ANALYSIS OF THE TAX LEGISLATION APPLICABLE IN TAXING THE INCOMES OF THE FARMERS AS NATURAL PERSONS АНАЛИЗ НА ДАНЪЧНОТО ЗАКОНОДАТЕЛСТВО, ПРИЛОЖИМО ПРИ ОБЛАГАНЕ ДОХОДИТЕ ....

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ANALYSIS OF THE TAX LEGISLATION APPLICABLE IN TAXING THE INCOMES OF THE FARMERS AS NATURAL PERSONS

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АНАЛИЗ НА ДАНЪЧНОТО ЗАКОНОДАТЕЛСТВО, ПРИЛОЖИМО ПРИ ОБЛАГАНЕ ДОХОДИТЕ НА ЗЕМЕДЕЛСКИТЕ СТОПАНИ – ФИЗИЧЕСКИ ЛИЦА

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ABSTRACT: *Agricultural sector has its own specificities that are a prerequisite for lower and unstable incomes compared to other sectors of the economy The taxation of the agricultural incomes has a specificity for Bulgaria as well as for other European countries. This article analyzes the two different approaches in the tax policies of selected European countries and Bulgaria for reducing tax burden of the farmers. The aim of the current investigation is to compare taxation and to outline the common features and differences in the taxation of the farmer natural person in the different countries. The tax legislation in most European countries including Bulgaria provides specific regulation of agriculture income in order to relieve the tax burden or bookkeeping. We conclude that the tax instruments and reliefs are an effective prerequisite for reducing the huge gap in income levels from agriculture compared to those of other sectors of the economy*

Key words: farmers, income tax, natural persons

Introduction

The Common Agricultural Policy of the European Union defines as its main objective the provision of a fair standard of living for the employed in agriculture. The agricultural sector has its own specificities that are a prerequisite for lower and unstable incomes compared to other sectors of the economy (by nearly 40%).

The taxation of the agriculture incomes has its particularities that are dealt with in this article. The fair taxation of the incomes and the more efficient targeting of the public resources will bring to an increase the well-being of the largest group of legal entities – farmers as natural persons.

This article analyzes the tax regime for the incomes of the farmer as natural person in Bulgaria, according to the Income Taxes on Natural Persons Act, as well as in the relevant legal norms of the Corporate Income Tax Act. At the same time, the taxation of the same legal entities in other European Union countries is also considered.

The aim of the current investigation is to compare the taxation and to outline the common features and differences in the taxation of the farmer as natural person in the different countries.

An object of the present study is the tax systems of EU Member States, and the subject is the tax practice in the taxation of the incomes of the farmers as natural persons.

In the current investigation the authors set following tasks:

- to analyze the tax legislation applicable to the taxation of farmers' incomes in Bulgaria;
- to compare with the tax legislation in other countries of the European Union;

In order to solve the research tasks and to achieve the main aim of the study, modern approaches and methods are used, such as: method of analysis and synthesis; inductive and deductive method, comparative method and logical description.

Background in the taxation of agricultural incomes in Bulgaria

The taxation of the incomes from agriculture is not subject to EU harmonization and is therefore a priority of national tax policy in each individual country. There are two different approaches to the tax treatment of these incomes (Soliwoda, M., J. Pawlowska-Tyszko, 2014) According to the first approach the agricultural incomes are equal with all other types of income, they are taxed with equal tax rates. The second approach involves separate tax regulations for the agricultural income. The significance of the agricultural incomes can be traced to the following figure №1.

It compares the entrepreneurial income per family work unit compared to average wages in the economy (DG Agriculture and Rural Development, 2018).

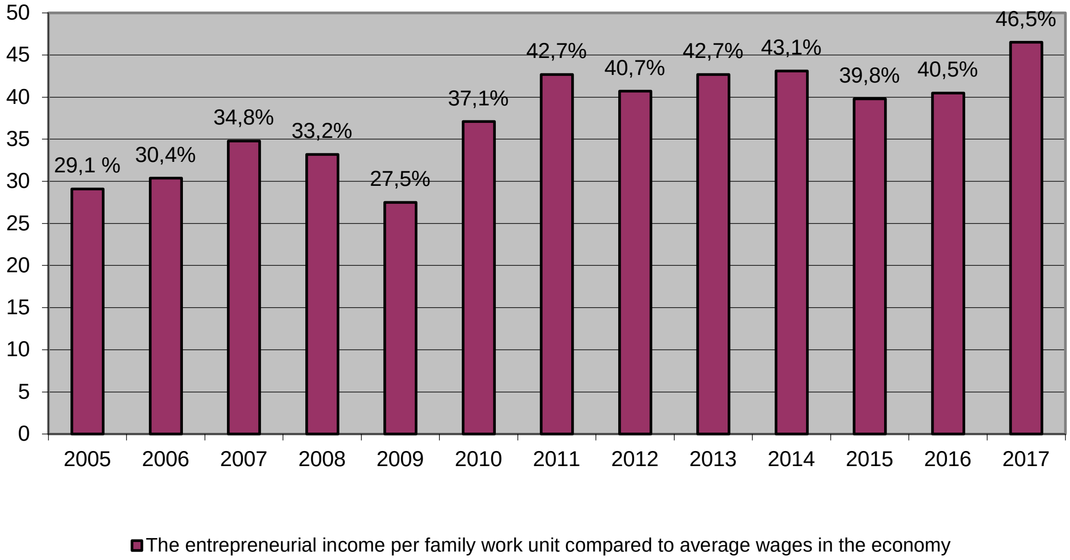

Fig.1. The entrepreneurial income per family work unit compared to average wages in the economy, EU 28
Source: DG Agriculture and Rural Development based on Eurostat data

Figure 1 allows us to summarize several major conclusions. The agricultural entrepreneurial income per family unit during all the years in the period 2005-2017 has a permanently low relative share of less than half of the average wage of the employed in the other sectors of the economy. 2017 is the year with the highest value of 46.5% within the analyzed period. The lowest is the indicator in the year of the financial crisis 2009, when it reached 27.5%, mainly due to the significant drop in the overall agricultural income. The existing gap between the agricultural entrepreneurial income compared to the average wages in the rest economy is a problem that has been a matter of concern to the economists for many years. The reasons for the existence of this gap can be different. Some of them are related to the lower qualification and education, less hours worked, high relative share of illegal workers and others. Regardless of the reasons for such significant differences in income levels (Dimova, 2016), the observed values of this indicator explain the need for a different tax regulation and tax relief for the incomes from agriculture (Mielczarek, M. 2017) especially for those with a lower tax basis.

The Bulgarian tax legislation has always had in particular regulation of the incomes of farmers (Georgieva, E. 2012) and, above all, for natural persons, as the personal income tax in Bulgaria was introduced before the corporate income tax. According to the promulgated in 1950 old Personal Income Tax Act the taxable income from other business activities is determined by way of subtracting the operating expenses from the income received as follows:

- by 70 % for income from the livestock and poultry and cultivated mushrooms;
- 50% for income from livestock thrust and for crop production
- 40% for income from the production of decorative plants

Tax reliefs are provided for two types of income in this category, namely beekeeping and fishing. According to the law incomes originating from beekeeping are not taxable if the number of the beehives is equal to the number of the household members. When the number of the beehives is equal to the double number of the household members, their income is taken in a half. A 50% tax deduction is also provided for the income from fishing.

The new Personal Income Tax Act, promulgated in 1997, provides for new aspects of the tax treatment of income from agriculture. The taxable income originating from business activities of those natural persons who are not traders within the meaning of the Commerce Act shall be determined by way of subtracting the operating as follows:

- 70% for income originating from livestock and poultry farming, but already includes income from beekeeping and rearing, from production of non-processed agricultural products and cultivated mushrooms;
- 60% for income originating from forestry industry (including from picking medicinal herbs, mushrooms and fruits), for water management (including fish farming) and for plant breeding;
- 50% for income originating from the production of decorative plants;

The incomes of natural persons registered as tobacco producers or agricultural producers, including those operating as a Sole Proprietor, for unprocessed plant and animal products including beekeeping, rearing, freshwater fish farming from artificial ponds and greenhouse production without decorative are tax exempt. The income of natural persons derived from rent or other gainful payment of agricultural land is also tax exempt. The next act is Income Taxes on Natural Persons Act, promulgated at the end of 2006 year. This act has a different approach in taxing income of farmers as natural persons.

Legislation in the taxation of incomes of farmers as natural persons in Bulgaria

Under the Ordinance №3 of 1999 natural persons registered as agricultural producers are those who manage agricultural land and / or produce agricultural production. They can be divided into:

• farmers as natural persons
• sole **p**roprietors

The natural person farmer is not a trader within the meaning of the Commercial Act. He taxes his income under the procedure of the Income Taxes on Natural Persons Act. The law, however, allows him to opt to tax his income under the rules for sole proprietors.

The sole proprietors are traders who form their taxable financial result under the Corporate Income Tax Act. However, the taxation of the same financial result is governed by the Income Taxes on Natural Persons Act.

Taxation of the incomes of farmer as natural person in Bulgaria

The incomes of the farmers as natural persons are formed by their economic activity, state aid, subsidies and other support from the European funds.

The tax legislation in Bulgaria separates the business income of these legal entities into two groups:

- incomes originating from the production of unprocessed agricultural products, excluding income from decorative plants;
- incomes originating from the production of processed or unprocessed agricultural products (including from sale of manufactured decorative vegetation), from forestry industry (including from picking medicinal herbs, mushrooms and fruits), from game husbandry and fish industry

The subsidies of the agricultural producers are also an element of their income for tax purposes.

Farmers as natural persons that are not registered under the Value Added Tax Act are given the option of determining the taxable income.

In the first case, the taxable income including subsidies is determined by way of subtracting the operating expenses from the income received, the operating expenses being as follows. In this way farmer as natural person is not required to keep accounting under the Accountancy Act. The operating costs are deducted from the income earned during the year, without the necessity to prove the costs with accounting documents.

The operating costs are as follows:

- 60 per cent for income from the activity of natural persons, registered as agricultural producers, for the production of non-processed agricultural products, except for the income from production of decorative plants
- 40% for income originating from the activity of natural persons for production of processed or unprocessed agricultural products (including from sale of manufactured decorative vegetation), from forestry industry (including from picking medicinal herbs, mushrooms and fruits), from game husbandry and fish industry

In this way of taxation, the incomes, including subsidies, are considered to have been acquired on the date of receipt. It is possible that they relate to a sale made in a previous reporting period but the determining principle here is the income receipt. The tax rate is 10%.

The farmer as natural person subject to taxation under this order, owe an advance tax in accordance with Art. 43 of the Income Taxes on Natural Persons Act. Where the payer of the income is not an enterprise or self-insured person, and where the person acquiring the income is self-insured and has declared the said circumstance in a written declaration before the payer of the income, the amount of the advance tax shall be determined and the tax shall be paid by the person acquiring the income. The tax is payable not later than the end of the month subsequent to the quarter in the course of which the income was received. No advance payment is due on income received during the fourth quarter of the year of taxation.

In the second way of taxation, the farmer as natural person must keep accounting in accordance with the Accountancy Act. Any revenue and expenditure that they declare must be documented. Their taxable income is the difference between the revenues and expenses, adjusted by the appropriate increases or decreases under the Corporate Income Tax Act. This form of taxable income is similar to that of the sole proprietors.

If the farmers opt for taxation under the sole proprietorship scheme, they must apply it for at least five consecutive tax years. They submit a declaration, no later than December 31 of the previous year. After these five consecutive years expire, the person may continue to be taxed in the same order without the need for submitting a new declaration. If they decide, they can switch to the first option and submit a new declaration. The tax rate in this case is 15%.

The farmer as natural person does not have the opportunity to use the right for re-assignment of a corporate tax under the procedure of 48, para. 6 of the Natural Person Income Tax Act. The farmers as natural persons registered under the Value Added Tax Act must keep accounts and apply the second way of taxation.

Taxation of the incomes of sole proprietors in Bulgaria

The taxable tax base for the sole proprietors is the difference between their revenues and expenses, adjusted by the increases and decreases under the Corporate Income Tax Act. The tax rate is 15%.

The sole proprietor farmers also make advanced contributions at a rate of 15% under certain conditions. Taxable persons, whose net income of sales for the preceding year does not exceed BGN 300 000 are an exempt from advance contributions. The monthly advance contributions shall be made by the taxable persons whose net income from sales for the preceding year exceed BGN 3 000 000. The quarterly advance contributions shall be made by the taxable persons whose net income from sales for the preceding year are between BGN 300 000 – 3 000 000.

Under the conditions of the Corporate Income Tax Act the corporate tax shall be remitted in the amount of up to 60 per cent to taxable persons, registered as agricultural producer, for their taxable profit from activity of production of non-processed plant and animal products. This tax relief does not apply to:

1. a person being an undertaking in difficulties;
2. a person being a large undertaking;
3. a natural person farmer, carrying out economic activity like sole proprietor;
4. a person, which has not complied with a decision of the European Commission to refund granted unlawful or incompatible state aid and has failed to refund the aid in total;
5. watering investments.

The corporate tax shall be remitted where the following requirements have been met in aggregate:

1. the remitted tax is invested into new buildings and new agricultural equipment, required for carrying out of the activity referred to in par. 1 and acquired by the end of the year, following the year, for which the remittance is applied;
2. the assets are acquired under market conditions, corresponding to those for non-affiliated persons;
3. the activity must continue being carried out for a period of at least three years after the year of remittance; this circumstance shall be declared every year up to the expiration of the three- year term together with the annual tax returns;
4. the remitted tax must not exceed 50 per cent of the current value of the assets, determined as of the date of granting of the aid;
5. the current value of all assets determined as of the date of granting of the aid may not exceed a limit of the equivalent in BG levs of EUR500.000; the limit may not be by-passed through artificial division of the assets under item 1;
6. the assets do not replace the existing assets;
7. as regards to the assets the farmer is not a recipient (beneficiary) under any other aid

Taxation of the incomes of agricultural producer as natural person in selected EU countries

In Austria, personal income tax refers to income of people running farms. Their income generated by agriculture is taxed on a progressive scale, where the incomes are classified according to their value and the tax rates ranging from 0 to 55%. Incomes up to € 11,000 are taxed at a zero rate whereas the maximum rate is taxed for income exceeding € 1 000 000.

In Belgium, farmers can choose between two methods of taxation: 1) real method, which is based on the accounting revenue and expenditure; 2) estimation method, according to the area of the land, its geographical location and others. The obtained income is taxed on a progressive scale with tax rates ranging between 25% to 50%. In addition, the Belgian farmers can benefit from various tax reliefs, such as for children, for investments, etc.

In the Czech Republic, persons earning income from agriculture are taxed at a flat rate of 15%. There is a possibility that the income from the family farm can also be determined by the estimation method, but only if the owner is not a member of a cooperative and is not registered for VAT.

In Denmark, there is no different taxation on income from agriculture. They are taxed in the same way as the incomes from other sources. The only relief is the possibility not to keep accounting records for small farms that are under 15 hectares or whose income does not exceed 23 522 euros.

The Finnish tax system divides the incomes from agriculture into two categories: labor and capital income. 80% of the income is taxed on a personal income tax with a progressive scale with a tax rate ranging between 6 and 31.25%. The remaining 20% is treated as an income from capital and is taxed 30% for income up to 30,000 euros and 34% above this value.

In France, natural persons generating incomes from agriculture have three different options for taxation. The first choice, used by the overwhelming number of taxpayers, is paying a lump–sum tax. This is only possible if the revenues over the previous two years do not exceed EUR 76 300. The second method of taxation is applicable to those persons whose earnings for the previous two years are between EUR 76 300 and EUR 350 000. They keep easy accounting records and declarations. The third way of taxation concerns incomes of over € 350,000, which are taxed under the general taxing regime, keeping a complete accountancy.

Income from agriculture in Greece is subject to progressive tax rates ranging between 22% and 42%. Farmers are also entitled to tax deduction, such as for first and second child tax relief.

Spain taxes income from agriculture in three different ways according to the value of the income. Holdings with an annual turnover of over € 600,000 are taxed on the basis of their real results. Those whose turnover does not exceed this threshold apply an estimation method. Small farms with a turnover of less than EUR 300 000 can determine their taxable income by coefficients. Reduced tax rates are provided for young farmers and small farms.

In the Netherlands, the incomes from agriculture are taxed on the basis of the accounting revenues and expenditures by applying a progressive tax scale. There are tax reliefs for depreciation and investments that play a significant role in generating income from agriculture. Furthermore, the income from the sale of the farm is an exempt.

In Ireland, the real method is used to determine farm incomes while keeping simplified accounting records. The taxable income is subject to a modest progression with only two tax rates - 20% and 41%. At the same time, there are various reliefs for farmers. They can reduce their taxable income to the value of the farm buildings they purchase. Owners of agricultural holdings can enjoy tax relief for telecommunication services and loan tax relief.

The incomes from agriculture in Germany are taxed using the real or evaluation approach. The choice depends on the amount of the profit generated and the form of registration of the agricultural business. Farmers with less than 200 acres of land and livestock farmers with a maximum of 50 animals can choose which of the two methods of taxation to apply. Larger manufacturers are required to keep accounts. In both cases the tax-free limit of 7,664 euros is applied. The taxable income is subject to a progressive tax scale ranging between 14% and 45%. The farmers may also apply other benefits, such as a lower tax rate to taxation of income from selling or liquidating an agricultural holding, they may apply accelerated depreciation methods for the machinery and others.

In Sweden, the agriculture incomes are taxed with a progressive scale of personal income tax ranging between 0% of 25%. There is also a municipal tax determined by the local government.

When taxing agriculture income in United Kingdom, the real approach is applied. Farmers are not required to keep a complete accountancy, but for tax purposes they provide a simplified account of profit and loss. There are tax reliefs to purchase machinery and equipment, construction of farm facilities. United Kingdom has set as tax-free threshold the 10,000 British pounds, and higher earnings are taxed by progressive rates ranging between 20% and 45%.

Poland applies the most favorable in EU system for taxation of the farmers. They do not pay tax for their income but pay rural tax based on the area size, type and class of the utilized agricultural land and what fiscal region the holding belongs to.

Portugal exempts from the tax the farm income up to 22,600 euros. For incomes between 22,600 and 200,000 euros only the 25% of the sales of agricultural products are taxed and the 10% of rural aid.

The analysis of tax legislation applicable in taxing incomes of farmers in selected European countries allows us to divide them into two groups:

The first group - countries where the agricultural incomes are subject to the same regulations as the other incomes using the general tax system. This may include:

- different tax instruments and reliefs specifically for the agriculture incomes such as in the Netherlands, Belgium, Ireland, Denmark, Sweden, United Kingdom

- no special tax relief, such as in Finland

Second group - countries that have a special separate income tax regime for agriculture incomes created to reduce the tax burden such as Austria, Germany, France, Poland, Portugal.

The Bulgarian tax legislation is in line with that of the overwhelming number of countries. It uses general tax system where the agricultural incomes are subject to the general tax rate but at the same time there are opportunities to simplify the tax regime for the smaller farmers.

Conclusion

The taxation of the income of the farmers natural person is characterized with the following:

• simplified regime of income taxation of natural persons who are not traders and are not registered under the Value Added Tax Act in Bulgaria. They are not obligated to keep accounts.

• in Bulgaria natural persons - non-traders have the opportunity to choose between two options: deduction of operating costs or difference between documented revenues and expenses.

• in Bulgaria the tax regime for farmers - sole proprietors is in align with that of the legal entities.

• lower tax rate than other European countries in Bulgaria - 10% for farmers - 15% for sole proprietors.

• in the last 15 years in Bulgaria lower tax rates are applicable but on basis including greater number of income sources

• the tax legislation in most European countries provides specific regulation of agriculture income in order to relieve the tax burden or bookkeeping. The greater number of the countries subject agricultural incomes with the general tax system but apply a system of reliefs for farmers. Other countries apply a special separate income tax to farmers.

• The tax instruments and reliefs are an effective prerequisite for reducing the huge gap in the income levels from agriculture compared to those of other sectors of the economy.

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Income Taxes on Natural Persons Act

Corporate Income Tax Act

Value Added Tax Act

Commercial Act

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