

INTERNATIONAL RESEARCHERS

**EXCISE DUTIES IN POLAND AFTER ACCESSION TO THE
EUROPEAN UNION – CHANGES, IMPACT ON REVENUE
AND PROSPECTS FOR THE FUTURE**

Olga Palczewska

Volume No.3 Issue No.4 December 2014

www.iresearcher.org

ISSN 2227-7471

THE INTERNATIONAL RESEARCH JOURNAL "INTERNATIONAL RESEACHERS"

www.iresearcher.org

© 2014 (individual papers), the author(s)

© 2014 (selection and editorial matter)

This publication is subject to that author (s) is (are) responsible for Plagiarism, the accuracy of citations, quotations, diagrams, tables and maps.

All rights reserved. Apart from fair dealing for the purposes of study, research, criticism or review as permitted under the applicable copyright legislation, no part of this work may be reproduced by any process without written permission from the publisher. For permissions and other inquiries, please contact

editor@iresearcher.org

INTERNATIONAL RESEARCHERS is peer-reviewed, supported by rigorous processes of criterion-referenced article ranking and qualitative commentary, ensuring that only intellectual work of the greatest substance and highest significance is published.

INTERNATIONAL RESEARCHERS is indexed in wellknown indexing diectories



with ICV value 5.90



Directory of Research Journals Indexing

and monitor by



EXCISE DUTIES IN POLAND AFTER ACCESSION TO THE EUROPEAN UNION – CHANGES, IMPACT ON REVENUE AND PROSPECTS FOR THE FUTURE¹

Olga Palczewska

Poznan University of Economics

(POLAND)

E-mail: olga.palczewska@ue.poznan.pl

ABSTRACT

The purpose of this article is to identify changes which occurred in terms of excise duties in Poland after the accession to the European Union as well as to examine how they impacted on revenue from these duties in discussed country. An analysis of literature and a review of legal documents revealed that the harmonization was involved in the adoption of new trade procedures in Poland. Moreover, it was indicated that Poland after the accession still collected excise duty on non-harmonized products, e.g., passenger cars. However, the need to comply with the European Union law caused a rise in the rates of tobacco products and fuels, which in turn resulted in the increase of those products prices. In addition, the analysis of Polish government revenue showed that in the first year after the accession the nominal revenue from excise duties was higher by 10.4% as compared to the previous year.

Keywords: excise duties, Polish tax system, tax harmonization, European Union, taxation of tobacco products

1. INTRODUCTION

Excise duty, along with value added tax, belongs to the group of indirect taxes in Poland. They play a much more important role in Poland than direct taxes – 14.5% of GDP compared to 8.7% in 2007 (European Commission, 2009, p. 203). Indirect taxes amounted to 72.8% of total tax revenue in 2012. The biggest share in total tax revenue had such indirect taxes as VAT and excise duties which amounted to 47.3% and 25.0%, respectively. Unlike value added tax, which is charged on almost all goods and services, excise duty concerns only the turnover of some specific products which a given country's legislator recognizes as excise goods and subjects them to a special tax regime (Mirek, 2011, p. 3). It is imposed on products regarded as luxury ones, which are distinguished by the fact that the demand on them does not decline while their price grows, and on goods whose consumption the state wants to limit due to social reason. Through the imposition of excise duties which restrain the consumption of products recognized as unhealthy public health objectives can be achieved (Cnossen, 2005, p. 5).

Unlike direct taxes, indirect taxes are subject to the European Union's (EU) harmonization. It is based on Article 93 of the Treaty on EU, according to which the Council of the EU may "adopt provisions for the harmonization of legislation concerning turnover taxes (VAT), excise duties and other forms of indirect taxations". This harmonization is not only one of the most significant, but also the most difficult areas of the integration process carried out within the EU.

Excise duty harmonization consists in, i.a., defining product categories which are subject to excise duties, eliminating control on borders between the EU member states, setting the scope of possible tax exemptions, defining minimum excise duty rates and implementing laws concerning production as well as storage of excise goods. The harmonization aims at providing free movement of excise goods in the European internal single market (Tyc, 2008, p. 87). Excise duty harmonization, like value added tax harmonization, was determined by introducing the EU single

¹This paper was presented during the conference "Tax reforms: Experiences and Perspectives" organized by the Institute of Public Finance, Faculty of Economics, University of Zagreb and Faculty of Economics, University of Rijeka on 20th June 2014. Previous version of this article was published at the proceedings of the conference "Tax Reforms: Experiences and Perspectives", Zagreb: Institute of Public Finance, Faculty of Economics Zagreb and Faculty of Economics Rijeka, 2014.

market on 1 January 1993. The whole revenue from this tax goes to a state budget (European Commission, 2006, p. 5).

Directives issued by the Council of the EU are the main instruments of tax law harmonization. Council directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty is the most significant act of the EU law regulating excise duty. It sets, i.a., the rules of keeping tax warehouses. Apart from the horizontal directive, which defines the foundations of the EU's excise system, there are also structural directives and directives setting tax rates. Structural directives specify products which are subject to excise duty, and directives on tax rates, in turn, define minimum rates of the tax on harmonized excise goods (Lenartova, 2012, p. 3).

Excise duty harmonization, like in case of VAT, was a long-lasting process. Excise standardization was a difficult problem to solve because taxes binding in particular countries were imposed on different products and they differed in collection techniques and tax rates (Smiechowicz, 2003, p. 1). What is more, excise rates not only depended on economic factors, but they also resulted from tradition, consumer habits and environmental aspects (Tyc, 2008, p. 91). That is why, in accordance with the Founding Treaties of the EU, tax issues were regulated carefully in order not to limit state authorities' fiscal competence, which is one of the key ones for each country (Golasa, 2009, p. 165).

At present excise duty harmonization concerns only three groups of goods: manufactured tobacco, alcoholic beverages and energy products. Taxation on other excise goods lies in the hands of a state. The possibility to impose excise duties on other goods was left to a state in order to avoid high inflation in the EU member states. The loss of tax revenue resulting from the lack of the capability to collect excise would have probably driven the majority of the member states to raise VAT rates, which, in turn, would have led to inflation increase (Moussis, 2011, p. 271).

2. CHANGES IN POLISH EXCISE DUTY AFTER ACCESSION TO THE EUROPEAN UNION

Excise duty was introduced in Poland on 5 July 1993 and it was regulated by the Act of 8 January 1993 on goods and services and on excise duty. After Poland's accession to the EU in 2004, which was connected with the necessity to adjust the country's law to the EU law, the act was replaced with the Act of 1 January 2004 on excise duty.

The new law significantly changed excise duty operation in Poland. First of all, Poland, as the EU member, had to conform to the excise duty rules binding in the EU. One of the overriding rules of this system is the destination principle according to which excise goods should be taxed in the country of their final consumption. A special tax regime, suspension of duty in tax warehouses, was implemented to make the realization of the destination principle and free movement of goods between states possible (Lenartova, 2012, p. 3-4). Thus, Poland's accession to the EU involved the need for creating tax warehouses. They are places where natural and legal persons authorized by a member state's competent authorities are permitted to produce, process, store, receive or dispatch products, as part of business activity, in accordance with the requirements defined by this state, and excise duty is suspended in those places and it is not due (Directive of 16 Dec 2006, Article 4, paragraph 1). It meant a resignation from the rule, functioning in Poland previously, according to which tax was paid when the goods were leaving a production facility or crossing a border while being imported. The introduction of tax warehouses enabled producing and transferring goods between different warehouses without the obligation to pay excise duty, i.e., under suspension of duty, and the duty becomes due, as it was stated before, when the goods are released for consumption.

Production, processing and storage of excise goods on which excise duty has not been paid may be carried out exclusively in tax warehouses (Directive of 16 Dec 2006, Article 11, paragraph 2). This is a mandatory principle, which means that any production of excise goods outside a tax warehouse or possession of excise goods on which excise duty has not been paid is illegal. Thus, it raises doubts if it is possible to impose duty on a producer (possessor) who illegally produces (possesses) excise goods on which excise duty has not been paid. This would mean taxation of illegal activities. However, the Court of Justice case law shows that it is possible. The Court of Justice answered affirmatively to the Supreme Court of the Netherlands query if illegal distillation of gin, outside a tax warehouse, causes a release for consumption and the necessity to impose excise duty on a producer. The Court of Justice ruled that the production and turnover of alcohol may, after fulfilling certain requirements, become legal. Failure to fulfil these requirements must not justify the exclusion of taxation because this would be an unjustified privilege of illegal behaviours (the Court of Justice ruling of 5 April 2001). The decisions of the Court of Justice of the EU are considered as a specific instrument of tax system convergence in the EU (Siroky and Kovarova, 2010, p. 2).

Tax warehouses may be also kept by private companies and function based on commercial rules, but they have to fulfil requirements which are to be defined by competent authorities of a member state. In Poland, submitting an application for a licence to run a tax warehouse is required (see figure 1). The application has a form defined by Minister of Finance. A licence is issued by a competent head of customs office. After the tax warehouse licence is issued, a tax registration number is granted and registered in the international system SEED.

Running a tax warehouse is also connected with an obligation to pay a deposit for excise duty by this warehouse owner. The deposit is to guarantee the cover of an existing or potentially existing excise duty obligation. This deposit is binding in the whole territory of the EU (Act of 1 January 2004, Article 67, paragraph 2). In the event of any irregularity during transfer of excise goods between member states, competent tax authorities will be able to collect excise duty where the irregularity has been committed or found. The level of deposit is set by particular member states (Lenartova, 2012, p. 4).

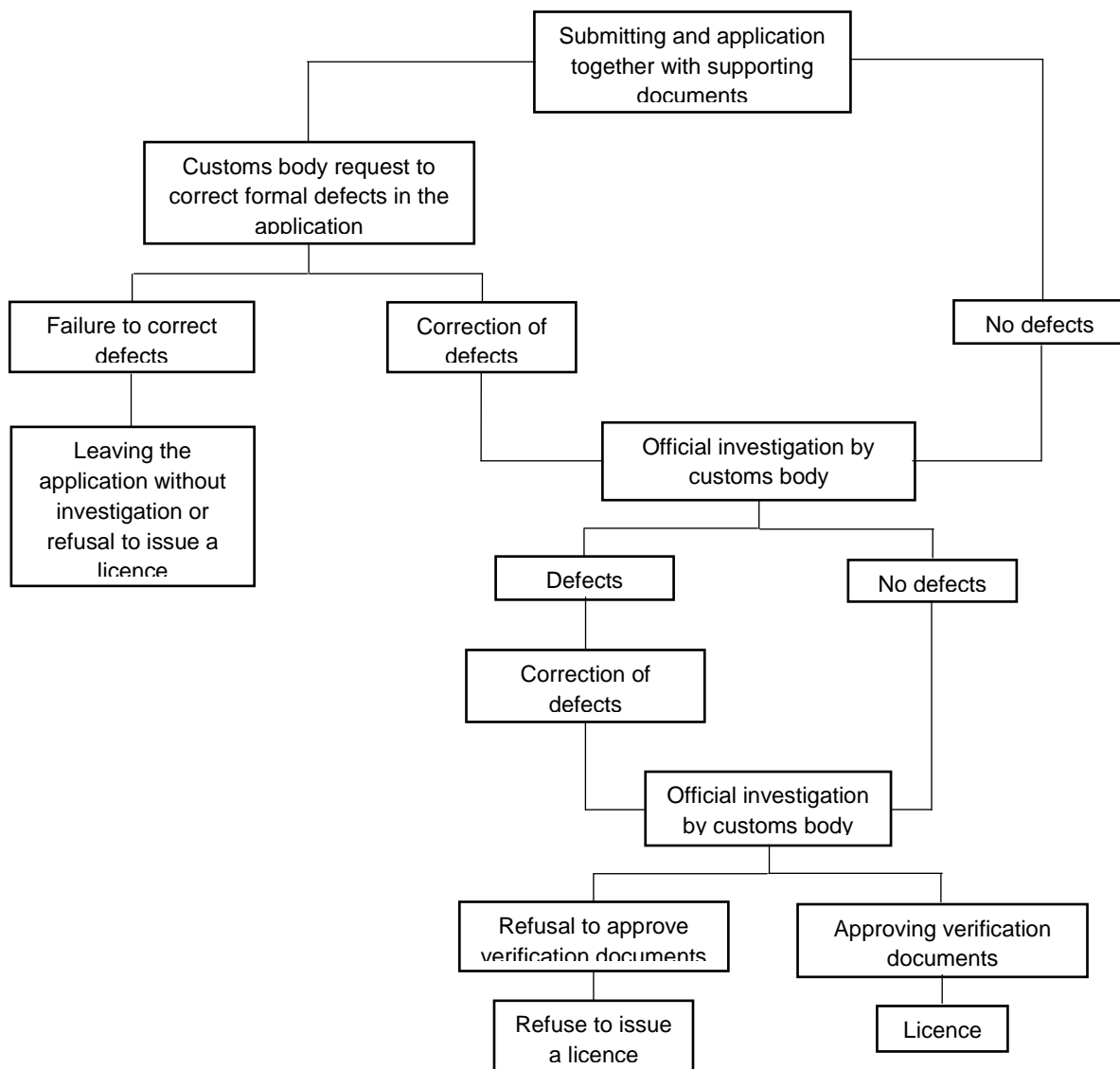


Fig. 1. The procedure of issuing a licence to run a tax warehouse in Poland

Source: the author's own work based on (Lis and Jedynak, 2013, p. 12).

Running a tax warehouse is also connected with an obligation to pay a deposit for excise duty by this warehouse owner. The deposit is to guarantee the cover of an existing or potentially existing excise duty obligation. This deposit is binding in the whole territory of the EU (Act of 1 January 2004, Article 67, paragraph 2). In the event of any irregularity during transfer of excise goods between member states, competent tax authorities will be able to collect excise duty where the irregularity has been committed or found. The level of deposit is set by particular member states (Lenartova, 2012, p. 4).

Polish legislation provides for five forms of deposits for excise duty: cash deposit, bank or insurance guarantee, cheque certified by a legal person with its registered office in the territory of the EU or EFTA member state, promissory note, or another non-cash payment instrument (Act of 1 January 2004, Article 67). The amount of this deposit is defined by a competent head of customs office at the level of tax obligation if this amount may be precisely calculated at the moment of accepting the deposit, or at an estimated maximum level resulting from the tax obligation (Act of 1 January 2004, Article 43, paragraph 1). The deposit should cover the whole amount of the suspended tax obligation.

The EU legal provisions do not prohibit Poland to levy excise duty on specific products. The accession to the EU did not cause resignation from collecting excise duty on such goods as, i.a., salt, cars, or certain cosmetics. The EU law allows on taxation of other products than those harmonized within the EU and the rules of taxation lie in the hands of a member state (Schroer-Schallenberg, 2012, p. 10). The list of excise duty goods in Poland is much longer than the one imposed by the EU. 45 products are recognized as excise goods in Poland at present. The accession to the EU required, however, adjusting the law concerning three categories of harmonized products: manufactured tobacco, alcoholic beverages and energy products. The most important changes were connected with excise duty rates (see table 1). According to the EU directives, the member states are obliged to apply at least minimum rates defined in these directives. The member states may, however, set and apply higher excise duty rates based on their own fiscal policy. Polish legislator fulfilled this requirement by adopting an act that provides for higher rates than the minimum EU rates on particular excise goods. Cigarettes, for which a transitional period was applied, are an exception.

Excise duty may be a specific duty – per unit of a product or *ad valorem* duty – calculated as a certain percentage of retail selling price, or some combination of these rates. Uniform specific rates reduce price differences between high-priced and low-priced brands, whereas uniform *ad valorem* rates increase absolute price differences (Cnossen, 2005, p. 6).

Table 1. Excise duty rates of selected harmonized excise goods in Poland

Items	Before accession			After accession				
	Unit of measurement	2002	2003		Unit of measurement	2004	2005	2014
Beer	EUR per hl/degree Plato of finished product	1.68	1.68	EU	EUR per hl/degree Plato of finished product	0.748		
				PL		1.50	1.57	1.84
Cigarettes	% of TIRSP and EUR/1000 it.	25 and 11.04	25 and 12.10	EU	% of TIRSP and EUR/1000 it.	57 and 60		60 and 90
				PL		26.39 and 14.00	28.48 and 15.66	31.41 and 48.87
Unleaded petrol	EUR per 1000 liters	313.62	320.03	EU	EUR per 1000 liters	359.00		
				PL		320.28	377.00	394.53-455.28

Source: the author's own work based on (Smiechowicz, 2005, p. 188).

In table 1 it is notable that after the accession to the EU, certain excise rates were increased, and other – decreased. Among other things, excise duty on beer was lowered. It resulted from the fact that before the accession to the EU, Poland had one of the highest excise duty rate on this product in comparison to its neighbours. Due to the accession to the EU and making free movement of goods between member states possible, the government had to reduce this rate – Poland needed to compete with breweries, i.a., from the Czech Republic and Germany, where excise rates on beer were much lower. Keeping very high excise rates would have decreased Polish breweries'

competitiveness and the inflow of cheaper beer from abroad would have contributed to lowering budget revenue because the Polish consumer would have paid the tax abroad. Thus, reduction of this rate was necessary to maintain a stable situation in the beer market in Poland, which, in turn, provided a stable source of tax revenue to the state budget. This decision appeared to be right as the reduced excise rate on beer along with low labour costs resulted in the increase of beer production in Poland by half in the first year of the EU membership as compared to the year 2003.

Table 2. Minimum excise duty rates on cigarettes

Minimum excise duty	Unit of measurement	2004	2005	Unit of measurement	2004
EU	% of TIRSP and EUR/1000 it.	57 and 64	57 and 64	% of WAP and EUR/1000 it.	60 and 90
PL		28.15 and 53.06	29.66 and 54.27		66.31 and 92.86

Source: the author's own work based on (Smiechowicz, 2005, p. 187-189).

To avoid a sharp increase in excise duty on cigarettes, Poland was granted the right to utilize a transitional period as regards the application of minimum excise rate. That is the reason why in the first years of Poland's membership the minimum excise duty on cigarettes in Poland was lower than rates applied in the EU (see table 2). Although Poland could have used the lower rate until the end of 2017, it reached the minimum in 2014, which is believed to be too fast as it caused a very high increase of this product price in discussed country.

3. THE ANALYSIS OF THE INFLUENCE OF EXCISE DUTY CHANGES ON THE STATE BUDGET REVENUE

The work on the 2004 state budget was especially important because it had to include changes in external and internal conditions of public finance sector, which resulted from Poland's accession to the EU (Supreme Audit Office 2005, p. 50). As part of adjusting Polish law to the EU requirements, a series of changes in the tax system, in particular in indirect taxes, were implemented. Although the changes were considered during budget planning, there were significant differences between the forecast and delivery of revenue from indirect taxes. Excise duty, which is a crucial source of budget revenue in Poland (see table 3), was 9.4% higher than planned.

Table 3. Excise duty revenue in Poland after accession to the EU

Items	Unit of measurement	2003	2004	2005	2006
Excise duty revenue	mIn PLN	34,387.7	37,964.0	39,479.1	42,078.0
Year-on-year change	%	9.2	10.4	4.0	6.6
Excise duty revenue to total revenue ratio	%	22.6	24.3	22.0	21.3

Source: the author's own work based on (Supreme Audit Office, 2004, p. 48-49; Supreme Audit Office, 2005, p. 78-79; Supreme Audit Office, 2006, p. 49-50; Supreme Audit Office, 2007, p. 48).

As it is shown in table 3, in the analysed period, the ratio of excise duty revenue to total revenue was over 21%. Excise duty is the second most significant source, after VAT, of state budget revenue. In 2004, i.e., in the first year of Poland's membership in the EU, excise duty income was 10.4% higher as compared to the previous year, and amounted to PLN 37,964.0 million. Its ratio to total income increased from 22.6% in 2003 to 24.3% in 2004. The ratio of excise duty income to GDP increased in 2004 by 0.1 percentage point and amounted to 4.3%. Greater revenue was caused not only by the increase of excise rates on harmonized goods in the EU (see also table 1), but also by introducing the system of tax warehouses, which contributed to reducing the shadow economy. Higher income from excise duty on cars also significantly influenced this revenue. It was caused by intensified purchases of new cars from the EU states made before 1 May 2004 in fear that after Poland's accession to the EU, car prices would rise. The inflow of second-hand cars after Poland's accession to the EU was another reason – from May to December 2004, 812,000 cars were purchased (NIK – Supreme Audit Office, 2005, p. 80). In the following years excise income was higher by 4-7% year-on-year, and its ratio to total revenue amounted to more than 21% each year.

4. EXCISE DUTY LEVEL IN POLAND AGAINST SELECTED EU MEMBER STATES

As it was stated above, excise duty rates differ depending on a member state (see Fig. 2 and Fig. 3). It results from the fact that the EU law defines only minimum excise rates, and each member state, due to the lack of maximum rates, may set them at any level exceeding minimum rates.

Such differences in rates cause, however, discrepancies in the competitiveness of particular countries as regards excise goods, and thus, the main aim of excise duty harmonization is delivered less and less effectively. Significant differences in excise rates on a given product may result in product movement due to tax reasons, and in loss of income or abuses. The mode of setting excise rates is another problem. Minimum rates are set in amount and that is why their real value is constantly decreasing due to inflation. Minimal excise rates are not indexed. Minimum excise rate on cigarettes is an exception as it was risen.

As figure 2 reveals, excise duty rates differ from each other depending on a member state. In case of unleaded petrol, this difference is at the level of 109%, and in case of ethyl alcohol, it is bigger and amounts to as much as 963%. Tax rates in Poland are in most cases under the EU average. Excise on unleaded petrol in Poland is one of the lowest among the member states. In 2014 excise rate on this product in Poland amounts to EUR 394.55 – EUR 455.28 while an average for all the EU states amounts to EUR 531.58%. The excise duty on ethyl alcohol in Poland is also below the EU average.

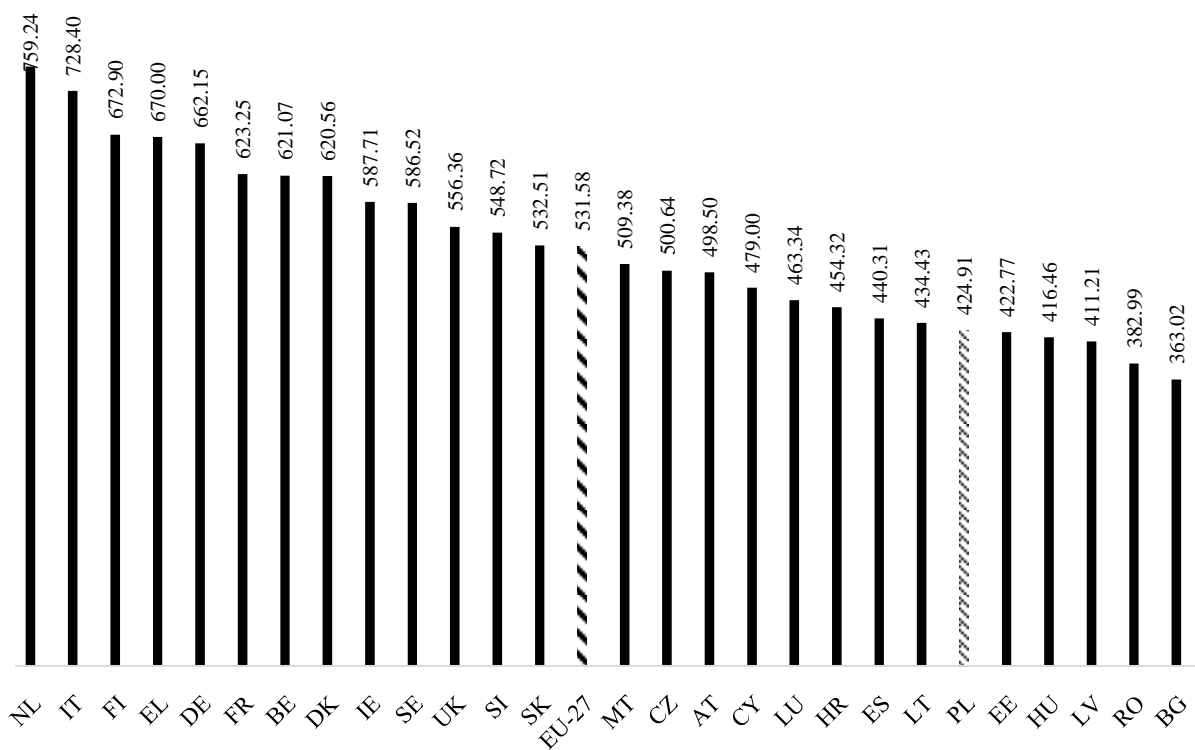


Fig. 2. Excise duty rates on unleaded petrol in Poland against the other EU member states in 2014

Source: the author own work based on (European Commission 2014).

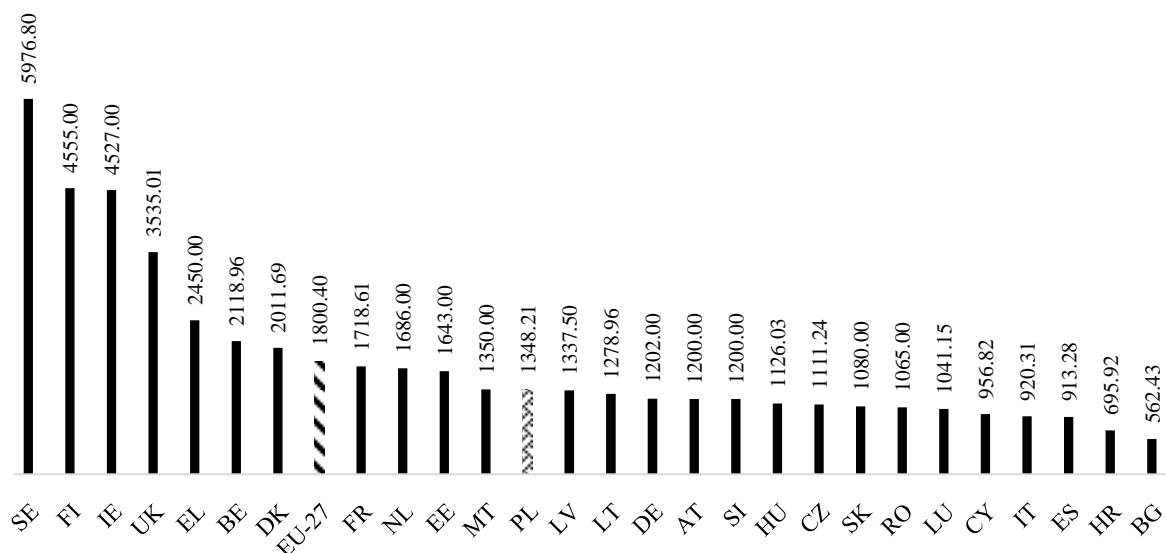


Fig. 3. Excise duty rates on ethyl alcohol in Poland against the other EU member states in 2014

Source: the author own work based on (European Commission 2014).

Although Poland applies one of the lowest excise rates on unleaded petrol, prices of this product in Poland have risen by 150% during 10 years of the EU membership. Poland's accession to the EU caused also the increase of the prices of alcoholic beverages and cigarettes.

5. CONCLUSION

Poland's accession to the EU was associated with the need to adapt Polish tax law to the legal requirements being in force in the EU. Although in the sphere of income taxes, Poland, as a member state, kept freedom in shaping tax law, in case of indirect taxes the country was obliged to implement regulations based on the EU directives. This caused significant changes in excise duty law. The changes covered not only excise rates of harmonized products, i.e., alcoholic beverages, energy products and manufactured tobacco; new institutions dealing with excise goods turnover also appeared and new excise turnover principles were introduced.

It has been proved that in the first year of membership, the state budget revenue from excise duty was 10.4% higher as compared to the previous year, and the ratio of excise duty to total revenue in the analysed period amounted to over 21%, which placed excise revenue second among the most important state budget revenues.

The level of minimum excise duty rates is varied and it depends on the category of a product. The analysis done allows to claim that Poland's accession to the EU resulted in reducing excise rate on beer and increasing rates on, i.a., unleaded petrol and cigarettes, which caused the rise of their prices. The comparison of Polish excise rates with the rates in selected EU states reveals that in case of the most products, Polish excise rates are similar to the European average. It has been pointed out that differences in excise rates among particular member states distort competition conditions in the European market. Excise duty requires taking further steps towards reducing the differences in the rates in particular countries because at present, although this tax is harmonized, it contributes to competition distortion in the European single market.

It has been proved that the most significant changes in the nearest future may be expected in case of excise duty on cigarettes. This results from the fact that the increasing consumption of other tobacco products, e.g. e-cigarettes, may cause the decline in the revenue from excise duty on this product.

REFERENCES

- Bignell, P., Carlin, J. (2013). *CCH The Purple Book: Customs and Excise Duties 2013-14*. London: CCH Editions.
- Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC.
- Court of Justice of European Union, 5 April 2001. Case: C-325/99 – van de Water.
- Cnossen, S. (2005). *Theory and Practice of Excise Taxation*. New York, NY: Oxford University Press.
- European Commission. (2006). The EU's Tax Policy Towards a barrier-free area for citizens and business. *Taxation and Customs union*. Office for Official Publications of the European Communities.
- European Commission. (2009). Taxation trend in the European Union. *Taxation and customs union*. Luxembourg: Office for Official Publications of the European Communities.
- European Commission. (2014). *Excise duty tables*. Retrieved from: http://ec.europa.eu/taxation_customs/taxation/excise_duties/index_en.htm [Accessed 12 April 2014].
- European Commission. (2004–2007). *Excise duty tables – archive*. [online] Available at: <https://circabc.europa.eu/faces/jsp/extension/wai/navigation/container.jsp>
- Gołas P. (2009). Tax policy harmonization within European Union based on the example of the Value Added Tax. *European Policies, Finance and Marketing*, No 51. Warsaw: SGGW Press, p. 163-171.
- Lenartova, G. (2012). Tax harmonization of indirect taxes. Retrieved from: http://spek.hu/letoltes.php?fajl=anyagok/Gizela_Lenartova_Tax_harmonization_in_the_EU.pdf
- Lis, E., Jedynak L. (2013). *How to run a tax warehouse? (Polish title: Jak założyć skład podatkowy)*. Retrieved from: <http://ksplegal.pl/ksp/upload/758bef082b.pdf>
- Mirek, I. (2013). *Excise duty (Polish title: Podatek akcyzowy)*. Retrieved from: http://www.wpia.uni.lodz.pl/psppod/cms/pliki_upload/Podatek%20akcyzowy.pdf
- Moussis, N. (2011). *Access to European Union: Law, Economics, Policies*. Rixensart: Euroconfidentiel.
- Keen M. (2012). Taxation and Development – Again. *IMF Working Paper (WP/12/220)*. Washington: International Monetary Fund. Retrieved from: <http://www.imf.org/external/pubs/ft/wp/2012/wp12220.pdf>
- Schroer-Schallenberg, S. (2012). The legality of non-harmonized excise duties in the European internal market using Federal Republic of Germany as an example. *World Customs Journal*, vol 6. Canberra, Munster: University of Canberra and University of Munster, p. 9-18.
- Siroky, J., Kovarova A. (2010). Trends and expected changes in tax policy in the European Union. *National and regional economics*. Ostrava: Ekonomická fakulta VSB.
- Smiechowicz, J. (2005). Excise duty in Poland in 1994-2003 and its fiscal importance. Retrieved from: http://ekonomia.biz.pl/util/show_pdf.php?issue_no=13&page=183
- Smiechowicz, J. (2003). Standardy Unii Europejskiej w zakresie podatku akcyzowego. *Unification of European Economies: Opportunities and Threats*. Retrieved from: <http://www.konferencja.edu.pl/ref8/pdf/pl/smiechowicz-Lublin.pdf>
- Supreme Audit Office (NIK). (2006). Analysis of state budget and monetary policy delivery in 2004 (Polish title: Analiza wykonania budżetu państwa i założeń polityki pieniężnej w 2005 roku). Warsaw: NIK.
- Supreme Audit Office (NIK). (2005). Analysis of state budget and monetary policy delivery in 2004 (Polish title: Analiza wykonania budżetu państwa i założeń polityki pieniężnej w 2004 roku). Warsaw: NIK.

Tyc, V. (2008). Harmonization of indirect taxes in the European Union. *International Journal of Law and Management*, vol. 50, no.2, pp. 87-92.