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THE CONCEPT OF TAX INCOME. ECONOMIC AND SOCIAL ISSUES IN THE CONTEXT OF THE WAYS OF HARMONIZATION PROCESSES

KONCEPCJA DOCHODU DO OPODATKOWANIA. UWARUNKOWANIA EKONOMICZNE I SPOŁECZNE W KONTEKŚCIE EWNETUALNYCH PROCESÓW HARMONIZACYJNYCH

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Abstract
In the development of income tax, the very concept of income was fundamental. Two basic concepts of the concept of income can be distinguished. The first is the concept of the source theory of income aimed at the regular flow of economic values from specific sources, which is historically associated with the English income tax. According to this theory, tax income is a regular surplus derived from fixed sources. A much broader treatment is given to income according to the pure wealth accrual theory, which links tax income to the accrual of economic disposable income, whether the income is periodic or one-time. The essence of this theory is the economic benefit capacity of an entity obtained over a certain period of time, and calculated by adding up all pure income (revenue) and benefits, including one-time benefits (e.g., donations, lottery winnings, etc.) earned during the tax year. The theories presented have had a significant impact on the historical development of certain types of income tax.
The main purpose of the article is to analyze the concept of tax income from the perspective of the possibility and desirability of harmonizing personal income taxation in EU countries.
Keywords: tax income, personal income tax, income concepts

Streszczenie
W rozwoju podatku dochodowego fundamentalne znaczenie miało samo pojęcie dochodu. Można wyróżnić dwie podstawowe koncepcje pojęcia dochodu. Pierwszą jest koncepcja teorii źródeł przychodu ukierunkowana na regularny przypływ ekonomicznych wartości z określonych źródeł, którą wiąże się historycznie z angielskim podatkiem dochodowym. Zgodnie z tą teorią dochód podatkowy stanowi regularna nadwyżka pochodząca ze stałych źródeł. Zdecydowanie szerzej traktowany jest dochód według teorii przyrostu czystego majątku, która łączy dochód podatkowy z przyrostem ekonomicznej zdolności dysponowania dochodem, bez względu na to, czy dochód ma charakter periodyczny, czy też jednorazowy. Istotą tej teorii jest ekonomiczna zdolność świadczenia danego podmiotu uzyskiwana w określonym czasie, a liczona przez sumowanie osiąganych w roku podatkowym wszystkich czystych przychodów (dochodów) i korzyści, także jednorazowych (np. darowizny, wygrane na loteriach itp.). Przedstawione teorie miały istotny wpływ na historyczny rozwój określonych typów podatku dochodowego.
Zasadniczym celem artykułu jest analiza koncepcji dochodu podatkowego z perspektywy możliwości i celowości harmonizacji opodatkowania dochodów osób fizycznych w krajach UE.
Słowa kluczowe: dochód podatkowy, opodatkowanie dochodów osobistych, koncepcja dochodu do celów podatkowych

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Statement of the problem in general outlook and its connection with important scientific and practical tasks.

Public tribute is one of the elements of a wider category of public burden imposed by the public law norms. The elements of the sovereign imposition of the monetary obligation by the public and legal community exclude the possibility of using the term 'public tribute' to non-monetary or voluntary performance [1]. Also, the performances resulting from all private and legal claims of the state are not regulated by the tribute law. Historically, public tributes have evolved in different economic, legal and social conditions. This explains why they do not now constitute a coherent catalogue of financial instruments which could be described with some defined, homogeneous constitutive features [2]. The system of public tributes has evolved for the past centuries from a simple division of tributes into taxes, fees and contributions towards more complex divisions, with two clear main currents of common and specific burdens. Both common and specific burdens are currently collected in monetary form, personal servitude or tributes in kind are excluded from it. The category of common burdens covers only taxes, that is the tribute which finances state's general tasks, not based on the principle of equivalency. Specific tribute does not serve the purpose of financing the state and does not burden all the people capable of paying this performance [3].

The breakthrough moment in the history of public tribute was the introduction of income tax in England. As we can see, income tax is quite a new invention. General taxes were of property type, consisting in taxing the whole property possessed by someone or its elements. Because such taxes are simple and easy to use and because taxpayers find it more difficult to hide their real estate than other taxable objects, such taxes did not require any complex tax machinery or extensive knowledge of tax collectors (officials). The forerunner of contemporary income tax was the tax imposed in England (except for Ireland) to finance the war with Napoleon, in 1799 by prime minister William Pitt (younger). When introducing this form of taxation, the argument went that it was only temporary and it would be repealed once the war was over [4]. The state actually resigned from collecting this tax voluntarily only once – in 1802, after finishing the war with Napoleon, Great Britain abolished this tax, after signing the peace treaty in Amiens, but for a very short period of time, as in 1803 the tax appeared again in the public tribute system at the level of 5% (the income obtained from this tax was at the same level as when the rate was 10%, this was possible by lowering the lower limit from 60 to 50 pounds which doubled the number of taxpayers). In 1806 the 10% rate was reintroduced and it was kept until 1816, when the tax was repealed again by the Parliament, a year after the battle of Waterloo, with 231

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votes for and 201 against. After abolishing the tax all the data concerning taxpayers was burned (as it turned out later, copies were stored at the archives - *King's Rembrancer*). For the next 26 years the English system of public tribute did not comprise personal income tax [5].

The concept of income was of vital importance in the development of income tax. We can differentiate two basic concepts of income. The first one is the concept of the theory of revenue sources focused on regular inflow of economic value from particular sources, historically linked to the English income tax. According to this theory, taxable income is a regular surplus coming from regular sources. A much broader concept of income is offered by the theory of net asset growth which combines taxable income with the growth of economic ability to spend the income, whether it is regular or one-off. The essence of this theory is the economic ability of a given individual obtained in a specified period of time and calculated by summing all net revenues (incomes) and benefits, even one-off ones (such as donations, lottery wins, etc.), obtained in one tax year. The presented theories significantly influenced the development of particular types of income tax. Summing up our presentation of historical evolution of income taxes in the system of public tributes, we can differentiate three basic types of tax: Roman (mixed), German (global) and British (scheduler). The Roman type was a historical transition from revenue tax to income tax. Its specific feature lies in the fact that particular parts of income are first placed in tax schedules and are taxable according to the progressive or proportional rate, and then the general income is established and taxed according to the progressive rate. This type of income tax can be found mostly in tax systems of France, Italy, Belgium or Portugal [6].

Also the Polish income tax paid in 1950-1971 by individuals and legal entities which were not units of social economy was of this nature. After tax reforms in 1962, 1963 and 1974 this taxation evolved into the German type of income tax. The German type of income tax originated in East Prussia and then spread into the Netherlands, Switzerland, Austria and Scandinavian countries. In this system the tax is collected from global (general) income, regardless of the source of obtained revenues, using the progressive tax rate. In the British (scheduler) type of income tax, income is not determined globally, but partial incomes are summed, specifically defined in the so-called schedules. The sum of partial incomes gives the total (consolidated) income. Partial incomes are taxed according to proportional or progressive rates. The tax collected from scheduler incomes is treated as an ordinary tax, contrary to the tax collected from general income using the progressive rate, which is then treated as an additional tax. Schedules determine particular incomes very casuistically, and then, within them

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further (detailed) division of incomes into particular groups takes place. The evolutionary development of income tax has led to the development of several specific features dominating contemporary tax systems. The first one consists in basing the income tax construction on the theory of net asset growth, which offers its broad understanding, and, which is connected, adapting global income as the basis for taxation (freeing taxation from sources of obtaining revenue). A contemporary version of the theory of net asset growth is the theory of market income (originating in the German tax doctrine), according to which the income of a particular entity is the asset growth generated and performed by this entity. This means that income is generated only in the economic turnover, as an effect of human work, investment of capital, thus excluding inheritance, donations and other extraordinary incomes. In taxation practice, some elements of the theory of sources are also used, by excluding incomes obtained from determined sources from general income and taxing them according to a separate tax rate (usually the proportional one).

Income tax based on the theory of sources (scheduler) offers far-reaching possibilities of individualizing (personalizing) taxation by determining its size to not only the size of incomes but also to their sources. This is especially visible in the British income tax. The concept of this tax is closer to the essence of income tax than the concept of tax based on the theory of net asset growth, which offers possibilities of implementing the principles of equality and tax justice. In the 20th century, in an attempt to implement these principles, revenue taxes were being replaced with income taxes. The advantage of scheduler income taxes is that they allow to adjust the taxation method and tax rates to the nature of particular income groups. This construction provides generally milder taxation of incomes obtained from work (not funded incomes) than incomes on capital (funded incomes). Using the scheduler taxation, we can achieve graduation of tax burden with reference to incomes coming from various sources and to implement the policy of the so-called just taxation [7].

A drawback of scheduler systems is that they do not take into account the whole financial situation of a taxpayer, that is his ability to carry the tax burden imposed on them. It is not possible to rationally personalize scheduler taxes by applying various reliefs related to particular family burdens of a taxpayer. That is why we can now witness a diversion from constructions based on a classic scheduler tax and movement towards mixed tax, in which proportional scheduler tax on particular categories of income is supplemented with global (unified) tax which progressively burdens the sum of taxpayer's incomes [8]. Moreover, scheduler tax is extremely complicated, which contradicts the requests for transparency and clarity of taxation and, due its specific structure,

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brings significant costs of imposing and collecting tax. From this perspective, a more appropriate construction is that of income tax based on the theory of net assets growth (global – unified – income tax). Historically this tax covered generally the whole income of an individual, regardless of the type and source of obtaining income (characteristics of particular income groups).In the construction of global (unified) tax there is no preliminary taxation of incomes from various sources, and the tax basis is a sum of incomes, however this can be calculated in different ways. Although the taxation basis was the so-called net income, in some cases (for example taxation of labor and economic activities conducted on one's own), the method of determining incomes from various sources can be differentiated.

Global, unified income tax is a construction that is widely used in OECD countries. In the European Union, the last countries which adopted the system of global tax in 1973 were Great Britain and Italy. The construction of the global (unified) tax is more universal, as its basic elements can be applied to taxation of individuals' incomes and to legal entities incomes. Obviously, adoption of the concept of net asset growth (global income) as a prevailing concept is not tantamount to the elimination of the principle of personalizing taxation. The concept of taxing global income best implements the principle of taxing a taxpayer according to their income potential, accumulating all revenues of a taxpayer from all possible sources, providing a full picture the taxpayer's material situation [9]. Personal features of income tax are exposed, using the construction of the so-called existence minimum, using social and extraordinary reliefs, differentiating tax burden with the progressive scale, depending on the size of the obtained income. Personal features of global tax are also implemented by using certain elements of the theory of sources of taxation, in form of a separate taxation for incomes from some sources of revenue. Taxation can be applied only to such incomes which come from regular, permanent sources, which allows to separate non-funded income (from work) from funded income (from capital, assets). For example the tax on income in form of interest on bank deposits is calculated, collected and paid out by banks themselves, thus there is no collection of advance payments and its accumulation with incomes from other sources. We should remember that the current construction of the income tax based on global understanding of income tax introduces several constraints concerning the possibility of covering losses incurred in one source of income (for example: capital investment) with income obtained from other sources (for example from remuneration), therefore it is necessary to break down the total income into its specific sources. For example, many countries do not allow to join losses incurred in high-risk investment with income from other sources. Incomes and losses from this

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source of revenue are accumulated as a whole and, if there is surplus in form of income – it is then added to incomes from other sources of revenue [10].

Analysis of recent studies, legal acts and literature on the subject, which undertake a discussion of the analyzed issues

Since global (unitary) income tax is a structure commonly used in contemporary tax systems, taxation of a taxpayer's income is based on the principle of tax assessment and self-calculation of tax or calculation conducted by the payer. Some factors affecting the taxation method have been selected and introduced into tax systems because of the tax purpose, depending whether fiscal burden rests on the taxpayer alone and depending on costs of administering (managing) taxes. The collection of tax from a taxpayer following the principle of tax assessment takes place after obtaining necessary information by a tax organ. If the tax is collected at source, then the entity making the payment (the payer) deducts the amount of tax and pays it into the bank account of the tax organs. This means that the taxpayer does not obtain in fact this part of income, losing the possibility of postponing the tax payment date. The payment is made 'in advance', so taking into account the changing value of money, the taxpayer loses some value of capital due to the lack of possibility of postponing the payment of income tax from the earlier to the later periods (after assessment). Therefore the taxpayer cannot – as a result of payment collection – have at their disposal the amount of tax, while the difference resulting from it – in case of some alternative investment – would allow them to obtain some additional profit (benefits), calculated at the current value of money. In the second case, when the tax is collected using the above method, it is called tax at source. Even though the tax is paid by the payer for tax organs, the recipient of this income in this case is the taxpayer.

In order to make an assessment of tax, tax organs must have reliable data (information), which is necessary when determining the amount of tax. The nature of tax assessment by tax organs imposes on the taxpayer a duty of submitting (communicating) relevant information in their tax return (declaration). If the taxpayer, despite this obligation, does not meet it, in this case tax organs are entitled to assess tax by assessing the taxpayer's income. Many tax systems resigned from the assessment method in favor of self-calculation of tax by the taxpayer. This concerns mostly corporate income taxation, which is a situation in which tax obligation is created by law. Despite the self-calculation technique, no tax system has resigned from the obligation to submit a declaration in order to make it easier for tax organs to control the correctness of self-

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calculation performed by the taxpayer. This method of tax assessment is used only with reference to taxes constituting burden on the taxpayer's global income [11].
Since the calculation of the amount of due tax for a given tax year cannot be made before the end of the year, this means that the amount of due tax cannot be determined until the income is obtained (received or retained at the taxpayer's disposal), many countries have introduced the instrument of down-payments towards income tax, payable during the tax year, their size being determined on the basis of, for example, the amount of due tax in the previous tax year. The obligation to pay down-payments towards income tax does not change the general characteristics of the tax assessment system, which consists in determining the size of taxable income after it has been obtained [12].
Collecting tax at source. Collecting tax at source has an unquestionable advantage consisting in the fact that tax payment is made soon after the income was given to the taxpayer's disposal (paid out by the payer). Tax collected at source may be treated as a specific down-payment towards income tax. In this method, the taxpayer is obliged to declare in his annual return form, the size of obtained income and is entitled to lower (reduce) the amount of due tax calculated in this tax return by the amount of tax that was collected at source. The tax collected at source is called 'tax paid at source included'. Alternatively, the tax collected at source may be the final tax collected at source. In this case income recipient (taxpayer) is exempted from an obligation to submit tax declaration and from obligation concerning the amount of collected tax. Taxes collected at source usually have a fixed rate, which is applied to the revenue (not income), which means that we do not take into account any costs of obtaining revenue or personal situation of a taxpayer (income capacity). Therefore we can state that taxes collected at source are examples of scheduler taxes.
With reference to the income related to work remuneration, most countries combine both methods of collection, that is assessment and collection of tax at source, which is known as the 'pay as you earn (PAYE) system. In this system, employers (payers) are obliged to collect tax at source from remunerations of their employees. Contrary to taxes collected at source, tax collected from remuneration is not collected at a fixed rate, which is typical for the system of collecting tax at source. Generally, the amount of tax collected at source from remuneration reflects personal situation of taxpayers, and the taxpayer is obliged to inform the employer (payer) of their personal situation if it affects the size of their tax burden, in order to allow the payer to apply appropriate system of down-payment collection. In a situation when the system of collecting tax from remuneration is used properly, taxpayers are exempted from the obligation to

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submit tax declarations, if they do not obtain any other income or if they obtain income from other sources of revenue which is subject to final tax collected at source. The right of each state to tax incomes generated on its territory is a derivative of sovereignty of this state and, in principle, is only limited by international agreements, especially agreements to avoid double taxation. The Treaty Establishing the Community *explicite* does not contain any regulations limiting the rights of member states to impose tax at source. To some extent, through harmonization of legislation on direct taxes, tax at source was eliminated with reference to payments in form of dividends, interests or license fees between related companies with registered seats in particular member states. However, a recent decision by the Court of the European Free Trade Zone in the case of *Fokus Bank* and European Court of Justice concerning *Bouanich* raise some doubts as to the compliance of tax at source and the way of its imposing with fundamental freedom guaranteed by the Treaty. In most EU and OECD countries which use the above system of down-payment collection, we can observe a downward trend in tax inflows, which calls for activities aimed at introducing the obligation to submit tax returns by taxpayers (employees) in order to allow tax organs to control the appropriateness of due tax calculation [13].

Unlimited tax obligation. Most countries tax all incomes obtained by their residents, regardless of the location of income source, thus creating a category of unlimited tax obligation. Numerous factors affecting the state's tax policy regarding its residents account for the fact that residents are subject to taxation on the basis of assessment method. For example, countries which make their tax claims against residents are often interested in implementing, to some extent, the principle of vertical equity. The state's tax policy regarding residents also contains some elements of income redistribution function. These assumptions are reflected in principles governing taxation of individuals, which means that tax burden related to individuals depends on their personal situation. With reference to incomes from conducted economic activity, tax assessment made by tax organs is necessary due to the fact that tax is a burden on income, not revenue, therefore taxpayers who conduct economic activity are obliged to declare the size of revenue and expenditure constituting costs of obtaining revenue. In special situations the tax on economic activity may be calculated on a different than net income base, for example on gross revenue (inflows from this activity), but this type of tax also – in principle – obliges taxpayers to submit tax declarations.

Although residents are taxed on the basis of tax assessment method, countries often introduce the method of collecting tax at source in order to streamline tax collection process. In this situation, a system of down-payments towards income tax is

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introduced, in order to collect income tax as early as possible (for example tax on dividends paid out by a company with registered office in a given state to shareholders who are not residents of this state related to gathering means on savings accounts in a bank which is the resident of this state). Tax collected at source in form of down-payment is also imposed on this category of incomes, in which there is high risk of not declaring for taxation or in which taxpayers could avoid taxation in any other way. Some countries impose an obligation to collect down-payment towards tax at source from payments made to construction subcontractors, as experience shows that these subcontractors do not fulfill the obligation to submit a declaration, and there are additional difficulties with finding them after they complete their work. Tax organs of a particular country may impose final tax at source on incomes of its residents in case when these incomes have been excluded from tax assessment base. Such approach may lead to simplification of tax collection. The mechanism of the final tax collected at source is very simple to use, therefore the more categories of taxpayers' income that can be taxed in this way, the less time is spent on the procedure of tax assessment. Moreover, the rate of final tax collected at source may be determined on a relatively low level, which additionally encourages taxpayers to save or invest. Thus we can state that final tax collected at source burdens incomes of individuals from minor investment. There are many variations of residence-based taxation, such as taxation on remittance basis which is used in some countries with common law systems. In this system incomes from overseas sources are subject to taxation insomuch as they have been transferred to the resident state of a taxpayer. This means that income from these sources is taxed at the moment of remitting or transferring it to the resident state in form of money transfer, transfer of elements of assets purchases with income obtained from foreign sources for repayment of debt in the taxpayer's resident state. This principle is used with individuals (residents) who are strongly tied with foreign countries, for example people who have just become subject to unlimited tax obligation in the resident state [14].

The term "taxation at source" is used – in principle – with reference to taxation of incomes obtained by non-residents of one country from sources of revenue located in this country. This type of tax obligation is known as limited tax obligation, as the scope of tax claims of a given state is limited only to incomes from sources located in this country. Using the principle of source, the state is in a totally different situation than in case of taxing incomes on the residence basis, especially when it comes to taxation of non-residents who obtain only incomes from dividends, interests or license fees whose source is located in this country. Such income source state may have limited

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information on taxpayers who are not its residents, therefore it cannot demand that they fulfill their obligation of submitting tax return or that they pay tax at a later date (for example at the end of tax year), as (when enforcing its claims against non-residents) it risks infringing sovereignty of another country. In this situation the income source state is primarily interested in effective collection of tax, preferably before the income is transferred to non-residents abroad. The best solution seems to be offered by tax collected at source, as it can be collected even when the income source state does not know personal data of income recipient, as obligation to collect tax is placed on the payer (who pays the income), which is usually the entity that is subject to unlimited tax obligation in the country of the source of income paid abroad. The application of tax at source to dividends, interests and license fees obtained by non-residents is mostly seen in form of final tax collected at source.

The legal and tax situation of non-residents changes when they are strongly involved in the activity in the territory of the source state, as in case of activities run by foreign companies through the factory located in the source state. The degree of non-residents' involvement is then considered sufficient to tax them on the same principles as residents are taxed. The state imposing the tax may then, without any restrictions, demand that they fulfill their obligation of submitting their tax return (declaration), as non-residents have their residence addresses in the source state, are obliged to register their activities in the source state and notify tax organs of taking up activities, which is a necessary condition for conducting activities in a source state. Thus the source state may require the non-resident running their activity through a factory located here to submit a tax return (declaration), so it is possible to assess tax on net income by tax organs. In a situation when a non-resident obtains income in form of dividends, interests or license fees through the factory and when the tax at source was collected on these categories of income, incomes from these areas – generally – are joined with the factory incomes from other sources, while the already collected tax is put towards due tax on total incomes of the factory. There is no doubt that the construction of taxation at source rules in conditions of limited tax obligation is consistent with the idea of taking global tax as tax base by making taxation independent from sources of obtaining income.

Some countries impose additional tax, known as branch tax, on incomes obtained by non-residents through the factory. The purpose of this tax is to achieve a situation in which a foreign company enjoys the same legal and tax situation as in case of having an affiliated company instead of a factory in the territory of a source state. An affiliated company is subject to income tax on obtained income, while dividends it pays to its

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parent company are taxed at source. Tax on branch income is an equivalent of tax at source collected from dividends. Usually, it covers global profits of a factory after their taxation with income tax. It should be remembered though that in practice some countries impose this tax only on factory profits that have not been invested into factory's fixed assets. It also happens that countries use the method of taxing the part of factory profits which has been transferred to the company headquarters [15].

Objectives and research methods undertaken in the analysis of the topic

The aim of the paper is to present the concept of income in personal income tax in the context of possible harmonization processes. The subject of our research is personal income tax imposed on people who do not conduct economic activities, taking into account its construction in tax systems of EU countries, challenges for the process harmonization and contemporary reference points for transformation of physical person`s taxation system. The object of research covers regularities, specificity and special features of the personal income tax construction, taking into account the processes of globalization, micro and macro-economic challenges facing tax policy and pro-competitive and pro-social model of personal income taxation. Research in the social sciences, is inspired by numerous and diverse needs. Therefore, we will reduce the existing needs to two main types, to which certain types of research correspond. The first is combined with needs of a theoretical or cognitive nature, that is, it includes all those needs that are associated with the development of a particular science. The second is combined with the various needs of practice. Focusing attention on the aforementioned types of needs, we can point to the corresponding types of research. Thus, based on this principle, we distinguish between the following types of research: cognitive, sometimes called basic research, which includes methodological problems, problems related to further generalizations of previous cognitive achievements, etc. problems that are important for the development of any science and for the needs of practice, related to the existing possibilities of application of the achievements of a given science, sectionally verifying the veracity of its findings and revealing new research problems. The results of cognitive research are new theorems or theories. On the other hand, the result of research for practice is to determine whether, and to what extent, existing theorems and theories are useful for solving specific problems that arise in the process of drafting local laws on subject and subject-object tax reliefs and exemptions.

Induction was used as the main research method. It consists in drawing general conclusions or establishing regularities on the basis of analysis of empirically established

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phenomena and processes. It is a type of inference based on details about the general properties of a phenomenon or object. The use of this method requires the assumption that only facts can form the basis of scientific inference. These facts are realistically occurring legal situations. Inductive methods include various types of analysis, expert opinions, administrative court judgments or rulings of inspection bodies. In addition, the work uses two general research methods, namely analytical and synthetic methods, characterized by a particular approach to the study of reality.
The paper applies economic analysis of tax law using: logico-linguistic method; argumentative and hermeneutic methods; axiological methods; historical methods and comparative methods. Thus, the paper - analyzing tax issues, for example - uses the traditional research methods used in the scientific study of law: linguistic analysis (formal-dogmatic and linguistic-logical analysis of the tax awa regulation of personal income taxation; economic analysis of the law (which includes an analysis of the economic effects of the proposed reforms of the property taxation system) and the comparative method (showing the similarities of tax constructions in EU countries).

Presentation of the conducted analysis. Discussion
The European Union states use two main types of income taxes: scheduler tax (on partial incomes) and global tax (on global incomes). The advantage of income taxes based on scheduler model is effective adjustment of taxation method and tax rates to the specificity of particular sources of revenue. Income that is taxes separately may then be combined and taxed again as global income. In this case we have double taxation of the same income. Usually this construction uses milder taxation of incomes from employment than from capital gains. Using the scheduler taxation the lawmakers usually achieve gradual burden on various sources of income and implement principles of equitable taxation. The drawback of this method is that it does not reflect the whole economic and personal situation of a taxpayer. It is not possible to personalize scheduler taxes by using various deductions on particular family-related burden on the taxpayer.
German tax practice developed a global type of income tax. It covered global (joint) income of an individual, regardless of its source. Joint taxation of all incomes obtained by a taxpayer allows to take into account their subjective payment capacities resulting from a specific material and family situation. The system of global tax does not know the phenomenon of preliminary taxation of incomes from particular sources. The tax base is the so-called pure income. It is believed that global tax reflects the taxpayer's payment capacity in the best way, including their family status. Global taxation of the

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taxpayer's income allows to implement the constitutional principle of taxation equity by using the subsistence minimum in its structure, using various social reliefs or differentiating tax burden with tax scale, in line with obtained incomes. Taking into account the presented features of scheduler tax, tax systems of EU states use either a form of global tax or a mixed form, in which, apart from a flat scheduler tax (on capital gains, for instance), there is additional global tax, progressively taxing the sum of taxpayer's incomes. The combination consisting in using both global and scheduler tax allows us to combine both taxation techniques and preserve both differentiation and personalization and progression of the tax.

Tax systems in the European union states evolve towards adjusting the way of taxing income in Latin countries (scheduler system) to the way of taxing income in Anglo-Saxon countries (global income system). Total income is determined by indicating taxable sources of revenues. Taxation of personal incomes in the European union countries is based on five fundamental tax principles [16]:

- subject universality – it means that tax should cover all people obtaining income in the taxed area. This means exclusion of subject exemptions, except for cases justified by international law or customs (such as exemptions of diplomatic and consular staff respecting the principle of mutuality);
- object universality – it is expressed in taxation of joint income of an individual (global tax), not incomes from some sources of revenue (scheduler tax). Consistent application of this rule does not allow separate taxation of some incomes or using separate tax scales of rates. It allows deduction of incurred losses from one source of revenue from other incomes;
- principle of equality (equity) – states that all taxpayers obtaining the same income are treated equally, regardless of their source of revenue. This principle is often expressed as the principle of the so-called tax equity, postulating exempting people with the lowest incomes from taxation, leaving tax-free subsistence minimum, using social and family preferences, differentiation of tax burden adequately to payment capacity by applying tax progression;
- taxation of "pure income" in object perspective – this means taxation of only the income that is at the taxpayer's disposal, after deducting expenses made in order to obtain revenue (decreased by the so-called costs of obtaining revenue);
- taxation of "pure income" in subject perspective – connected with leaving some tax-free amount (subsistence minimum) for taxpayers in order to satisfy their basic individual and family needs. Non-compliance with this rule would

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necessitate returning the taxes collected by public authorities in form of various social allowances.

Subjectivity of personal income tax is based on the so-called principle of residence, which takes into account the individual's residence address. It postulates that taxation should cover all incomes, regardless of the place where they were obtained, in the state in which the taxpayer has its registered seat or place of residence. Possible conflicts of tax jurisdictions should be solved by reference to the taxpayer's residence. From this perspective tax legislation in the EU countries is characterized by unlimited tax obligation, placed on individuals whose residence is in a particular EU country or who stay in the member state for longer than 183 days in a given tax year (with reference to corporations this means their registered seat or board). Unlimited tax obligation is when the taxation subject has to pay tax on all its incomes, regardless of their source. This obligation covers both home and foreign sources of income. Unlimited tax obligation does not concern people who are employed by various foreign companies and enterprises operating in a particular country (Vienna Convention on Diplomatic Relations from 18th April 1961 (Journal of Laws from 1995, No 37, item 22 –attachment & Convention on Consular Relations from 24th April 1963 - Journal of Laws from 1982, No 13, item 98 –attachment). It does not cover people enjoying diplomatic and consular privileges and immunities, staff of multinational and transnational organizations.

The principle of source states that taxation should be imposed on each income obtained in the country. So it is not the taxpayer's residence but the place where income was generated that matters. The principle of source can be used with reference to taxation of real estate, taxed only in the country where it is located. The principle of source is also related to the so-called limited tax obligation. It takes place when the tax entity is obliged to pay tax only on incomes obtained in a given EU state, according to the criteria of place of residence or permanent stay. The principle states that personal income taxpayers can only be individuals who do not have their place of residence in any particular EU country, but who obtain income in its territory. In Polish legal system, individuals who do not have place of residence in Poland are subject to limited tax obligation (Article 3 paragraph 2a of the Act on personal income tax). Such people are subject to tax obligations only on incomes obtained in the territory of Poland from labor or employment relationship, regardless of the place where remuneration is paid out, and other income obtained in Poland. In view of the regulations of the Act on PIT, when assessing whether we have limited or unlimited tax obligation, we should take into account agreements on avoiding double taxation which Poland signed as a party (Article 4a of the Act on personal income tax). Detailed principles regulating unlimited

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and limited tax obligation are regulated in acts on taxes passed by particular member states [17].

The development of international relations causes a phenomenon consisting in the fact that a person with a place of residence or registered seat in one country, obtains income from revenue sources located abroad. Generally, each state wants to tax all incomes obtained by a person with place of residence or registered seat in its territory, regardless of the location of revenue sources, as well as incomes from sources located in its territory, regardless of the place of residence or registered seat of a person obtaining them. As a result, we could have a phenomenon of double taxation of the same income. To avoid this unfavorable event, countries conclude agreements on avoidance of double taxation. Both people with unlimited and limited tax obligation may experience double taxation of income, namely in a country in which their revenue sources are located. Thus in international tax law (and especially in bilateral agreements on avoiding double taxation), the so-called methods of avoiding double taxation are of special importance. They are based on two principles, that is the principle of residence and the principle of source. As not all types of income are taxed on the basis of one of these principles, in the remaining scope the so-called methods of avoiding double taxation are used. International agreements on avoiding double taxation are subject to ratification, in accordance with regulations binding the states – parties to those agreements. These agreements are given priority over the act in case of potential clash between provisions of the act and provisions of the agreement.

The object of taxation is income, and more precisely – obtaining income. The tax law doctrine formulates two basic concepts of income: concept of sources and concept of pure assets (total income). The first concept emphasizes regularity and stability of receiving income from particular revenue sources (work, capital, etc). In this theory the nature of income consists of its individual character, periodicity of inflows and stability of its source. Thus the concept excludes any income from extraordinary sources from the concept of income for tax purposes, such as winning the lottery, interests on securities, inheritances, etc. Also losses concerning property are not taken into account when determining income. The concept of pure assets (total income) – developed by *Georg von Schanz* – is based on wide treatment of taxation base. In this concept income comprises all revenues, monetary performances from third persons, gifts, inheritances, lottery wins, while interests on debts and materials losses are excluded [2]. This concept – compared to the concept of sources – broadens the concept of income by all incomes from extraordinary sources. Its contemporary variation is the concept of market income. It was created in German doctrine and is a variation of pure assets concept.

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It states that income is generated exclusively as a result of own work and capital. Such definition of income excludes for example inheritances, donations, scholarships, allowances or income from selling one's own property. In all EU countries the term income used in acts normalizing personal income tax does not fully correspond to the concept of sources or pure assets. Contemporary tax acts do not define this object of taxation by means of some abstract notion of income, but comprise a full or example catalogue from particular sources of revenue, whose sum makes up global income being the object of taxation.

In practice, tax legislations of European Union countries, when determining the concept of income, more often refer to the concept of pure assets (total income) both in subject and object perspectives. The object perspective means taxation of only the income at the taxpayer's disposal, after taking into account expenses incurred in order to obtain revenue. In the subject perspective taxation of total income is related to leaving the tax-free minimum amount at the taxpayer's disposal. Thus the main feature of personal income tax in EU countries is broad treatment of revenue sources. There are many similarities in the EU countries in the concept of income itself. Income is determined as the difference between revenue and costs of obtaining it. If the revenue was higher than those costs, we have income, otherwise – we incur a loss. In income taxes found in various systems there is no uniform category of income, but there is a principle of identifying particular incomes from various sources. Generally, individuals' income is defined as a flow of goods and services from various sources (the so-called income in kind) and monetary amounts (financial income). Income is obtained as a result of producing goods and providing services, non-refundable transfers (retirement and disability pensions), and offering paid work. It may also come from assets, capital and other types of activity. Such differentiation results partly from different treatment of some revenue sources (using special tax regulations for property and material rights sale or exchange or from speculative incomes).

Obtaining income and its definition are closely connected to the person obtaining it. Therefore the construction of this tax in legislation of EU countries reflects such personal features of a taxpayer as: age, health and family status. Incomes of single persons are taxed differently than incomes of taxpayers with families (European Tax Handbooks, 2021).

The object of taxation are various types of income obtained by the taxpayer from particular revenue sources, except for those which come from sources not covered with this tax or statutorily exempted from it. Categories of exempted income are listed in tax legislation. When the taxpayer obtains income from several sources (tax

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categories), the object of taxation is the sum of incomes which are subject to joint taxation. Determining income from each source (tax category) is done separately, due to different costs of obtaining revenue. Tax legislation of particular countries defines precisely what expenses can be deducted from obtained revenues. There is also a possibility of compensating losses with profits coming from various sources (within the conducted economic activity). Analyzing tax legislation specifying personal income taxation in the European Union states we can generally distinguish a few groups of revenue sources (Structures of taxation systems In the European Union, 2004). The first one comprises revenues from employment relationship, liberal professions or other similar activity performed individually. The second group includes revenues from conducted economic activity (covering agricultural and forest farms). The third one comprises revenues of redistribution type, such as retirement and disability pensions, allowances, exceptionally: maintenance, scholarships and scientific and research grants. The fourth one is composed of revenues from capital and property rights and their sale, for example shares in companies, bonds, sale and exchange of real estate. The fifth one are revenues from: rent, sub-rent, lease, sub-lease, leasing. The sixth one contains the so-called other sources.

Summarizing, we can state that in tax systems of EU countries the concept of income does not precisely reflect any of the presented concepts, though most Community countries use the concept of pure assets when defining it. Lack of transparency in both presented concepts consist in the following aspects:

- compared to the concept of sources, the notion of income is widened to include income from selling elements of property;
- with reference to the concept of pure assets the definition of income is narrowed by excluding such elements as unrealized growths in assets value, some social benefits, material gains in assets or the use value of consumption goods.

The biggest practical value is offered by the theory of market income, which is practically reflected in German tax legislation. Income tax generally burdens the income of a person that is obtained and consumed in a family. Therefore, legislation of many EU countries, complying with the principle of equity (equality) and payment capacity, equips income taxes with particular forms oriented at pro-family tax. Regulations governing family income taxation are an integral part of income tax systems in most European Union countries. In personal income tax constructions implemented in European Union countries, the principle of payment capacity is taken into account in various elements of tax structure (appearing separately, jointly, or as selected elements), such as:

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1. Determining the tax-free amount for a spouse who does not work (Slovakia) or for each child maintained by parents (for example in Belgium, Czech Republic, Estonia, the Netherlands, Germany, France, Slovenia and Lithuania).
2. Joint taxation of spouses (for example in Ireland, where separate tax scales are determined for single persons and for married couples).
3. Specific and unique taxation of family income in French tax system (the system of f*amily quotient taxation,* reflecting the number of children in a family).
4. Constructions granting the right to make tax deductions of some expenditures for children maintenance (for example in France) or even family (Germany).
5. The size and span of tax rates.
6. The method of determining costs of obtaining revenue.
7. The system of preferences which take into account the family situation.

Taking into account the personal nature of income tax and postulates concerning payment capacity and equity, many constructions of income tax implemented in European Union countries reflect (in various ways and forms) the taxpayer's family status. No legal scheme shaping the issue of taxing family incomes has been developed yet. Particular countries separately determine rules and principles of taxing income generated by families. Among legal solutions that may affect the family situation we can differentiate two groups used in EU countries tax systems. The first contains constructions which are not introduced into income tax for the benefit of a family, but which are essential to it, that is the ones which indirectly reflect this benefit. These are: tax-free amount, joint settlement of taxes by spouses (marital quotient), the scope of costs of obtaining revenue, possibility of extending tax ranges and the height of tax rates.

The second group concerns those which can be introduced to the tax system deliberately in order to protect or promote the family. These are: joint taxation of the incomes obtained by children and parents, pro-family tax reliefs and the concept of a family *quotient.* One of legal solutions significantly influencing legal and tax situation of a family is the minimum income free from tax, which would be difficult to classify as directly of pro-family type. It is treated as subsistence minimum, taking into account the costs of biological or even social existence of a taxpayer. This takes the form of either exempting a certain amount of income from taxation or including it into costs of obtaining revenue. In both forms, an attempt is made to relate the minimum to the indicator of basic consumer goods prices growth and the inflation indicator.

We can observe significant differences among the European Union countries as far as the amount of tax-free income and its relation to the average monthly earnings are concerned. This can be attributed to the fact that the amount of tax-free income is an

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outcome of political compromise, reflecting diverse cultural, social and civilization factors as well as independent policies of welfare benefits within the European Union. Analyzing particular EU countries which apply the tax-free amount, we can differentiate seven main groups: countries with high tax-free amount (above 10,000 euro), countries with above-average tax-free amount (between 7,000 and 10,000 euro), countries with average amount (between 4,000 and 7,000 euro), countries with below-average tax-free amount (from 2,000 to 4,000 euro), countries with low amount (from 1,000 to 2,000 euro), countries with very low amount (from 200 to 1,000 euro) and countries with minimum level of tax-free income (below 200 euro). The first group consists of Cyprus, Ireland (only in case of people aged 65+, for whom the tax-free amount is 15,000 euro), Malta, Finland and Greece. The second group comprises: Austria, Luxemburg, Germany, Italy and Great Britain. The third group covers: Belgium, Ireland, Denmark, France and Portugal. The fourth one: Slovakia. The fifth comprises: Slovenia, Czech Republic and Estonia. The sixth group contains Poland, where the legislation does not stipulate the so-called tax-free amount, but the tax scale contains the deduction from tax, at the level of around 700 euro. The last group has Lithuania, where tax-free amount is only 84 euro. It should be added that in the Netherlands, there is a tax-free amount in case of taxation of income from savings and saving accounts (collected equity), which is 19,252 euro and for people aged over 65 – 25,484 euro. When analyzing income tax burden we should relate both the size of tax rates and tax-free amounts to the same value, which can be found in the lowest earnings level.

The concept of accumulating incomes for tax purposes appeared in tax legislature as early as in the 19th century and was related to the model of a large family, typical for that time. The tax was paid by the whole household community, as it was collected from the so-called household. In time, as a result of disintegration of large families, the place of tax accumulation was being taken over by a system of joint taxation of spouses or incomes of related people. The condition of living together was usually omitted, as priority was given to wealth relationships between family members. Thus the European legislations narrowed down the scope of taxation to a small family and singled out two separate constructions from a household: joint taxation of spouses and joint taxation of parents and children [2].

A general principle is individual taxation of income (revenue) generated by the taxpayer. There are some exceptions to this rule: joint taxation of spouses, taxation of single persons raising children and taxation of incomes obtained by minor children. The concept of joint taxation of spouses has as many supporters as opponents. The former emphasize that it is consistent with the nature and structure of marital relations, as all decisions

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concerning division and allocation of income are taken jointly in marriage. The consequence of this situation is joint taxation of spouses, which better reflects tax capacity of spouses and is a manifest of state's pro-family policy. The main argument of supporters of individual taxation is that it leads to complications in tax collection. They also point out that this construction, when it does not take into account any form of quotient in case of a progressive tax scale, negatively affects motivation to increase income of one spouse. Individual taxation does not create such barriers.

Conclusions

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.

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 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.

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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. The process of tax law harmonization will not eliminate the stimulation function consisting in using different tax constructions, as visible differences in development of particular states and regions as well as specific traditions of national tax systems will require (temporarily) application of various types of instruments and tools of tax policy.
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 only directive concerning personal income taxation is the one from 3rd June 2003 (2003/48/EC) 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. 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 its most effective solutions. 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. In spite of the lack of directives

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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. Similarities in the personal income tax in Community states concern the following areas:

- The tax is related to total (global) income of a taxpayer,
- Scales are progressive with various numbers of ranges and minimum and maximum tax rate values,
- Most countries use tax-free amounts,
- Tax burdens are usually adjusted to inflation rate through the system of automatic or semi-automatic indexation o changes to tax thresholds,
- Personal income tax reflects the principle of taxpayer's payment capacity through its varied system of tax reliefs and exemptions;
- Different rules are used for taxation of family incomes, revenues from selling property and movable assets and capital incomes,
- There is a varied system of costs of obtaining revenues, related to the way in which revenue is gained,
- It does not differentiate tax burden due to sources of revenues from which it is obtained and its allocation,
- Income tax contains tax preferences related to the way the income is spent.

Analysis of community tax legislation (rulings and cases of the ECJ) allows us to formulate a thesis that harmonization of personal income taxation principles is impossible to historical, political, social and technical reasons. The Court rulings cannot influence harmonization of personal income taxation principles, as these concern only taxation of savings income and exchange of tax information, while the progressing and visible "quiet harmonization" is a result of competition among national tax systems, not ECJ rulings.

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