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PERSONAL INCOME TAX AND COMMUNITY TAX LEGISLATION

The article describes problem of harmonization of the direct and indirect taxes in the EU countries. It is proved that harmonization of the indirect taxes is simpler problem which has been solved. The article pays special attention to issues of the harmonization of personal income tax. Tax competition, labor market flexibility and of the ECJ ruling counteract solution of these issues. The analysis of the ECJ rulings allows to formulate a number of conclusions related to harmonization, essential for the standardization of the PIT structure in the EU countries.

Key words: *direct and indirect taxes, personal income tax, harmonization taxes, tax competition.*

Introduction

The imperative for harmonization of direct taxes, including personal and corporate income taxes and taxes on property gains, was not clearly stated in the Treaty establishing the European Economic Community. The legal base for initiatives in harmonization processes was Article 100 of the Treaty, stipulating harmonization of those regulations that directly affect the creation and operation of internal common market. The process of direct taxes harmonization covered different income tax regulations which limited the freedom of income flow in form of dividends, interests, license fees and capital between Community members (this will be discussed in a separate analysis of the principles of capital income taxation). We should remember that the principles of income taxation in EU countries do not constitute such an important area of harmonization as indirect taxes. It is assumed that the differences found in direct taxations are less dangerous for the functioning of the common market. Moreover, harmonization of these taxes is much more difficult than indirect taxes, both from the political, technical and legislative point of view. Only some elements of corporate income tax are being harmonized, as they relate to international aspects of company operations that could cause potential discrimination in treatment of home and foreign companies and which refer to avoiding double taxation. Probably further elements of corporate income tax will be harmonized next – tax rates and taxation base[1].

Slight degree of normative harmonization

The main element differentiating direct taxation is its slight degree of normative harmonization. It is commonly believed that direct taxes exert less destructive influence on the functioning of common market, therefore work on their harmonization started later, lasted longer and did not go as far as in case of indirect taxes. Direct tax regulations in the European Union are left at the discretion of member states (except for the need to observe the areas presented in the table). Particular member states

[1] MARUCHIN, Wojciech – LUTZ, Gleiss – HIRSCH, Hootz. 2001. Harmonizacja w zakresie podatków bezpośrednich. In. Prawo Unii Europejskiej, 2001, no. 6, s. 23–30.

enjoy significant freedom in shaping their home solutions in this area. However, they are obliged to treat home and foreign operators equally as far as taxation is concerned. There are several reasons for relatively low scope of harmonization.

Firstly, when signing the Treaty of Rome, it was believed that direct taxes do not significantly influence the internal market, as a result of which there are no specific regulations on harmonization of direct taxes. Thus, community law in direct taxes can only bebased on general regulations of Article 94 of the Treaty establishing the European Community, which authorizes the Council to pass directives in order to bring closer statutory, enforcement and administrative provisions of member states that directly affect the establishment or operation of the common market.

Secondly, income taxes, as direct forms of taxation are an important and valuable tool of fiscal policy used by particular states, influencing social and economic life and it is hard for politicians to get rid of this form of exerting influence. Non-fiscal functions of taxation can be easily realized with income taxes.

Thirdly, directives concerning harmonization of direct taxes must be passed with majority of votes, which accounts for lack of unanimity in this area.

Fourthly, progress in income tax harmonization evokes the fears of losing tax sovereignty and leads to stiffening positions by member states towards processes aimed at harmonization of income taxes.

Fifthly, EU countries have various rules of rewarding employees, establishing incomes from pensions and shaping costs of obtaining revenue and expenses lowering taxation base.

The first document emphasizing the need for direct tax harmonization was Neumark Committee Report from 1962. Following the concepts presented in it, the Community Committee presented a program of harmonizing direct taxes in 1967. It included all main ideas which, in the following years, were gradually implemented by the Community legislation or are still an element of harmonization program[2]. The most important issues raised by this document were[3]: integration of corporate and individual income taxation and abolishing income tax collected at source for dividends and interests and standardization of personal income taxation rules.

The only directive concerning personal income taxation is the one from 3rd June 2003[4] on taxation of savings income in the form of interest payments. As far as taxation of personal income from remuneration is concerned, all attempt at harmonization have been limited to various proposals on joint principles of determining taxation base, size of tax rates and methods of shaping tax progression[5]. Taking into account PIT specificity and detailed general issues of income tax harmonization, I believe that for personal income taxation we can only expect bringing closer some system solutions being the result of leveling the development level in member states and improvements of tax techniques and popularization of

[2] BRZEZIŃSKI, Bogumił – GŁUCHOWSKI, Jan – KOSIKOWSKI Cezary. 1998. Harmonizacja prawa podatkowego Unii Europejskiej i Polski. Warszawa: PWE. 313 s.

[3] Directives 90/434/EEC, 90/435/EEC and 2003/48/EC.

[4] 2003/48/EC

[5] DRUESNE, Gérard. Prawo materialne i polityki Wspólnot i Unii Europejskiej. Warszawa: Scholar, 1996. p. 269.

its most effective solutions. On 23rd June 2011 the European Commission issued a statement on tax policy aims for next years (COM(2001)260final).

Apart from the above directive, EU countries have been given freedom in shaping other principles of personal income taxation. In this sense, principles of personal income taxation are not an adjustment area form the Polish solutions. The European Union countries independently decide on the structure of costs of obtaining revenues, scope for tax reliefs and exemptions, progression shape, etc[6]. In spite of the lack of directives normalizing principles of individual income taxation, such principles are self-created and burden levels equalize. We can say that due to the principle of competitiveness included in the tax law, member states make adjusting attempts in adopted tax constructions. This is to increase attractiveness of their tax systems. Competition between tax systems forces certain solutions in national tax systems, aimed at bringing closer constructions of certain taxes in order to ensure optimal functioning of the common market. Thus "quiet harmonization (back door)" is a consequence of progressing competition among national tax systems in particular taxation forms. The effect of quiet harmonization is bringing closer construction solutions in personal income tax in European Union states.

Tax competition *versus* personal income tax harmonization

Tax competition is a phenomenon directly related to globalization processes, especially to the growth of international mobility of employees and capital. Liberalization of labor and capital factors flow and decline of transaction costs account for the fact that individuals as well as capital seek attractive jurisdictions for their deposits, not only at home but also abroad. Theoretically, lowering tax rates does not have to result in lower budget revenue, as due to the flow of labor and capital factors, tax base will grow. However, if (theoretically) all EU countries decide to lower personal tax rates, the relative attractiveness of countries for PIT taxpayers (who may be treated as investors) will remain unchanged, while their budget revenues will decline. The tax income decline caused by lowering rates at unchanged tax base accounts for a situation when the country can allocate less money to accomplish their tasks of providing public goods[7]. This model only presents a general concept of tax competition, in practice its mechanism is much more complicated and far from clear[8]. Mobile production factors (labor and capital) may easily be located in countries with low tax rates, which limits the possibility of increasing their taxation[9]. The essence of tax competition often boils down to the belief that small tax burdens are the main factor determining the

[6] GAŁUSZKA, Joanna. 2002. Podatek od dochodów osobistych krajach Unii Europejskiej. In Przegląd Podatkowy, 2002, no. 2. s. 18–22.

[7] DESAI, Mihir – FOLEY, Fritz – HINES, James. 2004. Economic Effects of Regional Tax Havens, In NBER

[8] BUIJINK, Willem – JANSSEN, Boudewijn – SCHOLS, Yvoune. 1999. Final report of a study on corporate effective tax rates in the European Union (commissioned by the Ministry of Finance in the Netherlands): MARC (Maastricht Accounting and Auditing Research and Education Center) Universiteit Maastricht.

[9] VERRUE, Robert. 2004. Tax Competition in the EU. A few remarks on the current state of play, Bruksela, (conference materials).

development of a given territory and its perception as an attractive place for final tax settlement[10].

It should be clearly indicated that the harmonization of the effective PIT rates and social insurance rates is not necessary or essential for the functioning of common market and four migration freedoms. Since the general level of social and economic competitiveness and attractiveness obviously includes a tax element, it is difficult to deprive particular countries of their right to shape their own tax system adequate to their possibilities and needs. It should be expected that the potential progress of the tax harmonization process will limit this competition in a larger or smaller degree. Tax competition is manifested in reduction of tax rates and introduction of tax preferences in order to stimulate activity of national economic entities and attract foreign investment (PIT is of no importance in this respect). This means that the public authorities use tax policy instruments to enhance the attractiveness of their own area. It should be emphasized that after the introduction of the common currency in some EU countries, income tax has become one of the last "economic variables", depending only on local and central law-making bodies, which may be a measurable stimulus for stimulating taxpayers behavior. The author's own research shows that PIT is not a decisive factor in capital mobility, nor is it an instrument determining the attractiveness of a given country both for the workforce and investment[11].

The best situation would be the one in which the marginal cost of providing the next unit of public goods and services equals the cost of PIT taxation. Such optimal level of taxation can be established in a closed economy, that is when regardless of the size of tax, human and capital factors do not flow in or out. For an open economy, benefits of providing public goods and services remain unchanged, whereas the costs of PIT taxation grow. This is so as each income tax growth leads to the flow of capital to countries with lower rates. On the other hand, income tax decreases will have much weaker than in a closed economy effects, since (theoretically) they will attract foreign capital to the country. Taxation of this increased human and capital base may partly offset the losses incurred by lowering the PIT rate. We may infer from the above that in an open economy the stimuli for lowering the PIT taxation are stronger than in a closed economy. Such reasoning may be conducted for each country separately, therefore we can assume that they will all be inclined to lower their PIT rates. However, if they all do lower their rates, the benefits of such conduct will disappear: human and financial capital will not flow into the country with lowered taxes if taxes are lowered in other countries as well. The general capital resource will not change, in principle (if capital resource grows, it will only be due to the ability of lower taxes to generate new investment). On the other hand, all countries will experience lower incomes, thus they will be able to allocate fewer resources for allocating public goods and services. This process of lowering tax rates which leads to excessive reduction of budget revenues is often known as the race to the bottom. Assuming that in a

[10] McGEE, Robert. 2004. The Philosophy of Taxation and Public Finance. Boston-Dordtech-London, 2004, s. 105–107.

[11] Statutory research, Department of Economics of Enterprises and Local Development University of Economics and Innovation in Lublin, Lublin 2013–2014.

situation preceding the opening of economies, all countries had optimal PIT rates, as a result of the race to the bottom the possibility of providing public goods and services by them must deteriorate. It would seem that the optimal solution in this situation would be an agreement between countries that they will not compete with tax rates. Unfortunately, this solution is impossible to implement. This can be attributed to the fact that citizens of various countries differ in their preferences for goods that in their opinion should be provided by the state. Moreover, a state renouncing its sovereignty in fiscal policy would politically be very controversial and it is hard to imagine any government that would decide to take such steps. Moreover, to achieve the desired effect, tax coordination would have to take place in all countries remaining in economic relationships. If it is done only by a group of states, other countries will be undisturbed in their race, which will bring about the flow of capital to them and the deterioration of the economic situation of the group of countries with harmonized rates.

It seems that we should be cautious when assessing the phenomenon of tax competition in PIT. This is mainly because the only obvious and measurable indicator related to this phenomenon on an international scale are differences in PIT rates (and social insurance rates, integrated with PIT) between particular countries. It must be added that although data on differences in nominal rates are easy to obtain, their interpretation, as well as the evaluation of differences in effective rates, calls for taking into account a lot of extra information (such as applied incentives, tax reliefs or the structure of national economy) and are methodologically complicated. What is more, it is hard to determine the power of influence of differences in effective PIT rates which are the main symptom of "tax competition" on phenomena considered to be its effects. For example, we cannot clearly determine what percentage of the whole decline in corporate income tax revenue is caused by the changes to the effective rate of such tax in another country. It is impossible to isolate some phenomena in fiscal sphere out of all economic conditions. Moreover, the power of influence of the tax competition phenomenon on a given country depends on the specific characteristics of that country as well as on the characteristics of the "tax competitor" (for example Poland versus Slovakia versus Czech Republic). Finally, even if PIT is radically lowered in one country, but the risk of conducting economic activity remains very high, the likelihood of attracting potential taxpayers from abroad is low.

Flexibility and freedom enjoyed by public authorities of every member state of the European Union these days in determining income tax rates guarantee the creation of favorable climate for economic activity and sound competition between countries, which may bring long-term benefits to all participants of this market game, provided they take advantage of opportunities available to them. A competitive game to attract investors is not a zero-sum game in which someone has to lose for another person to gain, especially in the long run. Sound tax competition between countries, apart from gradual decrease of tax rates, should force sanative activities in the public finance sphere and make countries with lower burden more attractive to investors. We should obviously remember that it is not only the level of PIT, but also lower labor costs (pension system), infrastructure, quality of workforce and administration, transparency of law, including tax and business law, that determine the investment attractiveness of a particular region

or country and competitiveness of enterprises operating there. However, variety of conditions of running a business in particular countries and the existence of comparative benefits stimulate the development of international exchange, which, in turn, stimulates social and economic development of a particular region.

Harmonization of PIT versus labor market flexibility

PIT may reduce the number of jobs in an economy, affecting both labor supply and demand. Is this really true? On one hand, personal income tax and social insurance contributions decrease the benefits enjoyed by employees from their employment. People are interested to know how many goods they will be able to buy for their work; not how high their remuneration is before taxes (contributions) are paid. If taxes are increased, the threshold pay, that is the minimum level of remuneration before paying them, for which people are willing to work (the number of people willing to work may further decrease if some of the obtained tax revenues are allocated by the government to finance higher social benefits allowing to obtain income without going to work). In order to maintain their level of income after taxation, employees attempt at transferring part of the tax on their employers. The less flexible the labor market, the higher the degree of switching these costs, since the bargaining power of the employed grows at the cost of their employers. This means that what really matters is the flexibility and infrastructure of the labor market, not the level of PIT rates and social insurance contributions, which is in no way related to the degree of harmonization or coordination of personal income tax.

On the other hand, when calculating the profitability of employing an additional worker, the employer does not take into account the remuneration received by the employees, but total labor costs. Higher labor costs limit the willingness of employers to create and maintain jobs, since the labor of people becomes more expensive than the work of machines. The negative influence of taxation on employment may be strengthened by capital flows. With great freedom of these flows between countries, the companies; demand for employees is more sensitive to labor costs changes than in the opposite situation. Companies try to locate their production where it brings them the highest profits, while transfer of production from one country to another is becoming increasingly easy. Theoretically, taxation of incomes from work should be tantamount to uniform taxation of consumption. Two important factors determining the satisfaction people derive from life and which they influence are, on one hand – consumption, and on the other – free time. Consumption possibilities are determined by the size of incomes obtained mostly from work. On the other hand, work takes up our time. Both taxation of income from work and taxation of consumption in the same way disturb the price relation between free time and consumption. The higher the taxes on consumption and income from work, the more expensive (relatively) consumption becomes and the cheaper (relatively) free time becomes. As a result, both taxes weaken the people's stimuli to work. In practice, however, such equality is impossible due to at least two reasons.

First of all, taxation of incomes from work is, by definition, imposed only on the workers, whereas consumption taxes present burden to everyone's expenses – also those who do not work. This difference would not have to be significant

if those who do not work lived off their savings they accumulated during their employment. But in practice, the overwhelming majority of them live off the work of other people (including, sometimes, people who had to seek profitable employment abroad). Thus, although taxation of consumption does not affect the relations of consumption prices to, respectively, own and other people's work (including work abroad), the taxation of incomes from work limits consumption possibilities of only those who work (what is more – only those who work in the country).

Moreover, neither incomes from work nor consumption are taxed in a uniform way. On one hand, the state sometimes imposes exceptionally high taxes on people with high qualifications who naturally obtain high incomes. However, as incomes grow, people appreciate their free time more and pay less attention to further expansion of their consumption possibilities. The growing sensitivity to changes in the relationship between the price of consumption and free time, when their basic needs have been satisfied, account for the fact that the reduction of taxation imposed on employment incomes could significantly strengthen the stimuli to work in people with high qualifications. On the other hand, the consumption of goods which are characterized by high rigidity (such as food) has low taxation. Weak sensitivity of demand for these goods to changes in their prices means that increasing their taxation should not significantly limit their consumption.

Thus the research proves that harmonization of personal income tax has never been an important factor for creating a common market or for free flow of people and capital[12]. It is a neutral form of taxation in internal trade and does not disturb the conditions of competition on the common market[13]. Personal income tax mostly refers to incomes from work and retirement benefits, whereas the level of fiscal burden does not translate into intensified migration within Europe nor does it affect flexibility of the European labor market. EU countries have social security systems financed from various sources. These sources are both contributions paid by taxpayers as well as direct financing from state budget. The construction of these models arises from social and historical circumstances and is an autonomous instrument of social and economic policy of particular EU countries. Moreover, EU countries have varied systems of remuneration for work and shaping the level of population income. There are various systems of costs of obtaining revenue, methodology of progression, etc.

The third driving force behind development is the improvement of qualifications by employees. High qualifications, first of all, facilitate finding new, more efficient production techniques, and secondly, they often constitute a necessary condition for implementing and developing technologies invented abroad. The dependence of the country ability to adopt latest technologies on employees qualifications is particularly important for such economies as Polish economy, small globally and open to labor and capital flow, while still technologically lagging behind. The

[12] AUERBACH, Alan – KOTLIKOFF, Laurance. 1987. Evaluating fiscal policy with a dynamic simulation model, American Economic Review, vol. 77, no. 2, Papers and Proceedings of the Ninety-Ninth Annual Meeting of the American Economic Association, May, 1987, pp. 49–55.

[13] AUERBACH, Alan – HINES, James. 2001. Taxation and economic efficiency In NBER Working Paper, no. 8181.

improvement of workers qualifications may be hampered by taxes. On one hand they reduce incomes that improved qualifications bring. On the other hand, they may increase costs related to them. Incomes attributed to improved qualifications are reduced especially by income tax, particularly when it is characterized by great progression. People who are better prepared to a job are able to produce more and better, as a result it is more beneficial for companies to attract them by offering them higher remuneration. Increasing the upper rates of income tax forces people with higher qualifications to give a higher share of their income to the state. Progressive income tax is a kind of tax on productivity. The higher qualifications we have and the higher income we obtain, the higher part of it – not only absolutely but also as percentage – is taken by the state. The same tax may simultaneously increase the costs of improving one's qualifications. Since the supply of good trainings is not rigid, the better quality they are, the more taxation increases their price, so better remuneration (after taxation) must be provided to trainers running them. Taxation, if it leads to lowering employment, it also lowers the degree in which society qualifications are used. The decline in employment as a result of taxation also causes the loss of some skills by people who are out of work. They do not have a possibility of using them in practice, which makes it difficult to maintain them, let alone improve them. Besides, lack of work makes it difficult for them to gain completely new qualification. For example, they do not learn new production techniques. The conclusions are as follows: the sharpness of progression is an internal issue of each member country and depends on the goals of state fiscal policy determined by economic and social factors.

Harmonization of employment – related income taxation *versus* the rulings of the European Court of Justice (ECJ)

The issue of taxing incomes from employment abroad is a complex one, since we need to analyze not only Polish regulations, but also international ones (including relevant agreements on avoiding double taxation concluded between Poland and particular countries) and regulations in a country where work is performed. It is necessary, inter alia, to determine whether such incomes must be settled in Poland at all. If the answer is positive, then the question arises of how to avoid double taxation, if, for example, these incomes were also taxed in the country where a person performed their job. This is of vital important both in case of people who individually start working for foreign employers and for employees delegated by employers to work abroad. An essential issue is to determine in which country an employee is obliged to pay social and health insurance contributions. This is regulated by the so-called coordination provisions issued by relevant bodies of the European Union. They also include regulations governing some specific groups, for example employees delegated to work abroad or running their own business activity also on the territory of another country. Another issue concerns regulations governing benefits which can be obtained when working in various EU countries, for example the amount of future retirement pension. Additionally, it is essential to know where and how this retirement pension will be taxed. It may happen that a particular person (taxpayer) will have more than one place of residence (that is both in Poland and in a country where he or she works – on the basis of internal regulations of these countries). In this case, in order to determine

which country is the final country of residence for tax purposes, certain criteria are applied, based on a relevant agreement on avoiding double taxation, concluded between Poland and that country. As a result of such analysis, a taxpayer should be able to determine in which country their final place of residence is. It is advisable that this should be confirmed with a tax residence certificate issued in that country. This does not mean, however, that the taxpayer will pay taxes only in one country. If this person is a tax resident of a given country, but performs work in another, he may be subject to taxation both in the country where he works (as the country of source) and in the country of tax residence. In order to avoid double taxation, an appropriate method adopted in a relevant agreement on avoiding double taxation must be applied.

It is worth remembering that it is possible to deduct from obtained income (or – respectively – tax) mandatory social and health insurance contributions paid in another country of the European Union, European Economic Area or Switzerland. In order to take advantage of this entitlement, one must meet certain requirements. The deduction does not concern contributions whose calculation base is income exempted from tax on the basis of agreement to avoid double taxation (that is when we apply the method of exclusion with progression to particular revenue). Moreover, contributions cannot be deducted from income (tax) in a country where the work is done. It is also necessary to have legal base arising from an agreement on avoiding double taxation or other international agreements ratified by Poland in order to provide the tax authority with some information from the tax authority of a state in which the taxpayer paid contributions. EU countries have widely varied PIT structures and retirement pension contributions systems, which makes it practically impossible to fully harmonize these public tributes. Nevertheless, it is possible to attempt at coordinating the principles of calculating and settling, without harmonizing the rates, tax credits, or tax deductions and reliefs.

The rulings of the ECJ exert significant influence on the PIT in EU countries as well as on the areas of potential harmonization. These rulings translate into automatic (forced by the rulings) coordination of tax legislature and provisions regulating social insurance. ECJ rulings greatly affect domestic tax law and, by the necessity of implementing rulings into domestic tax law, they contribute to standardization (harmonization) of tax provisions, especially in the area of human flow and PIT settlement as well as SSC in member states. As a result of ESC rulings, regulations are becoming similar and uniform, which is an element directly preceding potential future harmonization (of selected elements in PIT structure).

According to ECJ rulings, it is forbidden to discriminate citizens of one member state in another member state[14]. Tax discrimination takes place when different people in comparable situation are treated differently by tax regulations. Different tax treatment of residents and non-residents does not have to mean discrimination. The situation of individuals who have limited tax obligations in a given member state is not comparable to the situation of individuals with unlimited tax obligation. A taxpayer's personal situation is usually taken into account when taxing income in a country of their residence. However, if a non-resident obtains

[14] Compare cases: Schumacker (C-279/93); Saint Gobain (C-307/97); Wielockx (C-80/94) and Asscher (C-107/94).

in the source country "most of their income" or "the whole or nearly the whole income", whereas he or she does not obtain in the country of residence sufficient income to take advantage of tax reliefs used there (for example – joint taxation with a spouse), then the source country should threat such a person as its resident and grant them relevant tax reliefs[15]. The situation of both categories of taxpayers is comparable concerning tax rates, therefore it is not allowed to use a higher personal income tax rate for an individual with limited tax obligation[16]. Within research work, we analyzed the tax rulings of the ECJ vital for the freedom of human flow[17]. The ECJ rulings have led to numerous amendments (standardization) or even repealing of internal tax regulations. The analysis of the ECJ rulings allows us to formulate a number of conclusions related to harmonization, essential for the standardization of the PIT structure in the EU countries and indicating areas of further harmonization:

1. The community law bans all forms of tax discrimination not only related to nationality, but also bans hidden forms of discrimination which lead to the same result by using various differentiating criteria. The application of a permanent place of residence with reference to the return of PIT down-payments usually results in worse treatment of citizens of another member state.

2. Failure to grant tax relief to taxpayers who paid social insurance contributions for foreign insurers is compensated by exempting benefits paid out in the future from tax. If a state was to allow deduction of social insurance contributions, it should also be able to tax the sums paid out by citizens. Obliging the insurer to collect tax or adopting solutions in bilateral agreements are no less restrictive means. In the Bachmann case, the argument concerning the coherence of a tax system concerned the same taxpayer and the tax of the same kind, whereas there was a close relationship between deducting insurance contributions and taxation of future benefits.

3. In a situation when a non-resident obtains in the country of their employment most or all of their income, while not obtaining sufficient income in the country of residence to take advantage of tax reliefs (such as joint taxation with a spouse), then the country of employment should treat such a person as its resident and grant them relevant tax reliefs.

4. Non-resident who obtains the whole or nearly the whole income in a country where they perform their job is in the same situation as the resident of this state who performs the same job.

5. Member states are competent to determine the reasons for taxation in order to avoid double taxation via international agreements.

6. Granting tax reliefs in PIT in the source country (tax credit, joint taxation) depends on where a taxpayer obtains most of their taxable incomes.

[15] See more: case Schumacker (C-107/93); Sermide (C-106/83).

[16] See more: Asscher (C-107/94).

[17] Rulings of ECJ: Biehl (C-175/88); Bachmann (C-204/90); Werner (C-112/91); Schumacker (C-279/93); Wielockx (C-80/94); Gilly (C-336/96); Gschwing (C-391/97); Gerritse (C-234/01); Wallentin (C-169/03); Ruffler (C-544/07) and Asscher (C-107/94).

7. Taxation of people who work or receive retirement or disability pension, but live or have dependant relatives in another member state has always been a source of problems. Generally speaking, bilateral agreements allowed to avoid double taxation, but did not solve such issues as application of different forms of tax reliefs available in the country of residence with reference to the income obtained in the country of employment.

8. There is a rule according to which a given member state, when collecting income tax and social insurance contributions, cannot treat EU citizens not residing in this country but, taking advantage of free movement, working in its territory, in a less beneficial way than its own citizens.

9. Generally, we can say that integration in the area of direct taxation of individuals has taken place more as a result of the European Court of Justice rulings than normal legislative procedure.

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У статті описано проблему гармонізації прямих та непрямих податків у країнах Європейського Союзу. Доведено, що гармонізація непрямих податків є простішим завданням, яке вже значною мірою вирішене. Особлива увага приділяється проблемам гармонізації оподаткування доходів фізичних осіб. Вирішенню цієї проблеми протидіє податкова конкуренція, гнучкість ринку праці та дії Європейського суду. Аналіз рішень Європейського суду дозволив сформулювати ряд висновків, які стосуються гармонізації, базової стандартизації індивідуальних податків у країнах – членах ЄС.

Ключові слова: *прямі та непрямі податки, податки на доходи фізичних осіб, гармонізація податків, податкова конкуренція*

В статье описывает проблему гармонизации прямых и непрямых налогов в странах Европейского Союза. Доказано, что гармонизация непрямых налогов является более простой задачей, которая уже в значительной степени решена. Особое внимание уделено проблемам гармонизации налогообложения доходов физических лиц. Решению этой проблемы противодействует налоговая конкуренция, гибкость международного рынка труда и действие Европейского суда. Анализ решений Европейского суда позволил сформулировать ряд выводов, относящихся к гармонизации, базовой стандартизации индивидуальных налогов в странах – членах ЕС.

Ключевые слова: *прямые и непрямые налоги, налоги на доходы физических лиц, гармонизация налогов, налоговая конкуренция.*

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