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Legal aspects of Polish Tax and Social Security in Agriculture*

In the paper are describing legal aspects of treatment of farming sector in the tax and social security system in Poland.

Tax System in Polish Agriculture is an integral part of Polish Tax System. Most taxes paid by farmers are property taxes, which supplied the budget of main local authority in Poland (municipality). In some cases farmers pay also personal income tax and value added tax like those, who run specific agricultural production as well individual farmers who operate through a limited liability company are subject to corporate income tax.

The social security fund for farmers (known as KRUS) was speared in 1990 from the social security system (ZUS). Farmers receive similar benefits with regard to health care, education, and social welfare although the contributions into the farmers system are lower then under the ZUS system.

Key words: Taxation system, property tax, income tax, social insurance

1. Introduction

Polish agriculture comes under particular taxation and social insurance laws. Of course the Agricultural Taxation System constitutes integral part of the Polish Tax System. However it has individual character due to exclusiveness of individual's farmers from the personal income tax, which constituted important deviation from a commonness rule of this tax. Nevertheless there are few exceptions, for example: incomes from special agricultural productions are taxed with income tax as well incomes of farms registered as a company. All polish farmers are obliged to pay the local property taxes (agricultural tax, forestry tax, real estate tax, building tax, transportation tax, and tax on dogs – form 2008 facultative dogs' fee) but within the acts of law is a lot of tax release or allowance.

In 1990 social security fund for farmers (known as KRUS) was created, which main objective is to provide retirement payments. Contributions into the farmers' scheme are lower then under the ZUS scheme, although farmers receive similar benefits with regards to health care, education, and social welfare.

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2. Personal Income Taxation

Income tax from the special branches of agriculture was introduced by the Act of 15 November 1984 on Agricultural Tax. Since 1992 income from those special agricultural productions are under legislation the Act of 26 July 1991 on Personal Income Tax.

Personal income tax (PIT) encompasses all incomes of natural persons, excluding revenue from agricultural activity, with the exception of revenue from special branches of agricultural production, forestry economy (in the meaning of the Forestry Act and Act on the Designation of Agricultural Land for Afforestation), subject to the provisions on inheritance and gifts, activities that cannot be the object of a legally effective contract (e.g. fencing), a division of a joint property of spouses due to the cessation or limitation of their property co-ownership.

On the list of special branches of agricultural production can be found: greenhouse production, poultry production, mushroom production, bee keeping, large-scale pig farming, fur animals, silkworm production, etc. The proportion of farmers producing these specific agricultural products is between 2% and 5%. Revenue from other types of agricultural production is not liable for income tax.

Income taxes coming from on these specific forms of agricultural production may be assessed in two ways:

- based on average production norms – Annex no 2, for the Act of 26 July 1991 on Personal Income Tax (Tab. 1);
- based on cost accounts.

The assessed way of income is chosen by the farmers. Tax accounts are prepared on a monthly basis according to farm accounts and payments are also submitted monthly to the tax office with a reconciliation completed at the end of the tax year in April.

If tax payments are based on average production norms the calculation is based on a unit charge multiplied by the area or numbers of units of production. In this case the farmer is not obliged to keep financial records. The income tax will be calculated as follows:

Table 1. The example of average production norms in 2007 and 2008

Special branches of agricultural production	Average production norms	
	2007	2008
heated greenhouse production (more than 25 m ²):		
floriculture	8,26 PLN/1m ²	8,47 PLN/1m ²
others	3,07 PLN/1m ²	3,15 PLN/1m ²
mushrooms production (more than 25 m ²)	3,55 PLN/1m ²	3,64 PLN/1m ²
bee-garden (more than 80 families)	2,36 PLN/1 family	2,42 PLN/1 family

Sources: Annex no 2, for the Act of 26 July 1991 on Personal Income Tax.

Table 2. Tax Rates of Personal Income Tax in 2007 and 2008

Tax base (income in PLN)	Tax	Tax base (income in PLN)	Tax
2007		2008	
less then 43 405	19% minus 572 ,54 PLN	less then 44 490	19% minus 586,85 PLN
from 43 405 to 85 528	7 676,41 PLN plus 30% of the excess over 43 405 PLN	from 44 490 to 85 528	7 866,25 PLN plus 30% of the excess over 44 490 PLN
more then 85 528	20 311,31 PLN plus 40% of the excess over 85 528 PLN	more then 85 528	20 177,65 PLN plus 40% of the excess over 85 528 PLN

Sources: Article 10 paragraph 2 and 3 of the Act of 16 November 2006 on changes to the Act of Personal Income Tax and others (Official Journal No. 217 of 2006, item 1588).Tax

culated in compliance with the progressive scale, differentiating following income thresholds i.e. 19%, 30%, 40% (Tab. 2). Also every year part of the income is exempted from the tax. In 2008 income exempts form the PIT is amounted to 3 091 PLN².

If the farmer keeps accounts then the calculation of taxable income is based on normal cost accountancy profit and loss calculations. Since 2007 the farmer keeping accountancy can make a choice of flat-rate linear tax – 19%.

Individual farmers who operate through a limited liability company are subject to different tax regulation – company income tax – flat rate tax 19% (linear tax), in particular, they have certain advantages in the recovery of value added taxes³.

3. Property taxation

Property taxation in Poland composes with 4 different taxes: agricultural tax, forestry tax, real estate tax – building tax and transportation tax. The Act on Local Tax and Charges, Act on Agricultural Tax, and Act on Forestry Tax envisages certain exemptions from real estate tax, agricultural tax and forestry tax. Exemptions from these taxes may also rise from the right of the council of municipality to adopt objective exemptions by resolution other than the ones provided for in these Acts (local law).

Payers of real estate tax, agricultural tax and forestry tax are obliged to file with the tax authority, being competent as regards the place of location of objects

² Article 10 paragraph 3 of the Act of 16 November 2006 on changes to the Act of Personal Income Tax and others.

³ The Act of 26 July 1991 on Personal Income Tax - legal status 27 June 2007; Ciesielski W., Tax Administration and Tax System in Poland, Tax Information Bulletin – Ministry of Finance, 2004, 67-71; Taxation and Social Security in Agriculture, OECD 2005, pp. 102-103.

liable for taxation, pursuant to the specified specimen, information on real estates and building structures, land or forests (natural persons) or statements on objects of taxation (legal persons and organizational units having no legal personality, including companies having no legal personality).

Natural persons pay real estate tax, agricultural tax and forestry tax in instalments proportional to the duration time of their tax liability – by 15 March, 15 May, 15 September and 15 November of the tax year. The tax on means of transport is payable in two instalments, by the 15th day of February and 15th day of September of every year, into the bank account of the budget of the municipality, in the territory of which there is the place of residence or seat of the taxpayer⁴.

Agricultural tax

In 1984, with the Act of 15 November 1984 on Agricultural tax, agricultural tax replaced the land tax. Agricultural tax is levied on land classified in the register of lands and buildings as agricultural arable lands or wooded lands and (including shrubbery) on agricultural arable lands, except for lands used for the pursuance of economic activity other than agricultural activity.

Agricultural tax is calculated solely on conversion hectares which depends of the type and class of land and the tax's regions (Tab. 3). The amount of tax due is set annually and is payable to the local authority treasury in which the land is located.

The tax is paid four times per year and is calculated on the value of a set number of hundred weights of rye per hectare (2,5 quintals of rye per 1 conversion hectare calculated on the basis of the average purchase price of rye for the first three quarters of the year). The value of this rye is yearly set by the Central Statistical Office. In 2008 maximal agricultural tax, from 1 conversion hectare, is equal to 145,73 PLN (~ 44,52⁵ euro) per year⁶. The council of local authorities may reduce the amount constituting the average purchase price of rye.

Since 2003, for the purpose of agricultural tax, definition of agricultural farm was modified. The Act of Agricultural tax says that agricultural farm is an area of the said lands of total area exceeding 1 hectare or 1 conversion hectare. This solution causes a privileged position of agricultural land which forms an agricultural farm. Agricultural land which does not form agricultural farms is charged with doubled tax rate (5 quintals of rye per 1 hectare).

Farmers may be allowed or released from taxes in a number of ways. For example, a farmer may be released from this tax on land if he has increased the size of the agricultural holding to 100 ha. This also applies if then land is bought or leased from the Agricultural Land Agency. In the case of sale of the enlarged farm, the exemption end on the last day of the month of sale⁷.

⁴ Tax Administration and Tax System in Poland, Tax Information Bulletin – Ministry of Finance, 2004, pp. 74-76; Taxation and Social Security in Agriculture, OECD 2005, pp. 102-103.

⁵ 1 euro=3,2736.

⁶ Announcement of Central Statistical Office of 17 November 2007 about the average purchase price of rye for the first three quarters of the year 2007.

⁷ The Act of 15 November 1984 on Agricultural Tax – legal status 6 July 2007; Ciesielski W.,

Table 3. Agricultural Tax Base --conversion hectare

Solely Tax's regions	Arable land				Meadows and pastures			
	I	II	III	IV	I	II	III	IV
Quality class	conversion unit							
I	1,95	1,8	1,65	1,45	1,75	1,6	1,45	1,35
II	1,8	1,65	1,5	1,35	1,45	1,35	1,25	1,1
IIIa	1,65	1,5	1,4	1,25				
III					1,25	1,15	1,05	0,95
IIIb	1,35	1,25	1,15	1				
IVa	1,1	1	0,9	0,8				
IV					0,75	0,7	0,6	0,55
IVb	0,8	0,75	0,65	0,6				
V	0,35	0,3	0,25	0,2	0,2	0,2	0,15	0,15
VI	0,2	0,15	0,1	0,05	0,15	0,15	0,1	0,05

Sources: the Act of 15 November 1984 on Agricultural Tax - legal status 6 July 2007

Forestry Tax

Obtained forestry tax composes rather new construction in Polish tax system. This tax was introduced in 1991 by the Act on Forestry Tax with construction similar to the agricultural tax (quality class and forest stand). Since 2003, with the Act of 30 October 2002 on Forestry Tax, forest tax was simplified.

Forestry tax is levied on woodland classified in the register of land and buildings as forests, except from forests used for carrying on economic activity other than that connected with forestry. This tax is calculated on unit area of forest. The amount of tax due is set annually and is payable to the local authority treasury in which the forest is located.

The tax is paid four times per year and is calculated according to the average sale price of wood received by forest districts for the first three quarters of the year preceding the tax year (the value of a set number of cubic meters of wood). The value of a set number of cubic meters of wood is yearly set by the Central Statistical Office. In 2008 maximal forestry tax, from 1 hectare of unit area, is equal to 32,4 PLN (~ 9,9 euro) per year⁸. Whereas for protected woods and forests (being parts of sanctuary forests and national parks) - 50% of the rate specified above.

⁸ "Tax Administration and Tax System in Poland", *Tax Information Bulletin*, Ministry of Finance, 2004, pp. 74-75.

⁸ Announcement of Central Statistical Office of 22 November 2007 about the average purchase price of a set number of cubic meters of wood for the first three quarters of the year 2007.

There are few ways to be released from the tax. For example when the forest is younger than 40 years or is used for ecological purposes⁹[1, 2, 4].

Real Estate Tax

The object of the real estate tax covers: land (others than agricultural and forest land), buildings, building structures and construction devices in the meaning of the provisions of construction law linked with the building, which ensure the possibility of usufruct of the building in accordance with its designation.

The tax base depends on the object of the tax and constitutes as following:

- for buildings and their parts – their usable area;
- for other types of constructions – their value;
- for land – its area.

The buildings used for agricultural purpose are released from the tax.

For each year, the government determines the maximum tax rates, but each local authority is empowered to establish the annual rate of this tax in its area. For example in 2007 the maximal tax rate for the house is equal to 0,59 PLN/m² (~ 0,18023 euro) of usable area of house¹⁰.

The tax on means of transport

Tax on means of transport is levied on lorries with a minimum total weight of 3.5 tones or more, truck-tractors and ballast tractors adapted for use with a semi-trailer or trailer with a minimum total weight of the set of vehicles of 3.5 tones or more, trailers and semi-trailers that along with a motor vehicle have minimum total weight of 7 tones or more, and buses.

It is based on the following:

- loading capacity in tons – lorries;
- number of seats – buses and coaches.

The payers of tax on means of transport are obliged to file, by the 15th day of February of every tax year, returns in respect of tax on means of transport along with annexes on means of transport possessed.

For each year, the government determines the maximum tax rates, but each local authority is empowered to establish the annual rate of this tax in its area. The tax on means of transport as a local tax is paid to the local authority where the vehicle is registered.

⁹ The Act of 30 October 2002 on Forestry Tax – legal status 12 January 2007; “Taxation and Social Security in Agriculture”, OECD 2005, pp. 102-103.

¹⁰ Chapter 2 of the Act of 12 January 1991 on Local Taxes and Charges – legal status 1 July 2008.

This tax is due to all motor vehicles registered in Poland. However vehicles used for agricultural purpose are released from this tax¹¹.

4. Other taxes and fees

Facultative Dog's Fee (till 2007 tax of dogs) is regulated by the Act of 12 January 1991 on Local Taxes and Charges. The object liable for payment of the fee is a natural person possessing a dog. The time limits for payment of the fee are determined by the council of the municipality. Dog's fee is paid to the local authority where the dog is registered.

For example dog's fee is not collected:

- for possession of dogs kept for the purpose of guarding agricultural farms – for two dogs per every farm;
- if dogs provide assistance to the disabled (the blind, the deaf and the infirm);
- from persons over 65 running a household alone – on one dog.

Each local authority is empowered to establish the annual rate of this fee lower than maximum given by the government. In 2008 maximum fee rate is equal to 100 PLN per year (~17 euro). However the local authority may also exempt the inhabitants of the municipality from dog tax or introduce exemptions other than those provided for in the Act¹².

The transfer of property (land and buildings) title, whether by inheritance or through donation, is regulated by the Act of 28 July 1983 on Inheritance and Donation Tax but also by others. The taxation base is the value of acquired things and property rights after the deduction of debts and burdens (clear value). The amount of tax is established depending on the tax group to which the acquiring person was attributed. The attribution to one of the three tax groups takes place in accordance with the personal relationship between the acquiring person and the person from whom the things and property rights were acquired.

Buildings which are also used for agricultural production and are located on holdings less than one hectare are also exempted in the case of inheritance by a close family member. The transfer of the farm dwelling is however liable to normal property inheritance taxation unless the person who inherits is not the owner of another residential property and declares that he or she will use this dwelling for a minimum period of five years.

If the right to freehold or an agricultural holding (including land, buildings and dwelling) is transferred within the provisions of the social insurance pro-

¹¹ Chapter 3 of the Act of 12 January 1991 on Local Taxes and Charges – legal status 1 July 2008; Ciesielski W., Tax Administration and Tax System in Poland, Tax Information Bulletin – Ministry of Finance, 2004, pp. 76.

¹² Chapter 5 article 18a and 19 of the Act of 12 January 1991 on Local Taxes and Charges – legal status 1 July 2008; Ciesielski W., Tax Administration and Tax System in Poland, Tax Information Bulletin – Ministry of Finance, 2004, pp. 77.

gramme for farmer then the transfer is exempted from property transfer tax. This procedure is common when the farmers retires and hands control of the agricultural holding to a child or close relative¹³.

Special provisions have been made for the farming community with regard to value added tax (VAT). Very few farmers have registered their farming activities for VAT, although everyone resident in Poland is issued with a personal VAT identification number. To be VAT registered for business involves registering the farm as a business in a variety of formats including partnerships or limited liability companies. In the absence of VAT registration provision has been made for agricultural suppliers to issue VAT sales receipts on behalf of the farmer and an amount equal to 5% of the tax may be recovered in this way. In some cases this is a disadvantage to smaller farmers who are unable to recover the full costs of VAT and this is especially the case if supplier credit has been provided by the agricultural input supplier. Farms registered for VAT are able to account in full as any other business their VAT and recover or offset payments on a yearly by annual or monthly basis. These measures were introduced when agricultural inputs and products became liable for VAT¹⁴.

5. Case study

Using presented information about taxation system in Polish agriculture the exemplified case study can be added. Tab. 4 includes the tax object, base, rate and finally value of the described taxes.

Farmer is an owner of:

- 2 ha of forest;
- 20 conversion hectare of agricultural land;
- house with 200m² of usable area;
- 5 100 m² of building and greenhouses used for the agricultural activity;
- 2 dogs used on the farm;
- 1 lorry used for the agricultural activity.

In presented case study within the property tax farmers will pay: agricultural, forestry and real estate taxes. However due to law the buildings and greenhouses used for the agricultural activity are released from the real estate tax. Also dogs and lorry used on the farm are released in accordance from the dogs' fee and the tax on means of transport. All paid property taxes are recipients of municipality' budget and are paid quarterly.

¹³ Taxation and Social Security in Agriculture, OECD 2005, pp. 102-103; <<http://www.krus.gov.pl/>>.

¹⁴ The Act of 11 March 2004 on Tax on Goods and Services; Taxation and Social Security in Agriculture, OECD 2005, pp. 102-103.

Table 4. Example case study with maximal tax rates for year 2008

	Tax object	Tax base	Tax rate	Tax (PLN)
Personal Income Tax	Income from the heated greenhouse production 5000 m ² of flowers production	41000 PLN based on average production norms	19%	7 216,0
Agricultural Tax	Agricultural land	20 conversion hectare	145,73	2 915,0
Forestry Tax	Forest	2 ha	29,41	59,0
Real Estes Tax	House	200 m ² of usable area	0,59	118,0
	Building and greenhouses	5 100 m ²	Released	
Dog's Fee	Dogs	2	Released	
Tax on Means of Transport	Lorry	1	Released	
Total		3 148,83 euro		10 308 PLN

It is important to notice that farmer receives income from the special agricultural productions (flowers production in heated greenhouse). Income received from those activity was calculated based on average production norms. Also is essential that personal income tax is revenue of a state budget and is paid monthly.

6. Agricultural Social Insurance Fund (KRUS)

In 1990 social security fund for farmers (known as KRUS) was created, which main objective is provides retirement payments. All residents of Poland with land ownership of greater than 1 ha of agricultural or forestry land may register for KRUS rather than the normal Social Security System (ZUS).

The Law on the farmers' social insurance provides two forms of covering by insurance. According to the conditions satisfactory for the interested person, the covering by insurance takes place either on the strength of a law (obligatorily) or on demand (voluntarily).

The following persons are covered obligatorily by the farmers' social insurance:

- the owner of the farm who conducts the agricultural activity on his own account;
- a member of the household, i.e. a person close to a farmer who: is at least 16 years old, remains a farmer in the common household or lives on the farm or in the neighbourhood¹⁵.

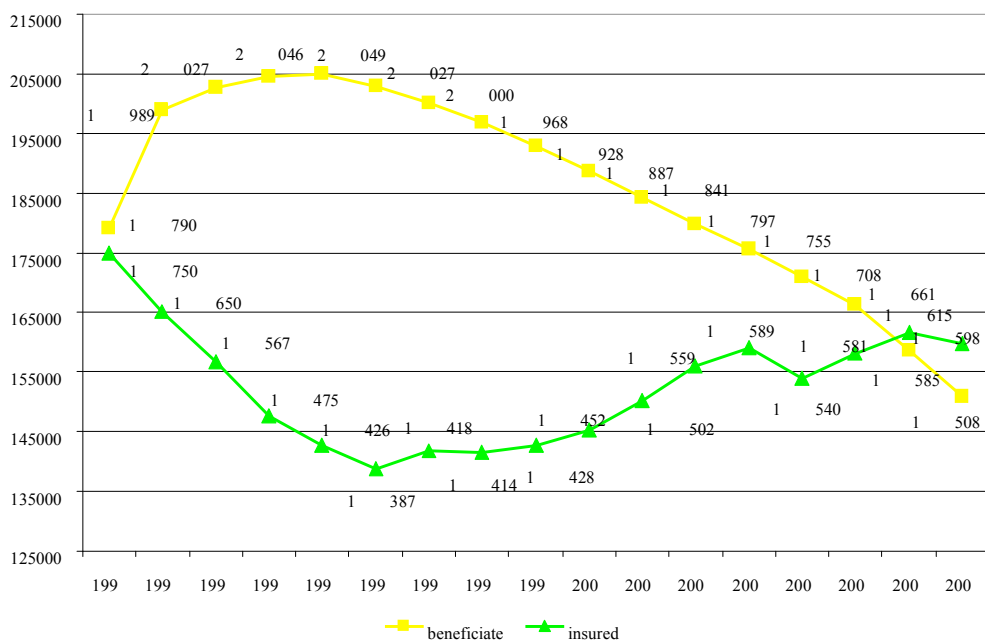
¹⁵ Parlińska A., "Modele ubezpieczeń społecznych rolników w krajach Unii Europejskiej. A tutorial review", *Proc. 14th Kongres SERIA Perspektywy rolniczej Polski w Unii Europejskiej*, Kraków, Zeszyt 1, Tom IX, 2007, 373-377.

According to the Law of 1 January 1997, those who conduct agricultural activity or work on the farm and at the same time conduct non-agricultural economic activity or cooperate in conducting such activity, these could choose the system by which they want to be covered, according to the Law. Due to changes provided by the Law of 1 July 2005 farmers who in the same time run non-agricultural economic activity can stay under the KRUS however they must fulfil the following condition:

- should be insured under the farmers' social insurance during 3 whole years;
- should apply with statement of continue insures under the farmers' social insurance;
- the tax paid of the income received form non-agricultural economic activity (if the activity was conducted) from the last taxable year should be lower then the yearly border sum¹⁶.

On the end of 2005 a total of 1 581 929 persons were registered under the farmer scheme and making payments. In the same time 1 661 800 persons were beneficiaries of the system. Due to the Act of 1 July 2005 on changes in the Law of the Social Security System and others, since 2006 the proportions stat to change and more people where insured then become a beneficiaries (Fig. 1). Also

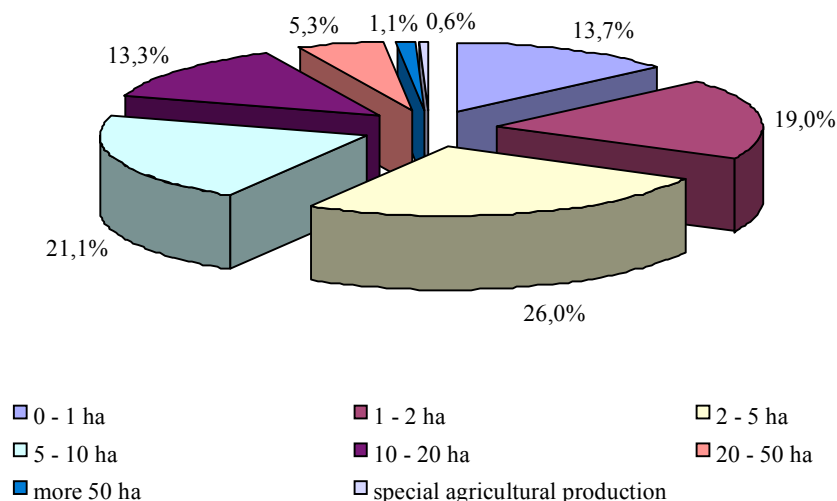
Figure 1. Number of insured persons and beneficiates in 1991-2007



Sources: <<http://www.krus.gov.pl>>

¹⁶ For example in 2006 the yearly border sum was 2 643 PLN.

Figure 2. Insured persons according to farm size in 2007



Sources: <<http://www.krus.gov.pl>>

within the insured persons the biggest group present farmers with farm size form 2 to 5 ha (26% of insured peoples). In the same time the smallest groups create farmers with farm size bigger then 50 ha and those who run special agricultural activity (Fig. 2).

Contributions into the farmers' scheme are lower then under the ZUS scheme, although farmers receive similar benefits with regards to health care, education, and social welfare. The farmers' insurance contribution is about 1 000 PLN per year paid quarterly (Tab. 5) and its doublet if at the some time the farmer conducts non-agricultural economic activity. In the same time insurance contribution of people under the ZUS depends of their gross income and is partly paid by themselves and their employers. For example person earn yearly 12 000 PLN it means that 1 371 PLN pay employee plus 1 606 PLN pay employer.

The contributions made by farmers provide a small proportion of the total payments they receive, the majority (more than 80%) of which comes directly from the state budget¹⁷.

7. Conclusion

The existent tax and social insurance systems in Polish Agriculture was analysed within this paper. However recently there is a heated dispute about some necessary changes into the systems.

¹⁷ <<http://www.krus.gov.pl>> and <<http://www.zus.pl>>.

Table 5. Insurances contribution within the KRUS and ZUS in 2007 and 2008

year	KRUS insurance contributions (PLN)			
	pension & rent		morbid & emergency & maternity	
	2007	2008	2007	2008
I quarter	179	179	72	78
II quarter	179	191	72	78
III quarter	179	191	72	78
IV quarter	179		72	
	ZUS insurance contributions (% of the gross income)			
	pension & rent		morbid & emergency & maternity	
	pension	rent	sickness	accident
monthly	19,52%	13% 10% from 01.07.2007 6% from 01.01.2008	2,45%	0,67-3,60%*

Sources: www.krus.gov.pl ; www.zus.gov.pl

Exclusiveness of individual's farmers from the personal income tax constituted important deviation from a commonness rule of this tax. Due to above, there is a reform planned to move away from area taxation to a tax based on farm income per unit area.

Contributions into the farmers system are lower then under the Social Security System (ZUS) system however farmers receives similar benefits with regards to health care, education, and social welfare. By these reasons there are propositions to increase the contribution or even to join Agricultural Social Insurance Fund with Social Security System

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