JOURNAL OF MODERN SCIENCE

2/66/2026

www.jomswsge.com

DOI: 10.13166/jms/224803

Tomasz Wołowiec
WSEI University in Lublin, Poland
ORCID iD: 0000-0002-7688-4231

Monika Kępa
Maria Curie-Sklodowska University in Lublin, Poland
ORCID iD: 0000-0001-9377-5160

Sławomir Krenczyk
WSEI University in Lublin, Poland
ORCID iD: 0009-0000-1140-1393

LEGAL REQUIREMENTS FOR LOCAL AND SPA FEES IN THE PUBLIC TAX SYSTEM IN POLAND IN THE CONTEXT OF REFORM PLANS

UWARUNKOWANIA PRAWNE OPŁATY MIEJSCOWEJ I UZDROWISKOWEJ W SYSTEMIE DANIN PUBLICZNYCH W POLSCE W KONTEKŚCIE PLANÓW REFORM

Abstarct

The aim of this article is to analyze local public fees charged to persons temporarily staying in a tourist or spa municipality as an institution of financial law serving to implement the constitutional principle of financial independence of local government units. The authors adopt a dogmatic and systemic perspective, going beyond the traditional view of these fees as marginal sources of municipalities' own revenues. The thesis of the study is that these fees constitute a special form of public levy, the function of which is not limited to fiscal contributions to the municipality's budget, but also includes the implementation of the principle of adequacy of resources to tasks and compensation for the effects of normative asymmetry between fiscal revenues and additional tasks related to the maintenance of tourist infrastructure. The article contributes to the theory of financial law by reinterpreting local fees as an element of the constitutional mechanism for protecting the financial independence of local government.

Keywords: *tax law, financial law, local tax, spa tax, local taxes and fees, financial independence of local government units*

Streszczenie

Celem artykułu jest analiza lokalnych opłat publicznych pobieranych od osób czasowo przebywających na obszarze gminy turystycznej lub uzdrowiskowej jako instytucji prawa finansowego służącej realizacji konstytucyjnej zasady samodzielności finansowej jednostek samorządu terytorialnego. Autorzy przyjmują perspektywę dogmatyczno-systemową, wychodząc poza tradycyjne ujęcie tych opłat jako marginalnych źródeł dochodów własnych gmin. Tezą opracowania jest stwierdzenie, że opłaty te stanowią szczególną formę daniny publicznej, której funkcja nie ogranicza się do fiskalnego zasilania budżetu gminy, lecz obejmuje również realizację zasady adekwatności środków do zadań oraz kompensację skutków normatywnej asymetrii pomiędzy dochodami fiskalnymi a dodatkowymi zadaniami związanymi z utrzymanie infrastruktury turystycznej. Artykuł wnosi wkład do teorii prawa finansowego poprzez reinterpretację opłat lokalnych jako elementu konstytucyjnego mechanizm ochrony samodzielności finansowej samorządu terytorialnego.

Słowa kluczowe: *prawo podatkowe, prawo finansowe, opłata miejscowa, opłata uzdrowiskowa, podatki i opłaty lokalne, samodzielność finansowa JST*

Introduction

In the literature on the subject, fiscal instruments related to the short-term stay of natural persons in a municipality are most often analyzed in normative and legal terms or as marginal sources of budget revenue. This approach reduces them to a purely fiscal function, ignoring their importance in the broader context of local development management and the financial stability of local government units. The research gap concerns in particular: the lack of a systemic approach combining the structure of levies with public finance theory, insufficient consideration of the category of tourists as entities generating public costs, and the overt marginalization of the regulatory function of local fiscal instruments.

In financial law doctrine, local fees collected from persons temporarily staying in a municipality are most often analyzed in terms of their structure or classification, with a focus on their relationship to the concept of tax. This approach leads to overlooking their systemic importance as an instrument for implementing the constitutionally protected financial independence of local government units. The research problem of the article boils down to the question of whether and to what extent local public fees can be considered a legally relevant mechanism for balancing the financial burdens resulting from the performance of public tasks in conditions of intensive use of municipal infrastructure by persons who are not its residents.

From the perspective of constitutional law, Article 167 of the Polish Constitution is of key importance, as it establishes the principle of ensuring that local government units receive a share of public revenue commensurate with their own tasks. This principle is further developed in Article 9 of the European Charter of Local Self-Government, which emphasizes the need to provide local communities with their own sufficient and flexible financial resources. The essence of the fees in question is that they are addressed to entities that use the municipality's public infrastructure and services without participating in the local property and income tax system. This creates a normative financial gap, consisting in the separation of the use of public goods from the obligation to participate in the costs of their maintenance. In this context, local fees perform a compensatory function, not through individual reciprocal benefits, but by strengthening the municipality's own revenues as a whole. This function is indirect in nature, but remains consistent with the axiology of financial and local government law (Podolchak, Wołowiec 2022).

From a dogmatic perspective, the issue of the scope of legislative freedom of municipalities in shaping the structure of local fees is of particular importance. This freedom must be viewed within the limits set by: the principle of legalism of levies (taxes), constitutional protection of property rights, and standards resulting from European law. At the same time, excessive restriction of the autonomy of municipalities in this area may lead to a violation of the essence of financial independence, making it illusory.

The article makes an original contribution to legal science, in particular to financial law and local government law, through: a systemic reinterpretation of local public charges, linking their structure to the constitutional principle of financial independence, indicating their compensatory function in conditions of normative asymmetry, and shifting the analysis from the level of tax technique to the level of axiology and theoretical tax principles.

Research methodology

Legal sciences use methods typical of social sciences and humanities, i.e.: examination of documents (legal acts, administrative court judgments, constitutional court judgments, and judgments of the European Court of Justice), comparative methods (expert opinions, legal opinions, and analyses based on linguistic, grammatical, and historical interpretation), and case studies (examples of how specific legal regulations function in different countries).

The article was written using traditional methods used in legal studies, linguistic analysis (dogmatic-legal and linguistic-logical methods), and comparative (comparative) and economic analysis of law. The monograph takes the form of an in-depth legal analysis of the principles of real estate taxation in the Polish legal system and the legal systems of European Union countries. For the issue of using social science methods in tax law studies, the most important factor is the scope of administrative and legal regulations and their complexity, which directly determines the possibility of supporting the research process with selected research methods and techniques. In the study of tax law, and thus public tax and financial law, research methods specific to legal sciences are of fundamental importance, given that the focus of research is determined on the basis of tax law (its concepts and generalizations), especially in the field of research on the tax system as a phenomenon from the normative sphere and theoretical reflection on the legal order. In specific areas of tax law, the need for multidisciplinary and interdisciplinary research should be recognized.

The essence and specificity of the resort fee in the public levy system

The separate constitutional status of a spa municipality in relation to other municipalities is primarily due to the specific nature of the public tasks that such a municipality performs and certain differences in the financing of public tasks. This applies in particular to the financing of tasks assigned to the municipality by the spa law and the granting of the right to increased participation in state budget revenues through a spa subsidy. Also, the granting of a spa municipality, pursuant to Article 48 of the Act on spa treatment, spas and spa protection areas, and spa municipalities (hereinafter: u.l.u.)[1] the right to collect a spa fee for the performance of its own tasks related to maintaining the therapeutic functions of a health resort is a solution worthy of attention in the context of filling the financial gap associated with the performance of additional tasks by the municipality. However, it should be emphasized that a similar right is granted to municipalities with tourist attractions in relation to the local tax, which, however, does not play the same role as the spa tax, as it is not intended to finance additional tasks. Despite many years of efforts, spa municipalities have not seen such solutions in the spa law that would create separate financial regulations for these municipalities for the implementation of additional tasks, even though such solutions were already known in the past. Examples include the solutions contained in the 1922 Spa Act, or the rights to additional income assigned to mining municipalities by the Act on the adaptation of hard coal mining to the market economy and the special rights and tasks of mining municipalities[2].

Therefore, spa municipalities are a special type of local government in Poland, distinguished not only by their spa and climatic qualities, but also by a wider range of public tasks than ordinary municipalities, as well as the possibility of additional sources of financing through the collection of spa fees (Sikora 2014). From the point of view of the tax system, the spa fee is entirely the municipalities' own revenue. An interesting feature is the rule for designating entities authorized to collect the fee – this is a list drawn up by the relevant provincial governor in consultation with the Minister of the Environment. The spa tax also occupies a unique place in the system of taxes and public fees. Its very structure is similar to a flat-rate consumption tax on individuals, levied on personal income at the stage of expenditure. Referring directly to the provisions of the Act on Local Taxes and Fees, the spa fee can be seen, in a sense, as a concession fee imposed on the use of natural resources (treated as a special case of fees for granting rights) (Wołowiec 2016).

Due to the fact that a spa municipality performs tasks related to the functioning of the spa (as a municipality) and the entire infrastructure on general terms from its own revenues, but also has the right to collect a spa fee for their implementation and to receive a spa subsidy pursuant to Article 49 of the Spa Act[3], in an amount equal to the revenue from the spa fee collected in the spa in the year preceding the base year, within the meaning of the Act on the revenues of local government units[4]. This fee is very important in the financial system of spa municipalities, both because of the amount of the spa subsidy it determines and because of the need to carry out other (additional) tasks specified in the Spa Act. Therefore, the effective collection of this fee and the tightening of the local tax system are in the vital interest of spa municipalities.

Currently, tourist LGU's in Europe very often exercise their rights to levy local taxes based on their tourist or spa attractions, and sometimes even environmental assets. This tax goes by various names and is levied for various reasons. For example, the Swiss, Germans, and Austrians levy a so-called *kurtaks* or tourist tax in health resorts, which goes by the names: Ortstaxe, Gästetaxe, Aufenthaltsabgabe, Beherbergungstaxe, Nächtigungtaxe, Kurabgabe, or Kurbeitrag (Hammerl 2012; Golba 2020). The tasks financed from the tourist tax include: maintenance of parks, public green areas, promenades, beaches, graduation towers, recreational areas, fountains, free recreational and sports facilities, gazebos, ponds, historic buildings, and many others. The funds obtained from tourist taxes are also used to organize free concerts, sports and recreational events, and to maintain orchestras or music bands that give free concerts or performances. The amount of tourist tax in Europe varies between €0.5 and €8 in different countries. Most often, the amount of tax depends on the standard of the hotel, and less often it is determined on the basis of other attributes. In many places in Europe, proof of payment of tourist tax entitles you to free services and even discounts on purchases. In any case, tourist tax is common in Europe and, as is the case with any tax, it is usually more subject to criticism than approval. In Poland, there is no formal tourist tax, which does not mean that certain types of taxes or fees are not of this nature. It should be noted that the colloquial naming of certain local taxes (e.g., visitor's tax, air tax, breathing tax) completely obscures the idea behind the introduction and essence of such a tax.

The prototype of the spa fee charged in Polish health resorts was the treatment tax established on the basis of the so-called Galician Spa Act of November 4, 1891[5]. According to sources, this fee was primarily collected for purposes related to the maintenance of the health resort (Levy, 2019). The provisions of the Galician spa law were used in the drafting of the 1922 spa law, where Article 40 introduced a so-called treatment fund in public spas, which consisted, among other things, of treatment fees and other charges set by the spa commission. The right to temporarily create a treatment fund and collect fees was later extended to health resorts that met the conditions for obtaining the status of a public health resort and *accepted summer visitors for treatment and recreation.* The fee was used to maintain public health resort facilities such as drinking halls, parks, promenades, health trails, fountains, park gazebos, park ponds, and lighting. However, these funds were also used to pay for the spa orchestra, sports and recreational events, public entertainment, free artistic performances, etc. In 1951, the Act of February 26, 1951, on local taxes came into force[6].

This tax law not only failed to change the legal basis for collecting the health resort tax, but also omitted this fee from the list of specified types of local taxes and fees. At that time, it was decided that the right to collect this tax was based on the 1922 Health Resorts Act, and that municipal councils were authorized to determine its amount and rules of collection. However, as early as 1955, this act was repealed by the decree of May 20, 1955, on certain local taxes and fees, which introduced new terminology for the local tax levied in health resorts[7]. Article 1(1) of this decree listed, among other taxes and fees collected for the budgets of local councils, a spa fee, establishing in Article 1(3) the right to collect it exclusively in health resorts. Article 33 of the decree specified the fiscal purpose of collecting the spa fee.

The Act of December 21, 1962, amending the decree on certain taxes and local fees[8], introduced a change in the provisions of the decree extending the right to collect a spa fee to health resorts, thermal baths, and sea bathing resorts. The spa fee was also mentioned in Article 13 of the Act, in the context of the tasks that could be carried out in health resorts using this fee. Article 13 stipulated that the proceeds from the spa fee were to be used to shape environmental factors that had a beneficial effect on the results of preventive and therapeutic services, and in particular to ensure order, hygiene, aesthetics, and other conditions necessary to satisfy cultural needs. However, the provisions of the 1966 Act on Health Resorts introduced a new solution in Article 13(2), which made it possible to impose a health resort fee on health resort treatment facilities and other institutions that conduct holiday or tourist activities in a health resort[9]. This power was granted to the Council of Ministers, which could decide to introduce a fee for establishments and institutions in consultation with the Central Council of Trade Unions. In practice, such a fee was never established. The Act of December 19, 1975, on certain taxes and local fees repealed the decree of 1955[10].

This Act fundamentally changed the legal structure of the spa fee in terms of its name, purpose of stay, localities entitled to collect it, statutory exemptions from the fee, the method of determining the localities where the fee is collected, and the powers of local councils in determining the amount of the fee and introducing exemptions from it. In Article 30, the legislator changed the name of the spa fee to the climate fee. Pursuant to Article 26 of the Act, the right to collect the climate fee was granted to localities recognized as health resorts and other localities *with particularly favorable climate, landscape, and environmental conditions enabling permanent and seasonal tourist traffic*.

Legal solutions relating to the climate fee remained in force until 1985, when the applicable law was repealed by the provisions of the Act of March 14, 1985, on local taxes and fees[11]. The new legal regulation on local taxes and fees changed the name of the climate fee, defining it in Article 15 as a local fee. Compared to the previous regulation on the climate fee, Article 15 of the Act no longer refers to *health resorts* in relation to localities entitled to collect the local fee, but to localities with *favorable climatic properties, landscape values, and conditions conducive to stays* for recreational, health, or tourist purposes.

Another amendment to the provisions of the Act on Local Taxes and Fees took place in 1991 as a result of the adoption of the new Act of January 12, 1991, on Local Taxes and Fees (hereinafter: u.p.o.l) [12]. Among local fees, Article 17 of the Act on Local Taxes and Fees lists the local fee, specifying that it is collected from *natural persons staying temporarily for recreational, health or tourist purposes in localities with favorable climatic properties, landscape values and conditions enabling people to stay for these purposes (…)*. Compared to previous solutions, the provisions of the new Act in Article 17(2)(5) extend the list of statutory exemptions from the fee to organized groups of children and school youth staying in a locality entitled to collect the fee, as well as to persons staying in sanatoriums.

Fee and tax: distinction – a spa municipality as an example of a municipality with special status

Tax law clearly distinguishes between tax and fees; one of the basic criteria used to make this distinction is equivalence. The obligation to pay tax by an entity subject to public authority does not give rise to an obligation on the other side of the administrative-legal relationship to provide reciprocal performance. A fee, on the other hand, is characterized by its equivalent nature—the entity paying the fee has the right to demand a specific service in return for the fee. For this reason, in the case of a local fee, the law links the competence of the municipal council to introduce the fee with the local government unit ensuring minimum climate and landscape standards, which must be demonstrated by the municipal decision-making body (Borszowski, Stelmaszczyk 2016). Entities subject to fiscal authority thus gain a guarantee that the obligation to pay this type of fee is correlated with a reciprocal service provided by the local government unit of a standard specified by law, and that the local fee paid is in fact equivalent in nature and does not constitute a disguised tax (Wołowiec, Marczuk 2023).

Not every municipality can introduce a spa fee at its own discretion, which indicates its similarity to a local tax. The spa fee is charged to individuals staying for more than 24 hours for health, tourist, recreational, or training purposes in localities located in areas that have been granted spa status under the provisions of the Act on Spa Treatment. It is charged for each commenced 24-hour period of stay. The collection of the spa fee excludes the possibility of collecting the local tax from persons paying it. The Act on Local Taxes and Fees specifies the rules for collecting the spa fee and, in Article 17(2), enumerates who is exempt from paying it: on condition of reciprocity – members of the staff of diplomatic missions and consular offices and other persons treated as such on the basis of international laws, agreements or customs, if they are not Polish citizens and do not have a permanent place of residence in the territory of the Republic of Poland; persons staying in hospitals; blind persons and their guides, taxpayers of real estate tax on the basis of owning summer houses located in a town where a local or spa fee is charged; organized groups of children and school youth (Potycz 2019).

Therefore, a spa municipality performs tasks related to the functioning of the spa (as a municipality) and the entire infrastructure on general terms from its own revenues, but it also has the right to collect a health resort fee for their implementation and to receive a health resort subsidy pursuant to Article 49 of the Health Resort Act, in an amount equal to the revenue from the health resort fee collected in the health resort in the year preceding the base year, within the meaning of the Act on the revenues of local government units. This fee is important in the financial system of spa municipalities due to both the amount of the spa subsidy received, which depends on it, and the need to perform other (additional) tasks specified in the Spa Act. Therefore, the effective collection of this fee and the tightening of the local tax system are in the vital interest of spa municipalities. The aim of this article is to present the specificity, role, and significance of the spa fee in the revenue system of spa municipalities, with particular emphasis on issues related to the collection of this fee by collectors (Wołowiec 2022).

Legal framework for local and spa fees

From the point of view of the tax system, the local and spa fees are entirely the own revenue of the municipalities. An interesting feature is the rule for designating entities authorized to collect the fees – this is a list drawn up by the relevant provincial governor in consultation with the Minister of the Environment. These fees also occupy a unique place in the system of taxes and public fees. Their very structure is similar to a flat-rate consumption tax on individuals, levied on personal income at the stage of expenditure. The method of collection indicates the indirect nature of such a levy and a certain similarity to the group of so-called tourist taxes, in particular *hotel, restaurant, room,* etc. Finally, referring directly to the provisions of the Act on Local Taxes and Fees, the local fee can be seen, in a sense, as a concession fee imposed on the use of natural resources (treated as a special case of fees for granting rights). In principle, the introduction of such fees must be justified by important substantive considerations other than purely fiscal ones, e.g., the protection of limited, partially non-renewable water and forest resources, etc. (Wołowiec 2021).

In the classical sense, a public fee should be understood as a monetary payment collected by a public entity for the benefit of the budgetary economy in connection with its reciprocal service (counter-service) (Kępa 1999). A public fee is a paid and individual benefit, which means that the entity paying the fee may claim a reciprocal benefit from the state (Gliniecka 2007). The fee is equivalent in nature, i.e., the reciprocal service received by the payer is worth as much as the fee. If this equivalence between the service and the fee does not exist, the fee paid takes on the characteristics of a tax. Thus, unlike a tax, which is a gratuitous benefit, a fee gives the right, or gives rise to a claim, to a specific benefit for the payer. In the case of a spa fee, there is no room for reciprocal benefit. Despite its misleading name, the spa fee is in fact a tax, as it meets all the criteria for classification as a local tax of a public levy nature, the determination, calculation, and collection of which is the responsibility of the municipal authorities.

The problem of collecting spa fees in accordance with current legal regulations

The role of the collector is to make it easier for taxpayers to meet their tax obligations. The applicable tax laws provide for the possibility of using them to collect taxes constituting the income of local government units, with the decision to order tax collection by way of collection, the appointment of collectors, and the amount of remuneration for collection being entrusted to municipal councils by way of local law acts (resolutions). Entities on which municipal councils impose the obligation to collect tax by way of collection are obliged to perform this task (Wołowiec 2021).

Importantly, the establishment of the collection of the spa fee by way of collection is a power of the Municipal Council, resulting from the Act on Local Taxes and Fees. The collection order facilitates the collection of the spa fee, but does not exclude the taxpayer's right to pay it in another manner provided for in the Tax Ordinance Act, i.e., in cash or non-cash form (Dowgier, Pietrasz, Popławski, Presnarowicz, Stachurski, Teszner 2017).

It should be emphasized that failure to pay the local tax to the collector does not result in any negative consequences for the person obliged to pay it. A person obliged to pay the spa fee may refuse to pay it to the collector, who should notify the local tax authority of this fact, which may initiate tax proceedings against such a person. It should be remembered that the rights of a given person with regard to the obligation to pay the spa fee and the determination of the amount of this fee are protected by tax regulations. The taxpayer has the right to challenge the obligation to pay the spa fee in terms of the basis for imposing this obligation and the amount of the fee. In this case, their rights are protected by ensuring their participation in tax proceedings concerning this fee before the tax authority and the possibility of appealing against the decision determining the fee. The definition of *collector* implies that it is tax law that determines whether a natural person, legal person or organizational unit without legal personality will have the status of *collector* and, therefore, perform the duties of a collector, with these provisions indicating (specifying) the duties imposed on the collector[13].

The obligation of the collector to collect the tax and pay it to the tax authority within the prescribed time limit results from the provisions concerning individual types of taxes, which provide for the possibility of collecting a given tax by way of collection and the procedure for establishing entities as collectors. If the resolution of the municipal council does not provide for collection by way of collection, the conclusion of agreements by the municipal council (mayor) with the entity to collect the fee is contrary to the resolution adopted, i.e., contrary to the applicable law, and, above all, that entity does not become an *arm* of the authority that is authorized and obligated to collect the levy"[14].

Therefore, the collector is not liable for the taxpayer's obligation, and his liability is limited solely to liability for his own actions or omissions resulting from legal provisions. On the other hand, failure by the collector to fulfill their obligation does not exempt the taxpayer from their tax obligation. If, despite the collector's liability, the taxpayer has settled the tax liabilities incumbent on them, the tax liability has expired. In such a case, the tax creditor will not be able to claim payment of the same benefit from the collector under the law.

In practice, the tax authorities of spa municipalities have difficulties in enforcing the obligation of collectors to collect the spa fee. This problem stems from the lack of liability of collectors for not collecting the fee. In view of the above, many collectors deliberately and consciously fail to collect the fee due to the municipality. Furthermore, it should be noted that spa fee collectors are not obliged to keep records of the registration of persons using accommodation services, which would significantly improve the organization of the tax authorities' work in terms of checking and controlling the correctness of fee collection, and would also constitute an extensive source of statistical information on the number of tourists visiting health resorts, which could be included in promotional material for a given area (Wołowiec 2016).

In fact, the scope of duties incumbent on the collector indicates that tax collection by way of collection may only take place in relation to those taxes and fees whose amount is directly derived from legal provisions, or where the tax authority is obliged to calculate the tax[15]. The provisions of the Tax Ordinance do not impose an obligation on the collector to calculate the amount of tax. Furthermore, unlike the payer, the collector has no economic control over the taxable payment and therefore cannot reduce the payment made by the amount of tax collected. As a consequence of the above, the collector is not liable for failure to collect tax. However, if the collector collects the tax and fails to pay it to the account of the competent tax authority, the collector is liable as determined by the tax authority pursuant to Article 30 § 2 and 4 of the Tax Ordinance. The collector is also liable to criminal fiscal penalties for failing to pay the collected tax to the tax authority on time, pursuant to Article 77 of the Criminal Fiscal Code[16].

So, can the collector's liability for unpaid fees be extended? This seems problematic, as such an extension of the collector's liability would lead to it being equated with the liability borne by the payer under Article 30 § 1 of the Tax Ordinance. The scope of liability of the collector and the payer should therefore not overlap. The use of the *at source* tax collection technique in the case of the payer enables them to actually fulfill their obligations. The payer has the ability to collect tax regardless of the taxpayer's will. The collector has not been granted such a right. The collector can only fulfill their obligation to collect tax if the taxpayer is willing to pay the tax. It would therefore be unreasonable to hold the collector responsible for uncollected taxes. However, any difficulties in enforcing the obligation to collect local fees from collectors could be resolved by properly organizing collection within the municipality (selecting appropriate entities as collectors, determining appropriate remuneration for collection) (Wołowiec 2018).

In spa municipalities, the failure of collectors to fulfill their collection obligations is a major problem, especially with regard to spa fees. The collectors of the fee are usually the owners of guesthouses, holiday homes, hotels, hostels, etc., who, understandably, do not want to collect it from their guests. The only solution to the inactivity of collectors is to deprive them of this function by amending the council's resolution and appointing new collectors. In some cases, civil law agreements concerning the performance of additional duties not directly related to tax collection (keeping records, settling proof of payment, etc., providing information on the amounts collected) are also effective, where contractual penalties are provided for failure to perform these activities. These agreements may not concern the statutory duties of the collector, i.e., the collection and payment of taxes (Kosikowski, Etel, Dowgier, Pietrasz, Popławski, Presnarowicz 2011).

Proposals for Amendments to the Act on Local Taxes and Fees and the Act on the Revenues of Local Government Units

The draft law amending the law on local taxes and fees and the law on the revenues of local government units aims to replace the local tax currently in force with a tourist tax. Article 1(1) of the draft law reads as follows: *The municipal council may introduce a tourist tax. The tourist tax shall be levied on natural persons staying for more than 24 hours for tourist, recreational or training purposes in the area where it has been introduced, for each commenced 24-hour period of stay* (Wachowski 2025).

The tourist tax should enable compensation for various negative effects, e.g. by providing municipalities with additional funds to finance public services, social housing, infrastructure investments, and environmental protection. The current Act of January 12, 1991, on local taxes and fees provides for the possibility of the municipal council introducing two fees charged to individuals staying in the municipality for a short period of time, but longer than 24 hours: these are the local fee and the spa fee. The local fee may be levied on persons staying in the locality for tourism, leisure or training purposes, provided that the municipality or part thereof meets all three statutory criteria: favorable climatic conditions; landscape values; conditions enabling persons to stay for tourism, leisure or training purposes. The spa fee may only be charged in municipalities with the status of a spa protection area.

Many municipalities heavily burdened by tourist traffic do not have the option of introducing a local tax, even though they incur real costs related to handling this traffic. An example is Krakow, which was visited by 14.7 million tourists in 2024, generating a total of 6.5 million overnight stays. Despite this, Krakow is not entitled to collect a tourist tax because it does not meet the environmental criteria, which highlights the dysfunctionality of the current regulations.

Since the 1990s, we have seen continuous growth in the tourism sector in Poland. One measure of this is the number of overnight stays, which measures both the number of tourists and the length of their stay. In 1995, 38.5 million overnight stays were provided, while in 2024 we saw a record high: a total of 97.5 million overnight stays were provided in accommodation facilities.

Due to the current unsatisfactory structure of local taxes in Poland, local governments and their associations have been calling for legislative changes in the area of tourist taxes for many years. In November 2024, the need for changes in the area of tourist fees was pointed out by the Union of Polish Metropolises, an organization associating 12 largest cities in Poland, postulating the possibility of introducing local fees in all municipalities in Poland and introducing higher fees in municipalities with climatic and landscape values. In 2017, the Association of Polish Cities, an organization representing over 370 cities, proposed a draft law amending the climate fee. The ZMP proposed the introduction of a new category – a tourist fee – to replace the local fee. The draft bill provided for the abolition of environmental requirements, in practice allowing all municipalities in Poland to introduce the fee. In addition, the proposal included the possibility of differentiating the rates of the tax depending on the location and type of accommodation facility. Krakow has been seeking to introduce a tourist tax for years. The city previously collected a local tax between 2005 and 2015, but lost the right to do so for environmental reasons. In 2025, the Krakow City Council issued a resolution on this matter. In view of the above, the draft proposes replacing the existing local tax with a tourist tax, while maintaining the spa tax unchanged. The proposed changes provide for (Heffer-Flaata, Voltes-Dorta, Suau-Sanchez 2021):

the abandonment of the existing climate and landscape criteria, thanks to which each municipality will have the right to introduce a tourist tax;

- the possibility of introducing a tourist tax only for selected localities, auxiliary units of the municipality (e.g., villages, districts, housing estates) or lower-level units (e.g., housing estates created by districts in Warsaw);
- in cases where payment for accommodation is made through an intermediary, including through a website or application operated by the intermediary, the obligation for the intermediary to collect and transfer the tourist tax to the municipality;
- setting the maximum tourist tax rate at 25% of the minimum hourly wage;
- the possibility of differentiating tourist tax rates:

- ◊ for individual localities, auxiliary units of the municipality or lower-level units,
- ◊ depending on whether payment for accommodation is made through an intermediary.

The main anticipated effect of the act coming into force will be an increase in revenue for the budgets of municipalities where tourist traffic is concentrated. This applies both to those where a local tax is already in force (due to the possibility of increasing the rate) and to local governments that currently do not have the right to introduce a local tax, i.e., mainly large cities. In the case of the latter, assuming the number of overnight stays in 2024 (according to the Central Statistical Office), no exemptions or reductions (both statutory and those that may be introduced by the municipalities themselves – due to the lack of uniform data on the number of tourists belonging to particular groups to whom they would apply) and setting the fee rate at PLN 8 per night throughout the city, the estimated annual revenue from the tourist fee could amount to approximately PLN 57.5 million in Warsaw, PLN 47 million in Krakow, PLN 16.5 million in Wrocław, PLN 10.5 million in Poznań, PLN 8 million in Łódź, PLN 7.8 million in Szczecin, PLN 5.5 million in Katowice, and PLN 2 million in Częstochowa[17].

Conclusions

The current law on local taxes and fees allows municipalities to introduce two fees charged to individuals staying in the municipality for a short period of time, but longer than 24 hours: these are the local fee and the spa fee. The explanatory memorandum to the draft indicates that both fees are subject to criteria and conditions that significantly limit their usefulness in relation to the current needs of local governments. The local fee may be charged to persons staying in localities for tourism, recreation, or training purposes, provided that the municipality or part thereof meets all three statutory criteria: favorable climatic conditions; landscape values; conditions enabling persons to stay for tourism, recreation, or training purposes. In turn, a spa fee may only be charged in municipalities with the status of a spa protection area.

The proposed amendment provides for the abolition of local and tourist taxes and their replacement with a new tourist tax, which may also be introduced in municipalities that are currently not entitled to levy local taxes. The proposed provisions will have a significant social impact in municipalities with high tourist traffic. The introduction of a tourist tax will enable partial compensation for the social costs generated by modern tourism, which include, among others, increased pressure on public services, deterioration of the quality of life in districts particularly burdened by tourist traffic, increased costs of maintaining public spaces, and growing conflicts between residents and tourists (e.g., noise, congestion, increased intervention by law enforcement agencies). The tourist tax can help mitigate these negative effects by increasing the municipalities' own revenues, which can be used to finance public services, maintain cleanliness and infrastructure, protect the environment, carry out law enforcement activities, and implement projects to improve the quality of life of residents in tourist areas (Heffer-Flaata, Voltes-Dorta, Suau-Sanchez 2021).

In many places, especially in large cities and regions with heavy tourist traffic, such a fee can support a balance between the needs of residents and the development of the tourism sector. Research and experience in European cities also show that the introduction of tourist fees has a negligible impact on visitor numbers, while significantly increasing revenue, which helps to reduce the negative social effects of mass tourism while maintaining the tourist appeal of the destination. Thus, the tourist tax serves as a mechanism to balance the social effects of intensive tourist traffic (Wołowiec, Marczuk 2023).

Empirical research shows that large cities exhibit low price elasticity for tourist fees. In the case of Barcelona, Venice, Manchester, and Amsterdam, among others, tourist fees had a negligible impact on visitor numbers but significantly increased municipal revenues. A similar example is Amsterdam, where despite the introduction of the highest tourist tax in Europe, the number of visitors continues to grow. The proposed regulations will also affect businesses operating in the tourism sector and in industries related to tourist services (Anguera-Torrell, Aznar-Alarcón, Boto-García 2025). The most direct effects will be felt by entrepreneurs running hotels and owners of apartments used for short-term rentals. Some of them will have to adapt their reservation systems and guest service procedures to the collection of the new tourist tax.

In practice, this does not constitute a burden beyond standard administrative activities. For example, in municipalities that already collect a local or spa tax, the collection of the tax is an integral part of their activities and does not significantly affect the costs of running a business.

For accommodation facilities operating in larger cities, which have not been able to charge fees due to not meeting environmental criteria, this will merely introduce an obligation already in place in many tourist destinations in Poland. In the case of online intermediaries, such as booking platforms, the introduction of the obligation to collect the fee may require a one-time adjustment of IT systems, but should not constitute a significant financial or organizational burden. For most of them, similar mechanisms are already in place in other jurisdictions where local or municipal tourist taxes apply. No negative impact on the demand for hotel services is expected either. The experience of European cities such as Barcelona, Amsterdam, and Manchester shows that the introduction or increase of tourist fees does not cause a decline in the number of visitors, especially in places with an established tourist position. This means that entrepreneurs operating in the accommodation industry should not experience a decline in revenue resulting from a reduction in tourist traffic (Biagi, Brandano, Pulina 2017).

Contemporary urban tourism policy increasingly uses fiscal instruments as tools for managing tourist traffic and financing public infrastructure. One of the key issues determining the admissibility of such measures remains the elasticity of demand for tourism services, understood as the sensitivity of consumer behavior to price changes. Although this concept originates from economics, in practice it has significant normative importance for public law, in particular public finance law, local government law, and European Union law (Wołowiec 2020).

In legal terms, demand elasticity is not an independent normative institution, but serves as an auxiliary criterion for assessing the effects of public regulations. In the process of local law-making and public levy design, it becomes an element of ex ante and ex post assessment, enabling the prediction of the impact of regulations on the market and the behavior of the addressees of legal norms.

From the perspective of constitutional law, the issue of demand elasticity is directly related to the principle of proportionality, which is one of the fundamental limits on public authority interference in the sphere of individual rights and freedoms. The introduction of tourist fees must be reasonably related to the public objective and must not lead to an excessive burden on market participants.

Low demand elasticity reinforces the constitutional legitimacy of such solutions, as it indicates that fiscal intervention is marginal from the point of view of consumer decisions, while at the same time enabling the achievement of important public objectives, such as financing infrastructure, protecting cultural heritage, and managing tourist pressure.

In local government law, demand elasticity is an important criterion for the rationality of local government taxation. Local fees, including tourist fees, must be functionally related to the public tasks of the municipality and must not lead to disruption of local economic activity.

In European Union law, demand elasticity is important in the context of the freedom to provide services and the principle of proportionality. Fiscal instruments that only indirectly affect consumer decisions are not considered equivalent to quantitative restrictions, as long as their impact on cross-border flows is limited and non-discriminatory. The low elasticity of demand for tourism services suggests that tourist taxes do not constitute a real barrier to access to the internal market, but fall within the limits of the permissible fiscal autonomy of local authorities in Member States (Zhuravka, Filatova, Šuleř, Wołowiec 2021).

References

Anguera-Torrell, O., Aznar-Alarcón, J.P., Boto-García, D. 2025. Does an industry-promoted tourist tax per night affect hotel performance? Quasi-experimental evidence from Manchester, Tourism.

Biagi, B., Brandano, M.G., Pulina, M. 2017. Tourism taxation: A synthetic control method for policy evaluation, International Journal of Tourism Research, 6, 45-49.

Borszowski P., Stelmaszczyk K. 2016. *Podatki i opłaty lokalne. Podatek rolny. Podatek leśny. Komentarz*, Wolters Kluwer, Warszawa.

Dekret z 20.5.1955 r. o niektórych podatkach i opłatach terenowych (t.j. Dz.U. z 1963 r. Nr 16, poz. 87 ze zm.).

Dowgier R., Pietrasz P., Popławski M., Presnarowicz S., Stachurski W., Teszner K. 2017. *Ordynacja podatkowa. Komentarz*, Wolters Kluwer Polska, Warszawa.

Galicyjska ustawa krajowa z 2.2.1891 r. obowiązująca w Królestwie Galicji i Lodomerii zWielkim Księstwem Krakowskim o urządzeniu służby zdrowia w gminach o obszarach dworskich (Dziennik Ustaw i Rozporządzeń Krajowych dla Królestwa Galicyi i Lodomeryi oraz w Wielkim Księstwie Krakowskim Nr 17).

Gliniecka J. 2007. *Opłaty publiczne w Polsce*. Analiza prawna i funkcjonalna, Oficyna Wydawnicza Branta, Bydgoszcz – Gdańsk.

Golba J. 2020. *Historyczne i prawne aspkety funkcjonowania uzdrowisk w Polsce*, C.H. Beck, Warszawa.

Heffer-Flaata, H., Voltes-Dorta A., Suau-Sanchez P. 2021. The Impact of Accommodation Taxes on Outbound Travel Demand from the United Kingdom to European Destinations, Journal of Travel Research, 3, 3-14.

Hammerl R. 2012. *Systematik der österreichischen Tourismusabgaben und ihre finanzverfassungsrechtlichen Grundlagen.* Wirtschaftsuniversität Wien.

Kępa M 1999. Opłaty zasilające budżet gminy, in Chmaj M. (ed.) Leksykon samorządu terytorialnego, Oficyna Wydawnicza Graf – Punkt, Warszawa.

Kosikowski C., Etel E., Dowgier R., Pietrasz P., Popławski M., Presnarowicz S. 2011. *Ordynacja podatkowa. Komentarz*, Wolters Kluwer, Warszawa.

Levy R. 2019. La taxe de séjour, Paris 2019; https://www.paris.fr/pages/taxe-de-sejour-modalites-pour-declarer-en-ligne-7210 (dostęp: 06.01.2026 r.).

Potycz D. 2019. Gmina uzdrowiskowa jako przykład gminy o specjalnym statusie, Przegląd Prawa Publicznego, 11, 69-81.

Sikora K. 2014. Szczególny status gmin uzdrowiskowych w Polsce, Studia Iuridica Lublinensiam 23, 108-124.

Ustawa z dnia 28 lipca 2005 r. o lecznictwie uzdrowiskowym, uzdrowiskach i obszarach ochrony uzdrowiskowej oraz gminach uzdrowiskowych (Dz. U. Nr 167, poz. 1399 ze zm.).

Ustawa z dnia 29 lipca 2005 r. o zmianie niektórych ustaw w związku ze zmianami w podziale zadań i kompetencji administracji terenowej (Dz. U. Nr 175, poz. 1462 ze zm.).

Ustawa z dnia 26 listopada 1998 r. o dostosowaniu górnictwa węgla kamiennego do funkcjonowania w warunkach gospodarki rynkowej oraz szczególnych uprawnieniach i zadaniach gmin górniczych (Dz.U. Nr 162, poz. 1112 ze zm).

Ustawa z dnia 27 kwietnia 2001 r. prawo ochrony środowiska (t.j. Dz. U. z 2008 r., Nr 25, poz. 150 ze zm.).

Ustawa z dnia 13 listopada 2003 r. o dochodach jednostek samorządu terytorialnego (tekst jednolity: Dz.U. z 2021 r. poz. 38 ze zm.).
Ustawa z 26.2.1951 r. o podatkach terenowych (Dz.U. Nr 14, poz. 110).
Ustawa z 21.12.1962 r. o zmianie dekretu o niektórych podatkach i opłatach terenowych (Dz.U. Nr 66, poz. 326).
Ustawa z 17.6.1966 r. o uzdrowiskach i lecznictwie uzdrowiskowym (Dz.U. Nr 23, poz. 150 ze zm.).
Ustawa z 19.12.1975 r. o niektórych podatkach i opłatach terenowych (Dz.U. Nr 45, poz. 229 ze zm.).
Ustawa z 14.3.1985 r. o podatkach i opłatach lokalnych (Dz.U. Nr 12, poz. 50 ze zm.).
Ustawa z 12 stycznia 1991 r. o podatkach i opłatach lokalnych (t.j. Dz.U. z 2019 r. poz. 1170 ze zm.).
Ustawa z dnia 10 września 1999 r. – Kodeks karny skarbowy (tekst jednolity: Dz. U. z 2021 r. poz. 408).
Wałachowski K. 2025. Opłata turystyczna – propozycja zmian w Polsce, Kraków, raport opracowany na zamówienie biura poselskiego Darii Gosek-Popiołek.
Wołowiec T. 2018. Opłata Zakres i specyfika odpowiedzialności inkasenta opłaty miejscowej i uzdrowiskowej, Procedury Administracyjne i Prawne, 1, 25-29.
Wołowiec T. 2020. Konkurencyjność podatkowa gminy w kontekście posiadania lokalnej strategii podatkowej, Samorząd Terytorialny, 7-8, 149-162.
Wołowiec T. 2021. Problem odpowiedzialności inkasentów opłaty uzdrowiskowej, Przegląd Podatków Lokalnych i Finansów Samorządowych, 4, 17-23.
Wołowiec T. (2022). Odpowiedzialność inkasentów opłaty uzdrowiskowej, Samorząd terytorialny, nr 1-2, 146-156.
Wołowiec T. (2016). Zakres i specyfika odpowiedzialności inkasenta opłaty miejscowej i uzdrowiskowej, Prawo Finansów Publicznych, 11, 24-27.
Wołowiec T. (2021). *Finanse publiczne*, Innovatio Press, Lublin.
Wołowiec T., M. Marczuk M. 2023. Selected aspects of the financial strategy of the local goverment unit's oriented to the development of economic and social activity (financial and legal analysis), Teka Komisji Prawniczej PAN Oddział w Lublinie, vol. XVI, no. 1, 125-147.
Wołowiec T. 2022. Odpowiedzialność inkasentów opłaty uzdrowiskowej, Samorząd Terytorialny, 1-2, 46-156.
Wołowiec T., Podolchak N. 2022. Spa and local tourist fees as a tributes of a consumption nature, Teka Komisji Prawniczej PAN Oddział w Lublinie, vol. XV, 1, 371–390.
Wyrok WSA w Szczecinie z dnia 12 kwietnia 2018 r. sygn. akt. I SA/Sz 129/18.
Wyrok NSA w Warszawie z dnia 16 kwietnia 2008 r., sygn. akt. I FSK 622/07.
Wyrok WSA w Szczecinie z dnia 18 października 2017 r., sygn. akt. I SA/Sz 754/17.
Zhuravka F., Filatova H., Šuleř P., Wołowiec T. 2021. State debt assessment and forecasting: time series analysis, Investment Management and Financial Innovations, 18(1), 65-75.

Endnotes

[1] Ustawa z dnia 28 lipca 2005 r. o lecznictwie uzdrowiskowym, uzdrowiskach i obszarach ochrony uzdrowiskowej oraz o gminach uzdrowiskowych (Dz.U. z 2021, poz. 1301 ze zm.).

[2] Ustawa z dania 26 listopada 1998 r. o dostosowaniu górnictwa węgla kamiennego do funkcjonowania w warunkach gospodarki rynkowej oraz szczególnych uprawnieniach i zadaniach gmin górniczych (Dz.U. Nr 162, poz. 1112 ze zm).

[3] Ustawa z dnia 28 lipca 2005 r. o lecznictwie uzdrowiskowym, uzdrowiskach i obszarach ochrony uzdrowiskowej oraz gminach uzdrowiskowych (tekst jednolity: Dz. U. z 2020 r. poz. 1662 ze zm.) – dalej zwana u.l.u.

[4] Ustawa z dnia 13 listopada 2003 r. o dochodach jednostek samorządu terytorialnego (tekst jednolity: Dz.U. z 2021 r. poz. 38 ze zm.) – dalej zwana u.d.j.s.t.

[5] Galicyjska ustawa krajowa z 2.2.1891 r. obowiązująca w Królestwie Galicji i Lodomerii z Wielkim Księstwem Krakowskim o urządzeniu służby zdrowia w gminach o obszarach dworskich (Dziennik Ustaw i Rozporządzeń Krajowych dla Królestwa Galicyi i Lodomeryi oraz w Wielkim Księstwie Krakowskim Nr 17).

[6] Ustawa z 26.2.1951 r. o podatkach terenowych (Dz.U. Nr 14, poz. 110)

[7] Dekret z 20.5.1955 r. o niektórych podatkach i opłatach terenowych (t.j. Dz.U. z 1963 r. Nr 16, poz. 87 ze zm.).

[8] Ustawa z 21.12.1962 r. o zmianie dekretu o niektórych podatkach i opłatach terenowych (Dz.U. Nr 66, poz. 326).

[9] Ustawa z 17.6.1966 r. o uzdrowiskach i lecznictwie uzdrowiskowym (Dz.U. Nr 23, poz. 150 ze zm.)

[10] Ustawa z 19.12.1975 r. o niektórych podatkach i opłatach terenowych (Dz.U. Nr 45, poz. 229 ze zm.)

[11] Ustawa z 14.3.1985 r. o podatkach i opłatach lokalnych (Dz.U. Nr 12, poz. 50 ze zm.)

[12] Ustawa z 12 stycznia 1991 r. o podatkach i opłatach lokalnych (t.j. Dz.U. z 2019 r. poz. 1170 ze zm.)

[13] Wyrok WSA w Szczecinie z dnia 18 października 2017 r., sygn. akt. I SA/Sz 754/17.

[14] Wyrok NSA w Warszawie z dnia 16 kwietnia 2008 r., sygn. akt. I FSK 622/07.

[15] Por. Wyrok WSA w Szczecinie z dnia 11 stycznia 2018 r., sygn. akt. I SA/Sz 948/17.

[16] Ustawa z dnia 10 września 1999 r. – Kodeks karny skarbowy (tekst jednolity: Dz. U. z 2021 r. poz. 408) – dalej zwana k.k.s.

[17] https://orka.sejm.gov.pl/Druki10ka.nsf/Projekty/10-RPW-41337-2025/$file/10-RPW-41337-2025.pdf (26.01.2026)