej

Streszczenie

W niniejszym opracowaniu została przedstawiona struktura pomocy publicznej w Polsce w porównaniu z pozostałymi państwami Unii Europejskiej, ze szczególnym uwzględnieniem instrumentów podatkowych. Preferencje podatkowe są istotną formą pomocy publicznej w Polsce, a ich znaczenie

w strukturze udzielanej pomocy różni się w poszczególnych państwach Unii Europejskiej. Zasadniczą wartością artykułu jest dostarczenie aktualnej wiedzy na temat źródeł podatkowych form pomocy publicznej. W niniejszym opracowaniu najpierw omówiono teoretyczne aspekty pomocy publicznej, a następnie przedstawiono podatkowe formy pomocy publicznej w Polsce. W dalszej części przeprowadzono badania empiryczne. W opracowaniu zastosowano następujące metody badawcze: analizę opisową, ilościową oraz porównawczą. Dane statystyczne zaczerpnięto z raportów Urzędu Ochrony Konkurencji i Konsumentów na temat pomocy publicznej udzielonej w Polsce, które są przekazywane do Komisji Europejskiej i stanowią podstawę unijnych opracowań pt. *State Aid Scoreboard* dostępnych w bazie danych Eurostat.

Preferencje podatkowe stanowią istotną formę pomocy publicznej udzielanej w Polsce, gdyż są drugą (po dotacjach) postacią pomocy publicznej, biorąc pod uwagę jej wartość. Znaczenie pomocy publicznej w postaci instrumentów podatkowych różni się w poszczególnych państwach Unii Europejskiej. W większości z nich preferencje podatkowe są drugą co do wartości formą przyznawanej pomocy publicznej, jednak ich udział w strukturze udzielonej pomocy jest mocno zróżnicowany. Problematyka pomocy publicznej, w tym w szczególności jej podatkowych form, wydaje się być niezwykle intrygująca oraz ważna we współczesnej nauce finansów.

Słowa kluczowe: pomoc publiczna, preferencje podatkowe, specjalne strefy ekonomiczne, Unia Europejska.

JEL: H20, H25, H71.