Presented at the FIG Working Week 2019, April 22-26, 2019 in Hanoi, Vietnam

"Geospatial Information for a Smarter Life and Environmental Resilience"
Protection of agricultural lands in Poland

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Poland
Act on protection of agricultural and forest lands

1. 26 October 1971 Act on protection of agricultural and forest lands and on re-cultivation of lands /Dz.U. nr 27 poz. 249/

2. 26 March 1982 Act on protection of agricultural and forest lands and on re-cultivation of lands /Dz.U. nr 11 poz. 79/

1. 3 February 1995 o Act on protection of agricultural and forest lands /Dz.U. nr 16 poz. 78/
Act on protection of agricultural and forest lands

Protection of those lands is connected with the **obligation to get permissions** to change the **destination of lands** and to **exclude them from the agricultural production** in cases when **investments are performed** on agricultural lands.
Agricultural lands as the subject of soil classification, disclosed in the real estate cadastre – agricultural tax

1) agricultural lands, including: arable lands - R,
✓ orchards - S,
✓ permanent meadows - Ł,
✓ permanent pastures - Ps,
✓ built-up agricultural lands - Br,
✓ lands under ponds - Wsr,
✓ lands under ditches - W,
✓ lands covered by trees and bushes on agricultural lands - Lzr;

Classes - I, II, III, IIIa, IIIb, IV, IVa, IVb, V, VI. Viz - depending on the agricultural land type

2) wastelands – N (not classified)

Other lands, which are not assigned to a soil class in the real estate cadastre, are the subject of the real estate tax
The value of the tax – **agricultural tax**

The value of the tax depends on:

- the land use
- the soil class
- the fiscal district
- the size of the farm
At present lands classification may be changed only when the following cases occur (6 cases)

1) on lands which have not been classified yet;
2) on meliorated lands - after 3 years since construction of water melioration facilities;
3) on lands covered by land consolidation works;
4) on lands where modernisation of the land and buildings register or the temporary verification of the register data were ordered by the starost (the head of the district) - in the case when the land use is being changed in lands being the subject of classification;
5) after the occurrence of a natural disaster resulting in changes of the soil environment;
6) after forestation of lands according to regulations concerning the support for development of rural areas using funds from the European Agriculture Guidance and Guarantee Funds or basing on regulations concerning the support for rural areas using the European Agriculture Fund for the Development of Rural Areas.
The State controls of unjustified changes of soil classes

- an investor is obliged to make the financial contribution for exclusion of lands from the agricultural or forest production

it is the reason that

- an investor tries to avoid those payments - makes attempt aiming at decreasing the soil class
destination of agricultural and forest lands for non-agricultural or non-forest purposes in local plans

In the case when local spatial development plans are developed, destination of agricultural lands for non-agricultural or non-forest purposes are specified in those plans, but by:

- the approval of the minister for rural areas development is required in the case of agricultural lands being agricultural fields of classes I - III,

- the approval of the minister of environmental protection, the natural resources and forestry - for forest areas being the property of the State Treasury –

- the approval of the marshal of the province is required - for other forest lands
approval of the minister for rural areas development is not needed for 0.5 ha with some exceptions
The act on protection of agricultural and forest lands defines the agricultural lands – exclusion of agricultural lands

After decision of district starost for:
✓ developed on mineral type soils, classified into I, II, III, IIIa, IIIb
✓ developed on organic type soils classified into I, II, III, IIIa, IIIb, IV, IVa, IVb, V , VI
✓ forest lands

obligation to pay fees does not concern exclusion of lands from the agricultural or forest production for the purposes of housing:
up to 0.05 ha in the case of a single-family house;
up to 0.02 ha, foe each premises, in the case of multi-family houses
Re-cultivation of agricultural areas - penalty

- **Obligations of re-cultivation** (restoring the useful value of degraded agricultural or forests lands) to be met by a person responsible for the loss or limitation of the useful value of agricultural or forest lands. In such cases the legislator imposes **high penalties when that obligation is not met**.

- **Penalty of a doubled amount** - lands were excluded from production **without the decision** permitting for such exclusion.

- **Amount due is increased by 10%** - lands intended for non-agricultural of non-forest purposes in the local spatial development plan were excluded from the production **without the decision** authorising such exclusion, such a decision is officially issued.
Social insurance of farmers

• The insurance of farmers is currently regulated by the Act of December 20, 1990 on the social insurance of farmers

• Considering the average area of farms in Poland those regulations result in insurance fees paid by the farmers which are even several times lower than in the case of individuals who do not run farms

• In the case when the size of the farm does not exceed 50 hectares the monthly fee for the pension insurance for each insured person equals to 10% of the basic pension
<table>
<thead>
<tr>
<th>The unit of the administrative division of the country</th>
<th>Average size of agricultural land on a farm in 2018 [ha]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Voivodeship dolnośląskie</td>
<td>16,72</td>
</tr>
<tr>
<td>Voivodeship kujawsko-pomorskie</td>
<td>16,14</td>
</tr>
<tr>
<td>Voivodeship lubelskie</td>
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<td>Voivodeship lubuskie</td>
<td>21,52</td>
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<td>Voivodeship łódzkie</td>
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<tr>
<td>Voivodeship malopolskie</td>
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<tr>
<td>Voivodeship mazowieckie</td>
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<td>Voivodeship opolskie</td>
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<td>Voivodeship podlaskie</td>
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<td>Voivodeship pomorskie</td>
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<td>Voivodeship śląskie</td>
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<td>Voivodeship świętokrzyskie</td>
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<td>Voivodeship warmińsko-mazurskie</td>
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<td>Voivodeship wielkopolskie</td>
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<tr>
<td>Voivodeship zachodniopomorskie</td>
<td>30,78</td>
</tr>
</tbody>
</table>
Cadastral maps in Poland after annexation

Source: GUGiK

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Conclusions

- an investment performed on agricultural lands, which leads to the loss of agricultural production capabilities of lands is more expensive than an investment performed in urban areas, if excluded lands are the subject of fees for exclusion.

- owners of real estates (in particular owners of real estates consisting of single-family houses) tend to recognise the lands they possess as agricultural lands, due to considerably lower agricultural tax than the alternative real estate tax; that is why provisions included in the real estate cadastre are highly important from the fiscal perspective;
Conclusions

• important changes introduced in the Act on development of the agricultural system, which aim at limitation of real estate trading caused that agricultural real estates are considered by the Act as real estate bigger than 0.3 ha. In many operations, including land division and mortgage land division this provision leads real estate owners to acquire areas smaller than 0.3 ha; this allows them to acquire a building plot of the relatively higher value and higher investment possibilities,

• Particular rules of insurance of farmers and the definition of a farm result in creation of "fictional" farms and "fictional" farmers which are created for the needs of acquiring lower insurance fees only.
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