



# ” Changes in property tax for garages – the Polish Constitutional Tribunal judgment

Agnieszka Pilcicka

Senior Real Estate Market Analyst

AMRON CENTRE ANALYSIS

June 03, 2024





Property tax is one of the key sources of funds for local governments. It covers land, buildings and their parts, as well as structures related to running a business. In recent years, attention has been increasingly drawn to the problem of differentiating tax rates based on the type and purpose of the property. Many taxpayers wondered why their property tax rate for a garage was several times higher than their neighbour's rate. This caused numerous controversies and protests from garage owners.

The problem was that garages attached to a residential premises (legally constituting part of this dwellings) were taxed at the rate for residential buildings, which in 2024 amounted to a maximum of PLN 1.15 per square meter of usable area. On the other hand, garages that were separate properties have so far been classified as other buildings (even if they were located in a residential building), for which the tax rate was a maximum of PLN 11.17 per square meter, i.e. ten times higher.

**TABLE 1. PROPERTY TAX AMOUNT CALCULATED FOR A DWELLING AND A PARKING SPACE DEPENDING ON ITS LEGAL STATUS**

|  | Usable area | Tax rate  | Property tax      |
|--|-------------|-----------|-------------------|
| <b>When the parking space is located in a garage that is a separate property</b> |             |           |                   |
| Dwelling   | 50 sqm      | PLN 1.15  | PLN 57.50         |
| Parking space  | 25 sqm      | PLN 11.17 | PLN 279.25        |
| <b>Suma</b>  |             |           | <b>PLN 336.75</b> |
| <b>When the parking space is attached to a residential dwelling</b>              |             |           |                   |
| Dwelling   | 50 sqm      | PLN 1.15  | PLN 57.50         |
| Parking space  | 25 sqm      | PLN 1.15  | PLN 28.75         |
| <b>Suma</b>  |             |           | <b>PLN 86.25</b>  |

Source: own elaboration

Is that fair? A married couple who purchased a dwelling with a parking space in a multi-car garage separated as an independent non-residential unit with its own land and mortgage register, decided it was not and filed a complaint to the court. Ultimately, the Constitutional Tribunal took up the case.

### Judgment of the Constitutional Tribunal

In its judgment, the Constitutional Tribunal ruled that differentiation of property tax rates for garages is inconsistent with the Constitution of the Republic of Poland, specifically with the principle of equality before the law and the principle of social justice.

The Tribunal argued that, from the point of view of tax law provisions, there are no grounds for garages in multi-apartment buildings to be treated as a non-uniform category. According to the judges, the tax rate is not determined based on the legal nature of the property right, but on the purpose for which it is used. Moreover, in the modern world, a parking space is considered a natural and even essential element of a dwelling, because it meets people's basic housing needs. The same applies to other attached rooms, for example a basement, storage room or attic, even if they are not directly adjacent to the premises or even located in the building, but are only located within the boundaries of the land property. They are subject to taxation at rates provided for residential buildings. Additionally, regardless of whether a garage constitutes a separate property from the residential unit or is attached to it, it serves the same function<sup>1</sup>.

The differentiation of tax rates for garages and other types of residential properties lacks substantive justification and leads to unfair financial burden on garage owners. Therefore, the Tribunal ordered the elimination of such differentiation and the introduction of uniform tax rates for all residential properties, including garages.

### Status of work on the amendment of regulations

In response to the Commissioner for Human Rights' intervention regarding work on the definition of a structure and clarifying the taxation rules for garages, on March 6th of this year, the Ministry of Finance assured that work in this area has already

<sup>1</sup> <https://trybunal.gov.pl/postepowanie-i-orzeczenia/wyroki/art/12434-podatek-od-nieruchomosci-wyodrebnienie-garazu-jako-przedmiotu-odrebnej-wlasnosci>



started. The aim of the legislative changes is to standardize the taxation rules for multi-car garages located in multi-apartment buildings.

It is planned that the new regulations will be published no later than the end of November of this year. However, as indicated by the Tribunal's judgment, the unconstitutional provisions of the Act on Local Taxes and Fees will cease to apply from January 1st, 2025, so the next tax decision for 2025 will already take into account uniform rates for garages.

It is also worth noting that the Ministry of Finance does not currently plan to introduce systemic changes in property taxation (e.g., introducing a cadastral tax)<sup>2</sup>.

### Consequences of the judgment

The judgment of the Constitutional Tribunal has significant implications for the tax system in Poland, both for garage owners and local governments. First of all, garage owners can expect a reduction in property tax rates, which in practice means lower financial burdens. This, in turn, may contribute to greater acceptance of the tax system and improved relations between residents and local authorities.

For local governments, the Tribunal's judgment means the need to adjust local tax resolutions to new legal requirements. Municipalities will have to cease differentiation of tax rates for garages and introduce uniform rates for all residential properties. This means changing budgets and rethinking financial strategies to compensate for declines in property tax revenues.

<sup>2</sup> [https://bip.brpo.gov.pl/sites/default/files/2024-03/Odpowiedz\\_MF\\_podatki\\_budowle\\_definicja\\_6\\_03\\_2024.pdf](https://bip.brpo.gov.pl/sites/default/files/2024-03/Odpowiedz_MF_podatki_budowle_definicja_6_03_2024.pdf)



**AGNIESZKA PILCICKA**

Senior Real Estate Market Analyst

e-mail: [agnieszka.pilcicka@amron.pl](mailto:agnieszka.pilcicka@amron.pl)

## AMRON Centre

AMRON Centre is a professional analytical and research center, specializing in issues relating to the real estate market analysis and monitoring. Since over 10 years we provide our clients and partners with reliable information on real estate market, we explain phenomena recorded on that market and we assure the access to dependable economic information. Our expertise and experience covers assessing the influence of transaction prices changes on Polish housing market perspectives – as the only market researches provider, we analyze changes on housing loans market, due to access to the data gathered in System for Analysis of Real Estate Financing Market (SARFiN System). Unlike publications of other housing market consulting companies, our reports express the actual picture of the market, based on transaction prices. We guarantee comprehensive approach to the real estate market issues, including the complex analyses of micro- and macroeconomic factors and long-term perspective grounded on historic data, current market prices and prognoses.

### LEGAL NOTE

AMRON Centre states that the Report was prepared with due diligence in purpose to assure the accuracy of the presented information. Nevertheless, AMRON Centre reserves that the Report shall be of a general nature and may not be concerned as advisory service or any kind of service. AMRON Centre shall not bear responsibility for any consequences of using the information included in the Report, in particular any consequences of decisions or actions undertaken or abandoned on the basis of included information.

Contents of the Reports is legally protected due to the regulations of Act on copyrights and other related rights and use of it entirely or in part requires a disclosure on presented data source.

AMRON Centre acts in the name of and on behalf of Polish Banks Association, owner of the AMRON System.