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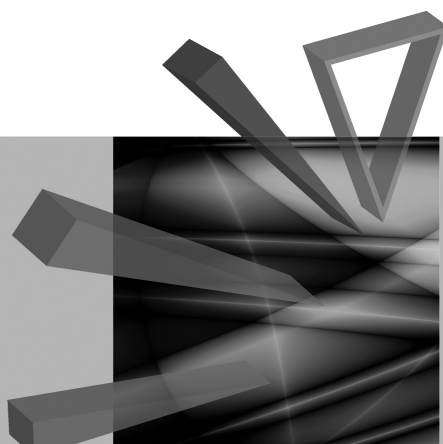
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Handel i inwestycje w semiglobalnym otoczeniu

Tom 2



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FINANCING FINANCIAL CRISIS IN BANKING SECTOR

Summary: One way of financing the costs of financial crises is to introduce a special tax just for the financial sector. There are discussions in the European Union on the possible introduction of a uniform tax on financial transactions that have ensured stability of the financial sector since 2011. Most Member States are inclined to the proposal but some states strongly reject the financial transactions tax in Europe and also at the global level. Some countries have introduced separate special levies or taxes imposed by the banks only to the banking sector. In 2012, The Slovak Republic introduced a special levy of selected financial institutions which apply to banks and branches of foreign banks. Selected contributions will lead to separate extra-budgetary account and are intended to cover costs associated with potential future financial crises.

Keywords: tax, the European Union, financial sector, banks, harmonization.

1. Introduction

The European Union has taken actions in response to the global economic and financial crisis that hit Europe in the years 2008-2009 starting with crisis management of banks. Tax policy offers the possibility of introducing a tax on financial transactions. The financial transactions tax at the European Union level should have fiscal and regulatory function. The fiscal function of taxation is to ensure the public revenue which would be used if necessary to cover the cost of potential future financial crises. The control function is to regulate the financial sector in the direction of increasing its efficiency and reduce volatility. Another possibility to cover the costs of financial crises is the introduction of special levies that are collected in special national funds.

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Príspevok bol spracovaný v rámci riešenia projektu VEGA č. 1/0008/11 Efektívnosť využitia daňových príjmov a verejných výdavkov v nadväznosti na dlhodobú udržateľnosť verejných financií a nové netradičné možnosti rozpočtových príjmov. Doba riešenia projektu: 2011-2014.

Some Member States, including Slovakia, are nowadays tempted by special charges and bank taxes.

2. Possibility of covering the costs of financial crisis

A result of the financial crisis is crisis management in the financial sector. It is necessary to take lessons from the financial crisis in 2008 and 2009 and to prevent further crises. For this reason comprehensive crisis management framework for banks and investment firms has been created in the EU. The crisis management measures are to include preparation and precautions, the power to take timely action to counteract problems before they arise and to expand tools to deal with crises. The crisis management of banks in the EU is connected with:

- tools for crisis management,
- rules for using of tools,
- national special funds,
- banking levy.

The Council calls on making further efforts in the duties and taxes on financial institutions at international and national level. It is important to coordinate a much greater extent of existing systems and the contributions to avoid double applications. They should also explore various options for the taxation of the financial sector as well as good practices aimed at preventing tax evasion.¹

Special levies for the banking sector which exist in various Member States do not remain the only source of coverage of costs associated with potential financial crises. From the EU perspective it is essential to harmonize fiscal policy at the so-called bank tax, and respectively at financial sector taxations.

Recovery and bank resolution resulting from the financial crisis in the EU took place in 2011 from a legal perspective. The EU aims to harmonize the rules on banking.² Financial transaction tax – FTT is proposed which should regulate the financial market and raise funds in public budgets. The main objective of this tax is to cover costs associated with the financial crisis. This means that the costs of the crisis should be fairly spread by FTT concerning just the financial sector. This would be only the financial sector to help combat the negative impact of the crisis. FTT has a regulatory effect in terms of preventing speculation in short-term trading which may cause instability in the financial sector.

The harmonization of EU tax policy is a process that is constantly evolving in the field of direct taxation and particularly in the area of indirect taxes. The alignment

¹ European Council, *Conclusions of the European Council from 28-29 October 2010*, EUCO 25/1/10 REV 1, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/117496.pdf.

² DG Internal Market and Services, *Technical details of a possible EU framework for bank recovery and resolution*, http://ec.europa.eu/internal_market/consultations/docs/2011/crisis_management/consultation_paper_en.pdf.

of tax systems is reflected in the harmonization of subject of taxation, tax base and tax rates.

In the area of indirect taxes – VAT and excise duties, we can conclude that it has achieved a certain degree of harmonization. With regard to the harmonization of VAT tax rates range in which the Member States can move and bring the unit way of taxation of goods and services support the single market. The excise duties are to increase harmonization and alignment in the form of minimum rates of excise duty and bring the unit structure of taxation, i.e. subject of taxation.

In the field of direct taxation we cannot say that there has been achieved a degree of harmonization but a degree coordination or approximations in taxation of multinational companies operating in several states. In this context a common consolidated corporate income tax, so-called CCCTB, is introduced and is necessary to identify the common rules of depreciation that significantly affect the determination of the tax base and thus the level of corporate taxation.³

Applying common practice in the field of direct taxes is more complicated than in the case of indirect taxes. Due to the complexity of harmonization of direct taxes we can state the following:⁴

- States' tax systems use progressive taxation of income tax rates or linear tax rates at different heights.
- The taxation will have different possibilities to adjust the tax base and the actual application of such a tax liability, for example tax credits, exemptions etc.
- In some Member States tax system is connected with social policy, employment policies, foreign direct investment policies.

Table 1. Attitude of EU Member States to FTT

For FTT	Not sure	Against FTT
Finland, Germany, France, Belgium, Spain, Italy, Malta, Greece, Slovenia, Austria	Portugal, Romania, Hungary, the Slovak Republic, Poland, Estonia, Latvia, Lithuania, Denmark, Luxemburg	Ireland, the United Kingdom, the Netherland, Sweden, the Czech Republic, Bulgaria, Cyprus

Source: own elaboration according to *Financial Transaction Tax Now*, <http://www.financialtransactiontax.eu/>

Tax on financial transactions ranks among the direct taxes and therefore the application of common procedures of taxation of financial transactions or banks might bring complications. Harmonization of taxation of the banking sector at EU level would constitute interference in the fiscal sovereignty of Member States⁷

³ M. Rabatinová, *Nevyhnutnosť revízie pravidiel odpisovania na účely spoločného konsolidovaného základu dane z príjmov korporácií*, „Nová ekonomika“ 2, June 2009, year II, no. p. 98.

⁴ A. Schultzová, *Harmonizácia verzus konkurencia Európskej únie v oblasti daní*, „Nová ekonomika“ December 2010, yearbook III, no. 4, p. 16.

neutrality. The argument for the harmonization of taxation of the banking sector would be enough to ensure stability.

Tax on financial transactions is proposed to be introduced in all EU Member States. However, some states have reservations about this tax and therefore the EU countries can be divided into three groups. The first group are the countries that accept the introduction of taxes on financial transactions. The second group are the countries that refuse to introduce a tax on financial transactions and the third group are undecided states that are inclined to either the first or second group.

3. Special levy on financial institutions in Slovakia

The banks and branches of foreign banks have had to pay a special levy since 2012. Income from special levy is kept on extra-budgetary account and is intended to cover the cost of solving financial crises in the banking sector and to protect the stability of the banking sector in Slovakia. Slovakia communicated with the European Central Bank about the possibility of introducing this type of levy. The ECB has the power to comment on the proposals for legislation in the Member States relating to the rules of financial institutions.

The Ministry of Finance submitted a request from the ECB to prepare a draft law on special levy of selected financial institutions in July 2011. The reason for this request was the fact that the levy would significantly affect the rules applicable to financial institutions. It turned out that the levy may have affected the stability of financial institutions and markets. The ECB issued an opinion on the matter on 23 August 2011 on:

- selection of a bank levy,
- a fund management and use to solve problems.

The Slovak Republic is not the only country that has introduced a special levy on banks and branches of foreign banks. Therefore, there may be a lot of problems particularly in relation to branches of foreign banks. Double taxation would result from the introduction of a bank outlet in other Member States for subsidiaries of financial institutions that are established e.g. in Slovakia.

With regard to the harmonization efforts in the financial sector the ECB recommended that Slovakia introduce special levy system which was flexible and possible to adapt to the upcoming changes of the financial sector taxation. It is possible to introduce a special tax on banks and to establish an independent financial stability fund. It is necessary to maintain awareness in Slovakia and in other Member States of the introduction of this special levy.

The ECB has the following comments in terms of management and utilization of fund levy banks:⁵

⁵ European Central Bank. *Opinion of the European Central Bank on a special levy on financial institutions operating in Slovakia* (CON/2011/66), http://www.ecb.int/ecb/legal/pdf/en_con_2011_66_f_sign.pdf.

- Extra-budgetary account established to hold income from the levy of general budget revenues should be clearly set apart. Potential use of the income of the levy to reduce government deficits and long-term failure to establish a dedicated fund to address the problems may result in the increasing dependency of financial sector on the public sector. It applied especially in the case of further crises which would raise concern about moral hazard.
- It is necessary to lay down detailed rules for the use of fund to address the problems of financing measures in the banking sector. These rules should particularly help to reduce moral hazard in connection with the use of fund address problems. The purpose of the funds should mitigate the effects of bank failures on various persons, the real economy and taxpayers. Funds should not be used for any form of rescue or they should not prevent the insolvency of banks. They have to be defined strictly in terms of their use, including non-automatic relationship between contributions to the fund and payment, while decisions on the use of funds should make public authorities independent and responsible.

The special levy financial institutions – banks in Slovakia, serve primarily to protect the stability of the financial sector in the country. The levy payer is a bank and a foreign bank and the removal rate is set at 0.4% of base removal. The basis of the special levy is calculated and presented in Table 2.

Table 2. A basis of a special levy on financial institutions in Slovakia

Banks	Branches of foreign banks
Amount of liabilities of the bank reported in the balance sheet with certain deductions including:	
<ul style="list-style-type: none"> – the amount of the bank's equity provided that its value is positive, – the value of subordinated debt, – the value of deposits received by the bank within the territory of the Slovak Republic and protected according to a special regulation. 	<ul style="list-style-type: none"> – the value of financial resources to the branch of a foreign bank on a long term basis, – the value of deposits received by the bank within the territory of Slovak Republic and protected in other Member States of the EEA.

Source: own elaboration according to the Act No. 384/2011 on a special levy on selected financial institutions.

The data necessary to calculate the special levy is derived from an annual financial statement, an interim financial statement respectively. Payment shall be made in four installments of one fourth of the base rate for the calendar quarter. Payments are due by 20 day of each quarter. The administrator of the levy is collected for the Tax Office for Selected Tax Entities. Contributions are paid to the state financial asset and lead to separate extra-budgetary account. Charges are assigned to cover the costs associated with the solution of financial crises in the banking sector and to protect the stability of the banking sector in Slovakia.

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FINANSOWANIE KRYZYSU W SEKTORZE BANKOWYM

Streszczenie: Jednym ze sposobów finansowania kosztów kryzysów jest nałożenie na sektor finansowy specjalnego podatku. W Unii Europejskiej od 2011 r. prowadzone są dyskusje na temat możliwego wprowadzenia takiego jednolitego opodatkowania transakcji finansowych, które zapewniłoby stabilność sektora. Większość krajów członkowskich przychyliła się do tej propozycji, ale niektóre państwa zdecydowanie się jej sprzeciwiają na poziomie zarówno europejskim, jak i globalnym. Niektóre kraje wprowadziły względem banków indywidualne opłaty czy podatki. W 2012 r. Słowacja nałożyła specjalną opłatę na wybrane instytucje finansowe, która dotyczy banków i oddziałów banków zagranicznych. Część wpływów przekazana zostanie na osobne konto pozabudżetowe i posłuży pokryciu kosztów związanych z przyszłymi potencjalnymi kryzysami finansowymi.

Słowa kluczowe: podatek, Unia Europejska, sektor finansowy, banki, harmonizacja.