

Bogumił Pahl

University of Warmia and Mazury in Olsztyn

PRINCIPLES OF LEGAL INTERPRETATION OF A NORMATIVE DEFINITION OF THE TERM “BUILDING STRUCTURE” FOR THE NEEDS OF THE IMPOSITION OF A REAL ESTATE TAX IN POLAND

Abstract. An essential aim of this study is to present principles of the legal interpretation of the term “building structure” for the needs of the imposition of a real estate tax. The analysis of both administrative courts’ judgments and the subject literature indicates lack of consistency in the scope of this term’s meaning. In my opinion, interpretative discrepancies are caused by incorrect legal interpretation of the legal definition. It should be noticed that numerous controversies connected with the legal interpretation of the term building structure are connected with considerable tax burden of this type of building objects. Taxpayers, for obvious reasons, are therefore “interested” in not finding the objects owned by them to be building structures in the meaning of the Tax Law, or possibly in finding only those objects’ specified parts to be building structures. It is easily apparent particularly in the case of objects of complex structures (e.g. cell phones towers, ski lifts, wind farms, facilities used in power engineering industry etc.). On the other hand, however, for many municipalities in Poland, income from building structures’ taxation creates municipal budgets. This way the practice of applying local tax law encounters numerous disputes between taxpayers and self-government tax authorities.

1. General comments

Interpretation of the law is of fundamental importance in the process of tax law application. (Gomułowicz, Małecki, 2004, p. 168). It involves determination of a real meaning of legal provisions being the basis of legal norms and, as necessary, shaping them so that they could be applied in a specific case or situation. (Smoktunowicz, Mieszkowski, 1998, p. 57). Many distinct ways of making a legal interpretation have been worked out in court jurisdiction and legal doctrine. Nevertheless, the most frequently distinguished interpretations are the following ones: linguistic,

system and functional (purpose-oriented). A starting point for the legal interpretation is the linguistic interpretation (Brzeziński, 2001, p. 149), which results from the fact that law, including tax law, is formulated by means of a language. A colloquial language by means of which a text of legal provisions is formulated is not always precise enough to express fully the legislator's will. This is why the legislator introduces legal definitions of specified notions. It is one of the ways of defining the meanings of words contained in legal texts precisely. As much as the unequivocalness of words used by definitions' creators allows, a definition provides a term or notion being defined by them with a specific meaning based on the legalese that competes with a colloquial meaning of the term. (Brzeziński, 2008, p. 291).

The introduction of legal definitions into a specific legal act is, therefore, to serve elimination, or at least limitation, of different interpretative possibilities of a given term, and to provide it with a specified meaning for the needs of a concrete legal act. In practice, it can be relatively frequently observed that the reasons for introducing legal definitions are problems with colloquial understanding of a given term. The term "building structure" used by the lawmaker in the provisions of the Act on Local Taxes and Charges (ustawa z 12 stycznia 1991 r. o podatkach i opłatach lokalnych (Dz. U. z 1991 Nr 9, poz. 31)), is a very good example of this. Until the end of 2002, there was no normative definition of this term in the Act on Local Taxes and Charges. That is why, there arose numerous interpretative disputes connected with it in practice. Only in effect of the amendment of the Act on Local Taxes and Charges made under the Act of 30th October, 2002 on the change of the Act on Local Taxes and Charges and the change of some other acts (ustawa z dnia 30 października 2002 o zmianie ustawy o podatkach i opłatach lokalnych oraz zmianie innych ustaw (Dz. U. z 2002 Nr 200, poz. 1683)), Art. 1a including an explanation of the terms used in the Act on Local Taxes and Charges was introduced to this Act. A definition of a "building structure" was included therein. There is absolutely no doubt whatsoever as to the fact that the legislator who was introducing new regulations intended to remove doubts arising in connection with the meaning of this term. It appears, however, that despite nine years that have elapsed from the moment the term "building structure" was introduced into provisions regulating the construction of a real estate tax, problems with the interpretation of this term are still arising.¹ The problems were (and are) so serious that even the Constitutional Tribunal (Trybunał Konstytucyjny, TK) adjudicated in the matter of constitutionality of this provision (defining a building structure). (wyrok Trybunału Konstytucyjnego z dnia 11 października 2011 r., sygn. akt K 1/11).

tucyjnego z dnia 13 września 2011, P. 33/09). The bench of adjudicating justices, however, did not find that a normative definition of a building structure was inconsistent with the Constitution of the Republic of Poland. (Konstytucja Rzeczypospolitej Polskiej z 2 kwietnia 1997 (Dz. U. z 1997 Nr 78, poz. 483)).

An essential aim of this study is to present principles of the legal interpretation of the term “building structure” for the needs of the imposition of a real estate tax. The analysis of both administrative courts’ judgments² and the subject literature³ indicates lack of consistency in the scope of this term’s meaning. In my opinion, interpretative discrepancies are caused by incorrect legal interpretation of the legal definition. It should be noticed that numerous controversies connected with the legal interpretation of the term building structure are connected with considerable tax burden of this type of building objects. Taxpayers, for obvious reasons, are therefore “interested” in not finding the objects owned by them to be building structures in the meaning of the Tax Law, or possibly in finding only those objects’ specified parts to be building structures. It is easily apparent particularly in the case of objects of complex structures (e.g. cell phones towers, ski lifts, wind farms, facilities used in power engineering industry etc.). On the other hand, however, for many municipalities in Poland, income from building structures’ taxation creates municipal budgets. This way the practice of applying local tax law encounters numerous disputes between taxpayers and self-government tax authorities.

2. The scope of a legal definition of the term “building structure”

The Tax Law is a starting point for determination of a normative scope of a building structure. Since the legislator defines this term in the Act on Local Taxes and Charges, there are no reasonable grounds for adopting similar terms functioning in other branches of law. In accordance with Art. 1a par. 1 point 2 of the Act on Local Taxes and Charges (Dz. U. z 2010 Nr 95, poz. 613 j.t.), a building structure is a building object in the meaning of building law provisions that is neither a building nor small architectural object, as well as a building facility which in the meaning of building law provisions is connected with the building object and which ensures a possibility of using the object in accordance with its designation.

Therefore a “tax” definition of a building structure is constructed in such a way that the legislator refers us to certain terms functioning on the basis on the Building Law (ustawa z dnia 7 lipca 1994 Prawo Budowlane

(Dz. U. z 2006 Nr 156, poz. 118 j.t.)). This referral, however, is of a very narrow scope as it does not comprise all terms present in this Act referring only to two of them: a building object that is neither a building nor small architectural object and a building facility. Therefore, for the needs of a real estate tax, a building structure is every building object which cannot be regarded as a building or small architectural object. Thus a definition of a building structure is of a negative character. It is not closed. Just the opposite, it is of an open character and its result is that many building objects may be considered as building structures.

Therefore performing a legal and tax qualification of a potential object of taxation by a real estate tax, it is necessary, first of all, to rely on the provisions of the Act on Local Taxes and Charges and only additionally, i.e. in the scope of the statutory referral, on building law. (Etel, Presnarowicz, Dudar, 2008, p. 36 and next). For this reason, building law constitutes the basis for qualifying a given object as a building object whereas the Act on Local Taxes and Charges determines exclusively and solely whether it is a building or a building structure for the needs of taxation. (Etel, Pahl, 2009, p. 32).

It should be emphasized here that the bases for qualifying a given object for the purpose of a real estate tax can be neither the provisions of the decree in the matter of the Fixed Assets Classification⁴ nor the provisions of the decree in the matter of the Building Objects Classification (Rozporządzenie Rady Ministrów z dnia 30 grudnia 1999 r. w sprawie Polskiej Klasyfikacji Obiektów Budowlanych (PKOB)⁵ (Dz. U. z 1999 Nr 112, poz. 1316 ze zm.)). These provisions have been created for other needs and they cannot modify tax obligations. It should be remembered, however, that Art. 4 par. 1 point 3 of the Act on Local Taxes and Charges (Dz. U. z 2010 Nr 95, poz. 613 j.t.), indicates that the taxation basis of a building structure is its value, which is mentioned in the provisions on income taxes. Both the provisions of the Act on Income Tax from Legal Persons – (ustawa z dnia 15 lutego 1992 r. o podatku dochodowym od osób prawnych (Dz. U. z 2011 r. nr 74, poz. 397 j.t.)), (Art. 16b and subsequent) and the Act on Income Tax from Natural Persons – (ustawa z dnia 26 lipca 1991 r. o podatku dochodowym od osób fizycznych (Dz. U. z 2012 r., poz. 301 j.t.)), (Art. 22a and subsequent) require keeping a fixed assets register. This register is kept with the inclusion of the Fixed Assets Classification. The taxation basis of a building structure in the case of a real estate tax is its initial value resulting from the fixed assets register. In practice, determination of the value being the basis of taxation is made based on just the same register. Building structures indicated in this register are, in most cases, building structures subject to a real estate tax. The

Fixed Assets Classification, however, cannot be the basis for determination whether a given thing is an object of a real estate tax. Nevertheless, the provisions of this Classification play a significant role in determining the so called depreciation rate being the basis of a real estate tax. Conducting a tax procedure, tax authorities should, in case of questioning the data submitted by a taxpayer (in case of a legal person, the data submitted in a tax return for a real estate tax) examine the fixed assets register, where a value of a building object is specified. (Etel, 2007, p. 5).

It should be noticed in the above context that making the interpretation of the term building structure for the needs of a real estate tax based on the Classification of Types of Constructions (PKOB) or the Fixed Assets Classification disqualifies the results of their legal interpretation. It is justified by the fact that the tax legislator does not refer to the terms functioning in these legal acts at all when determining the object scope of a real estate tax, in particular considering that the acts regulating these classifications are executive acts issued based on the provisions on public statistics. It should be emphasized that according to Art. 217 of the Polish Constitution (Konstytucja Rzeczypospolitej Polskiej z 2 kwietnia 1997 (Dz. U. z 1997 Nr 78, poz. 483)), the imposition of taxes, as well as other public imposts, the specification of those subject to the tax and the rates of taxation, as well as the principles for granting tax reliefs and remissions, along with categories of taxpayers exempt from taxation, shall be by means of statute. The quoted provision formulates a general principle according to which tax obligations, including determination of taxation objects, should result solely from the act (*nullum tributum sine lege*). In the light of the quoted provision of the Polish Constitution, it is therefore inadmissible to determine a taxation object based on definitions functioning in legal acts other than the act. What is more, also in the judgment of the Supreme Administrative Court (Naczelny Sąd Administracyjny, NSA) (wyrok Naczelnego Sądu Administracyjnego z dnia 27 maja 2010, II FSK 2049/09), the bench of adjudicating justices emphasized that by making a legal interpretation of the term “building law provisions” used in Art. 1a par. 1 point 2 of the Act on Local Taxes and Charges (Dz. U. z 2010 Nr 95, poz. 613 j.t.), in accordance with the Polish Constitution (Dz. U. z 1997 Nr 78, poz. 483), it should be deemed that this referral may solely concern provisions of a statutory rank.

Taking the above into account, as well as a normative definition of a building structure, it should be acknowledged that a building structure is a building object or a building facility in the meaning of building law provisions. It results from Art. 3 of the Building Law (Dz. U. z 2006 Nr 156,

poz. 118 j.t.) that a building object is: a building together with technical installations and facilities; a structure being a technical and usable object together with installations and facilities, and a small architectural object. A building object the legislator refers to in the Act on Local Taxes and Charges is a building structure defined by Art. 3 point 3 of the Building Law. (Dz. U. z 2006 Nr 156, poz. 118 j.t.). According to this provision, every building object which is neither a building nor small architectural object such as linear objects, airports, roads, railroads, bridges, trestle bridges, culverts/passages, tunnels, technical facilities networks, free standing aerial masts, free standing advertising structures permanently attached to the ground, earthen structures, defence fortifications, protection structures, hydraulic engineering structures, reservoirs, free-standing industrial installations or technical facilities, sewage-treatment plants, waste dumping sites, water treatment plants, back-up structures, pedestrian subways and pedestrian bridges, land technical infrastructure networks, sports structures, cemeteries, monuments, as well as building elements of technical facilities (boilers, industrial furnaces and other facilities) and foundations for installations of machinery and facilities, as separate technical components of objects constituting a utility whole, should be understood as building structures.

The above presented definition of a building structure contains only an exemplary catalogue of objects which are building structures in the meaning of building law. It means that there may also exist other building objects which are building structures. In the meaning of building law, each building structure is included in the definition of a building structure contained in the Act on Local Taxes and Charges. (Dz. U. z 2010 Nr 95, poz. 613 j.t.). If, then, a given building object is a building structure in the meaning of the building law, it should be also classified as a building structure for the needs of a real estate tax. While making a legal interpretation of the term building structure for the needs of taxation, the content of appendices to the Building Law should be taken into account as well. They are an integral part of this Law. What is more, in the judgment of the Constitutional Tribunal (TK), the bench of adjudicating justices decided that only building structures listed *expressis verbis* in Art. 3 point 3 of the Building Law, other provisions thereof or appendices, being building objects mentioned in Art. 3 point 1 letter b of the Building Law (Dz. U. z 2006 Nr 156, poz. 118 j.t.) together with technical installations and facilities, that is provided they constitute a technical and utility whole (wyrok Trybunału Konstytucyjnego z dnia 13 września 2011, P 33/09), may be deemed as building structures in the meaning of the Act on Local Taxes and Charges.

Considering a potential object of taxation with regard to the legal and tax definition of a building structure, particular attention should be paid to the fact that a building object in the meaning of the building law is a building structure together with technical installations and facilities connected with it functionally (Art. 3 point 1 letter b). All these elements (building and non-building) constitute a building structure provided that they make a technical and utility whole. If such a type of a connection between individual elements does exist, they compose one building object – a building structure. Nevertheless, it should be emphasized that in order to make it happen, they must constitute a technical and utility whole. Yet the building law does not explain when exactly do we deal with such a situation. We can, on the other hand, using the rules of a language interpretation, refer, within this scope, to the meaning of this term functioning in a colloquial language, as well as refer to the opinions of judicature in this scope too. Thus we would deal with a technical and utility whole when the elements of a building object constitute, as the Supreme Court (Sąd Najwyższy, SN) acknowledged, “a component part of one complex thing”, which is decided by an objective evaluation of the economic meaning of physical and functional connections existing between them.

A technical connection is a physical connection resulting from the way an object is made. A utility connection is a functional connection between elements thanks to which they may be used to realize a purpose a given object has been created for. Proving the object technical and utility connection allows, in consequence, to impose on a building object composed of building elements (e.g. foundations, carrying and resistance structures) and non-building ones (e.g. technical installations and facilities – engines, pipelines, etc.) a real estate tax as a building structure in the meaning of Art. 1a par. 1 point 2 of the Act on Local Taxes and Charges. (Dz. U. z 2010 Nr 95, poz. 613 j.t.). There are no grounds for “disassembling this type of an object into prime factors” and imposing a real estate tax only on building elements even though such an opinion is presented by some representatives of the tax law doctrine. (Brzeziński, Morawski, 2007, p. 41 and next). For this reason, it is correct to impose a real estate tax for a building structure on such building objects as cable railways (ski lifts), wind farms, industrial (coke) furnaces, cell phones base transceiver stations, liquid petroleum gas bulk installations, etc. which are composed of building and non-building elements, since only if all these physically combined elements are used together, a given object may realize its functions.

Taking the above into account, it may be ascertained that in order to impose a real estate tax on a building structure being an object composed of

building and non-building elements, it is necessary to prove a technical and utility connection between the building elements, being, most frequently, a building structure in the meaning of Art. 3 point 3 of the Building Law (Dz. U. z 2006 Nr 156, poz. 118 j.t.) and non-building elements (technical installations and facilities). If such a connection cannot be proved, a real estate tax may be imposed solely on building elements of the object. Thus a building structure for the needs of a real estate tax is a building object constituting a technical and utility whole together with installations and facilities which is neither a building nor small architectural object. A technical and utility whole regards all component elements of a building structure which are connected with each other so that the building structure may be used for running a specific business activity.

When making a legal interpretation of the definition of a building structure contained in Art. 1a par. 1 point 2 of the Act on Local Taxes and Charges (Dz. U. z 2010 Nr 95, poz. 613 j.t.), a basic drawback thereof is a direct referral to Art. 3 point 3 of the Building Law (Dz. U. z 2006 Nr 156, poz. 118 j.t.), where the term building structure is defined. When determining the object scope of a real estate tax, finding the basis thereof on the reading of Art. 3 point 3 of the Building Law (Dz. U. z 2006 Nr 156, poz. 118 j.t.) is inadmissible in the light of the unequivocal reading of Art. 2 par. 1 point 3 in connection with Art. 1a par. 1 point 2 of the Act on Local Taxes and Charges. (Dz. U. z 2010 Nr 95, poz. 613 j.t.). It results from it that the definition of a building structure contained in the Act on Local Taxes and Charges differs significantly from the definition of a building structure contained in the Building Law. For these reasons, the opinion according to which a building structure for the needs of the imposition of a real estate tax are building elements of technical facilities (boilers, industrial furnaces, wind farms and other facilities) is groundless. We cannot draw far-reaching conclusions determining the principles of specified objects' taxation based on exemplary listing of various building structures mentioned in the definition formulated solely for the needs of the building law (not the tax law). (Etel, Popławski, 2009, p. 17). We should pay attention to the fact that if the legislator had wished to adopt the definition of a building structure defined in Art. 3 point 3 of the Building Law (Dz. U. z 2006 Nr 156, poz. 118 j.t.) for the needs of the imposition of a real estate tax, he would have referred to it directly in Art. 1a par. 1 point 2 of the Act on Local Taxes and Charges. (Dz. U. z 2010 Nr 95, poz. 613 j.t.). Unfortunately, he has failed to do so. Thus we may assume that the legislator wanted to provide the term defined in the quoted provision of the Act on Local Taxes and Charges with a completely different meaning than it has

in the building law. Moreover, this opinion may further be supported by the fact that the “tax” definition of a building structure comprises not only a building object but also a building facility in the meaning of the building law provisions.⁶ Thus this definition has a completely different meaning than the term carrying the same name functioning in the building law. *Ipsa facto*, we cannot determine a character of a building object for the needs of the real estate tax imposition based on the definition the tax legislator does not directly refer to. Art. 3 point 3 of the Building Law (Dz. U. z 2006 Nr 156, poz. 118 j.t.) provides exemplary listing of building objects deemed as building structures for the needs of a building process, but not for the needs of taxation.

The tax law doctrine appropriately draws attention to the fact that in the situation when the tax law provisions refer to definitions contained in provisions belonging to other branches of law, such referral is binding and the ensuing result is incorporation of the definition into the tax law, which treats an external definition as its own. (Brzeziński, 2008, p. 293–294). In the case of the “tax” definition of a building structure, which should be emphasized once again, the legislator referred only to two univocally determined terms functioning in the building law, i.e. a building object and a building facility, failing to refer to a building structure mentioned in Art. 3 point 3 of the Building Law. (Dz. U. z 2006 Nr 156, poz. 118 j.t.).

3. Tax law autonomy against the legal interpretation of a definition of a “building structure”

Making a legal interpretation of the tax law, including the definition of a building structure regulated in the Act on Local Taxes and Charges, we should consider tax law autonomy too. The idea of tax law autonomy involves, most of all, conferring a different meaning upon already existing legal institutions, or creating completely new institutions. Tax law autonomy provides a possibility of ignoring qualifications and effects attributed to factual situations by the provisions of other branches of law, which allows to maintain realism manifested in the specificity of taxation purposes’ achievement. (Kosikowski, 2006, p. 5 and next). Legal institutions being present in tax law provisions are either created or modified by the legislator solely for the needs of taxation.

Therefore a consequence of an autonomous character of the tax law is, *inter alia*, the fact that the names adopted by tax law from other branches of law do not most frequently carry the same meaning as those terms or

notions. These names serve building specified terms in tax law whereas these terms together with other features of tax acts constitute a component part of new legal complexes and acquire special features which are necessary for taxation purposes envisaged by the legislator. (wyrok Naczelnego Sądu Administracyjnego z dnia 24 czerwca 1996, FPK 6/96). It should be noticed, however, that creating specified tax constructions, the tax legislator uses names that are also used in other branches of law, which, nevertheless, in tax law, serve building terms or notions that are necessary to construct a tax and legal factual status. These terms are interrelated and constitute component parts of certain complexes of terms having features peculiar for tax law and resulting from its essence and having purposes the legislator intends to achieve through tax law norms. In order to be able to fulfill its tasks, tax law should, therefore, be bound by its terms and notions. It does not mean, however, absolute autonomy of tax law. (Mastalski, 2004, p. 116 and next).

The reason for this is that tax law is not completely separated from other branches of law. The tax legislator uses institutions developed in other branches of law many a time. It results from the principle of unity and completeness of the system of law. (Musiał, 2011, p. 8). By all means, the system of law should be a collection that is internally free from inconsistencies and, above all, free from loopholes. (Goettel, Goettel, 2011, p. 13). Defining terms or notions and expressions in tax law in the meaning conferred upon them in other branches of law is a natural consequence of the tax norm-maker's referral to solutions applied by these branches, and proves the integrity of internal system of law. (Nykiel, 1999, p. 400). As far as it is possible, the tax legislator should use the terms or notions and expressions taken from other branches of law.

Taxation needs, however, to force the tax legislator to modify terms or notions and expressions having a consolidated meaning in other branches of law. In many tax law provisions we may find definitions characterized by a different scope of meaning. An excellent example thereof is a definition of a building structure contained in the Act on Local Taxes and Charges, whose normative content, which was discussed above, differs considerably from the same term functioning in the Building Law. Although the tax legislator is using the building law "output", he is doing this to a very limited extent. It has already been emphasized above that the tax legislator created his own notion of a building structure solely for the needs of a real estate tax. Nevertheless, he used, at the same time, a referral to several, clearly specified terms, which, in turn, entails that these terms should be used when determining the object scope of a real estate tax.

4. Conclusions

The analysis of the subject literature and administrative courts' judgments shows that a legal definition of the term "building structure" constructed for the needs of the imposition of a real estate tax, which, presumably, was to make this term more precise, creates numerous problems. They result not so far from the incorrect formulation of the definition as from the defective legal interpretation of Art. 1a par. 1 point 2 of the Act on Local Taxes and Charges (Dz. U. z 2010 Nr 95, poz. 613 j.t.) of the Building Law. Making a legal interpretation of this provision, we should take into consideration regulations contained, most of all, in Art. 3 point 1 of the Building Law. (Dz. U. z 2006 Nr 156, poz. 118 j.t.). In this context, a building structure for the needs of the imposition of a real estate tax is a building object constituting a technical and utility whole together with installations and facilities, which is neither a building nor small architectural object, as well as a building facility in the meaning of building law provisions connected with a building object which ensures a possibility of using the object in compliance with its designation. There are not any legal basis whatsoever to refer, in the first place, to Art. 3 point 3 of the Building Law (Dz. U. z 2006 Nr 156, poz. 118 j.t.), which defines the term of a building structure, yet not for the needs of taxation but a building process, when determining the "tax" meaning of the term building structure. The legislator does not refer to this term in the tax act. Therefore the assumption according to which in the meaning of the Act on Local Taxes and Charges a building structure is a building structure in the meaning of building law provisions disqualifies the result of the legal interpretation, which, in turn, leads to a wrong settlement of a tax case.

N O T E S

¹ Problems connected with applying a legal definition of a building structure are also signaled by Bielska-Brodziak, A. (2009). *Interpretacja tekstu prawnego na podstawie orzecznictwa podatkowego*. Warszawa: Wolters Kluwer, 47–48.

² See, *inter alia*, judgments available in the central base of administrative courts' judgments: (wyrok Naczelnego Sądu Administracyjnego z dnia 20 stycznia 2012, II FSK 1405/10; Wyrok Naczelnego Sądu Administracyjnego z dnia 14 lutego 2012, II FSK 1589/1; Wyrok Naczelnego Sądu Administracyjnego z dnia 13 stycznia 2009, II FSK 1391/07; II FSK 2049/09; Wyrok Naczelnego Sądu Administracyjnego z dnia 5 stycznia 2010, II FSK 1101/08; Wyrok Naczelnego Sądu Administracyjnego z dnia 7 października 2009, II FSK 635/08; Wyrok Naczelnego Sądu Administracyjnego z dnia 3 lutego 2006, II FSK 656/05; Wyrok Wojewódzkiego Sądu Administracyjnego w Poznaniu z dnia 16 grudnia 2010, III SA/Po 675/10).

³ See, *inter alia*, (Etel, 2002); (Etel, 1998); (Etel, 2000); (Etel, Popławski, 2008); (Brzeziński, Kalinowski, 2001); (Hanusz, 2001); (Lipiński, 1998); (Presnarowicz, 2002); (Brzeziński, Morawski, 2008); (Teszner, 2003); (Dowgier, 2004); (Wacławek, 2005); (Dudar, 2003); (Unisk, 2006).

⁴ Rozporządzenie Rady Ministrów z dnia 30 grudnia 1999 r. w sprawie Klasyfikacji Środków Trwałych (KŚT) – Fixed Assets Classification (Dz. U. z. 1999 Nr 112, poz. 1317) – it was in force until the end of 2010, whereas since 1st January, 2011 the Rozporządzenie Rady Ministrów z dnia 10 grudnia 2010 r. w sprawie Klasyfikacji Środków Trwałych (KŚT) – Fixed Assets Classification (Dz. U. z 2010 Nr 242, poz. 1622) has been in force.

⁵ PKOB means Polish Classification of Types of Constructions.

⁶ Pursuant to Art. 3 point 9 of the Building Law (Dz. U. z 2006 Nr 156, poz. 118 j.t.), the term building facility should be understood as technical facility connected with a building object assuring a possibility of using the object in compliance with its designation, as well as connections and installation facilities including those serving sewage cleaning and collecting, as well as passages, fences, parking sites and sites to be used for refuse dumps.

R E F E R E N C E S

- Bielska-Brodziak, A. (2009). *Interpretacja tekstu prawnego na podstawie orzecznictwa podatkowego*. Warszawa: Wolters Kluwer, 47–48.
- Brzeziński, B. (2001). *Wstęp do nauki prawa podatkowego*. Toruń: TNOiK “Dom organizatora”, 149.
- Brzeziński, B. (2008). *Wprowadzenie do prawa podatkowego*. Toruń: TNOiK “Dom organizatora”, 291, 293–294.
- Brzeziński, B., Kalinowski, M. (2001). Głosa do orzeczenia siedmiu sędziów Naczelnego Sądu Administracyjnego z dnia 2 lipca 2001. *Przegląd Orzecznictwa Podatkowego*, 1.
- Brzeziński, B., Morawski, W. (2007). Urządzenia techniczne a podatek od nieruchomości. *Przegląd Podatkowy*, 10, 41 and next.
- Brzeziński, B., Morawski, W. (2008). Podziemne wyrobiska górnicze a podatek od nieruchomości. *Prawo i Podatki*, 3.
- Dowgier, R. (2004). Sieć techniczna jako przedmiot opodatkowania podatkiem od nieruchomości. *Finanse Komunalne*, 12.
- Dudar, G. (2003). Opodatkowanie budowli podatkiem od nieruchomości. *Przegląd Podatków Lokalnych i Finansów Samorządowych*, 12.
- Etel, L. (1998). Opinia w sprawie zasad opodatkowania wyrobisk górniczych kopalni węgla brunatnego. *Finanse Komunalne*, 2.
- Etel, L. (2000). Opinia dotycząca zasad opodatkowania podatkiem od nieruchomości sieci telewizyjnej kablowej. *Finanse Komunalne*, 3.
- Etel, L. (2002). Pojęcie wyrobiska górniczego w świetle orzecznictwa Naczelnego Sądu Administracyjnego. *Państwo i Prawo*, 7.

- Etel, L. (2007). Glosa do wyroku Naczelnego Sądu Administracyjnego z dnia 3 lutego 2006, II FSK 656/05, *Przegląd Podatków Lokalnych i Finansów Samorządowych*, 12, 5.
- Etel, L., Pahl, B. (2009). Opodatkowanie linii kablowych ułożonych w kanalizacji kablowej, Glosa do wyroku Wojewódzkiego Sądu Administracyjnego w Krakowie z dnia 28 listopada 2008. I SA/Kr 1213/08, *Prawo i Podatki*, 4, 32.
- Etel, L., Popławski, M. (2008). Opodatkowanie tablic reklamowych podatkiem od nieruchomości. *Przegląd Podatków Lokalnych i Finansów Samorządowych*, 9.
- Etel, L., Popławski, M. (2009). Czy elektrownie wiatrowe podlegają opodatkowaniu podatkiem od nieruchomości?”. *Przegląd Podatków Lokalnych i Finansów Samorządowych*, 6, 17.
- Etel, L., Presnarowicz, S., Dudar, G. (2008). *Podatki i opłaty lokalne. Podatek rolny. Podatek leśny. Komentarz*. Warszawa: Wolters Kluwer, 36 and next.
- Goettel, M., Goettel, A. (2011). Prawo cywilne a prawo podatkowe. In M. Goettel, M. Lemonnier (Eds.), *Instytucje prawa cywilnego w konstrukcji prawnej podatków* (p. 13). Warszawa: Wolters Kluwer.
- Gomułowicz, A., Małecki, J. (2004). *Podatki i prawo podatkowe*. Warszawa: LexisNexis, 168.
- Hanusz, A. (2001). Obowiązek podatkowy w podatku od nieruchomości a wyrobiska górnicze. *Glosa*, 1.
- Konstytucja Rzeczypospolitej Polskiej z 2 kwietnia 1997 (Dz. U. z 1997 Nr 78, poz. 483).
- Kosikowski, C. (2006). Autonomia prawa podatkowego – głos krytyczny. *Przegląd Podatkowy*, 7, 5 and next.
- Lipiński, A. (1998). Podziemne wyrobiska górnicze a podatek od nieruchomości. Glosa do wyroku Naczelnego Sądu Administracyjnego z dnia 6 listopada 1996. *Glosa*, 8.
- Mastalski, R. (2004). *Prawo podatkowe*. Warszawa: C. H. Beck, 116 and next.
- Musiał, K. (2011). Opodatkowanie wieczystego użytkowania gruntów w podatku od nieruchomości, czyli o złudnej autonomii prawa podatkowego. *Przegląd Podatkowy*, 4, 8.
- Nykiel, W. (1999). Autonomia prawa podatkowego (zagadnienia wybrane). In T. Dębowska-Romanowska, A. Jankiewicz (Eds.), *Konstytucja, ustroj, system finansowy państwa. Księga pamiątkowa ku czci prof. Natalii Gajl* (p. 400). Warszawa: Biuro Trybunału Konstytucyjnego.
- Presnarowicz, S. (2002). Problem opodatkowania wyrobisk górniczych. Glosa do orzeczenia 7 sędziów Naczelnego Sądu Administracyjnego z dnia 2 lipca 2001. *Glosa*, 1.
- Rozporządzenie Rady Ministrów z dnia 30 grudnia 1999 r. w sprawie Klasyfikacji Środków Trwałych (KŚT) (Dz. U. z. 1999 Nr 112, poz. 1317).

- Rozporządzenie Rady Ministrów z dnia 30 grudnia 1999 r. w sprawie Polskiej Klasyfikacji Obiektów Budowlanych (PKOB) (Dz. U. z 1999 Nr 112, poz. 1316, ze zm.).
- Rozporządzenie Rady Ministrów z dnia 10 grudnia 2010 r. w sprawie Klasyfikacji Środków Trwałych (KŚT) (Dz. U. z 2010 Nr 242, poz. 1622).
- Smoktunowicz, E., Mieszkowski, J. (1998). *Źródła i wykładnia prawa podatkowego*. Białystok: Prawo i praktyka gospodarcza, 57.
- Teszner, K. (2003). Opodatkowanie obiektów budowlanych w elektroenergetyce. *Przegląd Podatków Lokalnych i Finansów Samorządowych*, 4.
- Unisk, M. (2006). Podatek od nieruchomości. Aktualne problemy. *Biuletyn Instytutu Studiów Podatkowych*, 4.
- Ustawa z 12 stycznia 1991 r. o podatkach i opłatach lokalnych (Dz. U. z 1991 Nr 9, poz. 31, Dz. U. z 2010 Nr 95, poz. 615 j.t.).
- Ustawa z dnia 26 lipca 1991 r. o podatku dochodowym od osób fizycznych (Dz. U. z 2012 poz. 301 j.t.).
- Ustawa z dnia 15 lutego 1992 r. o podatku dochodowym od osób prawnych (Dz. U. z 2011 Nr 74, poz. 397 j.t.).
- Ustawa z dnia 7 lipca 1994 – Prawo Budowlane (Dz. U. z 2006 Nr 156, poz. 118 j.t.).
- Ustawa z dnia 30 października 2002 o zmianie ustawy o podatkach i opłatach lokalnych oraz zmianie innych ustaw (Dz. U. z 2002 Nr 200, poz. 1683).
- Wacławek, J. (2005). Budowla w podatku od nieruchomości. *Monitor Podatkowy*, 7.
- Wyrok Naczelnego Sądu Administracyjnego z dnia 24 czerwca 1996, FPK 6/96, ONSA 1996, nr 3, poz. 106.
- Wyrok Naczelnego Sądu Administracyjnego z dnia 13 stycznia 2009, II FSK 1391/07, from: <http://www.orzeczenia.nsa.gov.pl>, retrieved November 29, 2012.
- Wyrok Naczelnego Sądu Administracyjnego z dnia 14 lutego 2012, II FSK 1589/10, from: <http://www.orzeczenia.nsa.gov.pl>, retrieved November 29, 2012.
- Wyrok Naczelnego Sądu Administracyjnego z dnia 20 stycznia 2012, II FSK 1405/10, from: <http://www.orzeczenia.nsa.gov.pl>, retrieved November 29, 2012.
- Wyrok Naczelnego Sądu Administracyjnego z dnia 27 maja 2010, II FSK 2049/09, from: <http://www.orzeczenia.nsa.gov.pl>, retrieved November 29, 2012.
- Wyrok Naczelnego Sądu Administracyjnego z dnia 3 lutego 2006, II FSK 656/05, from: <http://www.orzeczenia.nsa.gov.pl>, retrieved November 29, 2012.
- Wyrok Naczelnego Sądu Administracyjnego z dnia 5 stycznia 2010, II FSK 1101/08, from: <http://www.orzeczenia.nsa.gov.pl>, retrieved November 29, 2012.
- Wyrok Naczelnego Sądu Administracyjnego z dnia 7 października 2009, II FSK 635/08, from: <http://www.orzeczenia.nsa.gov.pl>, retrieved November 29, 2012.

Principles of Legal Interpretation of a Normative Definition...

Wyrok Trybunału Konstytucyjnego z dnia 13 września 2011, P. 33/09, from: <http://www.trybunal.gov.pl>, retrieved November 29, 2012.

Wyrok Wojewódzkiego Sądu Administracyjnego w Bydgoszczy z dnia 11 marca 2008, I SA/Bd 836/07, from: <http://www.orzeczenia.nsa.gov.pl>, retrieved November 29, 2012.

Wyrok Wojewódzkiego Sądu Administracyjnego w Poznaniu z dnia 16 grudnia 2010, III SA/Po 675/10, from: <http://www.orzeczenia.nsa.gov.pl>, retrieved November 29, 2012.