Bank Tax in the European Union

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ABSTRACT

The imposition of bank tax is being discussed both in the Europe and the USA. A number of countries have already introduced this tax. However, the opinions of different countries on the issue are diversified. In this connection, the imposition of uniform bank tax within the European Union seems doubtful. And this is the thesis of article. Legislating this special property tax poses a number of questions: (a) is it a legitimate anti-crisis instrument? (b) why is the growth in value within the banking sector limited through a number of financial levies, while there are no burdens of this kind in other financial and non-financial sector? (c) what is being planned in EU and individual member states in this area.

1. Introduction

In a number of countries the recapitalisation of banks or their nationalisation came as a consequence of post-crisis activities. The European Commission recommended closer supervision and stricter regulations in the sector (Basel III), and also the creation of recovery and liquidation funds [6]. Thanks to these funds it would be possible to finance the current activity of an insolvent bank in the course of liquidation or takeover by a stronger bank. Bank tax would be the source of financing.

The initial projects concerned this sort of duty only with regard to large banks, as a special source of financing future anti-crisis expenses enabling abandoning the principle of too big to fail [7, 14]. Extensive discussions in many countries and international institutions about the regulations for large financial structures are reflected in an IMF document [6]. The Fund claimed that the reforms of the banking sector should be aimed at solving problems connected with the risk caused by large and complex financial institutions.

In the discussions published in international financial periodicals there are various models of bank tax presented (See Table 1).

Table 1. Models of bank tax

<table>
<thead>
<tr>
<th>No.</th>
<th>Criterion</th>
<th>Approach</th>
<th>Remarks</th>
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<tr>
<td>1</td>
<td>Tax payers</td>
<td>- all credit institutions</td>
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<td></td>
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<td>- banks only</td>
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<td>- large banks only</td>
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<td>2</td>
<td>Calculation base</td>
<td>- turnover (bank operations)</td>
<td>In some countries liabilities constitute the base</td>
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<td></td>
<td></td>
<td>- assets</td>
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<td></td>
<td></td>
<td>- deposits, deposits reduced by guaranteed amounts</td>
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<td></td>
<td></td>
<td>- others</td>
<td></td>
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<td>Purpose of funds from tax revenue</td>
<td>- bank restructuring fund (special fund)</td>
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<td>- deposit guarantee fund</td>
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<td>- state budget</td>
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<td>4</td>
<td>Payment frequency</td>
<td>- annually</td>
<td>Tax in definite time - Hungary</td>
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<td></td>
<td></td>
<td>- monthly</td>
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<td>5</td>
<td>Validity period</td>
<td>- indefinite time</td>
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<td>- definite time</td>
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<td>- diversified solutions in member states</td>
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<td>Character of public legal liability</td>
<td>- tax proper</td>
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<td></td>
<td></td>
<td>- contributions to a state or guarantee fund</td>
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Source: own materials

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In the European Union 10 countries have introduced the bank tax or are in the course of it. Sweden introduced it in 2008 and in Hungary it actually contributes to the state budget.

In the internal report of January 2011 the European Commission states that the interest of the financial sector requires the existence of the last resort to enable the public authorities to carry out a rescue operation and suggests tax of 0.2% of bank assets in the euro zone, which is to generate the revenue of 50m euros for a special recovery fund.

2. European Commission work

In May 2010 the European Commission presented an initiative to introduce the bank tax meant to cover the costs of liquidation of collapsing banks in the European Union [www 2]. It was to be a uniform tax introduced after general Union consultations. The actions undertaken by the European Commission were delayed due the prior introduction or well advanced work on the tax in individual member states, e.g. in Sweden or Germany. The activity of the European Commission referred to the Union plan to manage future financial crises. The new bank tax would be fixed on the basis of bank assets, liabilities or profits. The detailed methodology of its calculation was postponed till later.

The initiative of the European Commission assumed the establishment by the EU member states special bank resolution national funds operating on the basis of generally accepted principles [www 3]. The funds would make up a network and would receive money from the bank tax, and the means acquired in this way would be used to comprehensively solve problems resulting from bank bankruptcies appearing within the Union area. Thanks to them it would be possible to curb the crisis and also to avoid a sudden sale of bank assets [www 2].

The initial proposals assumed the amount of funds at the level of 2 – 4 per cent of GDP. However, M. Barnier ² claims that the funds arising from bank taxes should not be a kind of insurance policy for banks in trouble.

The primary goal of these activities is to protect taxpayers against budgetary sponsoring of recovery plans of banks in a difficult situation due to the crisis. The fund will also mitigate the domino effect in the sector after the collapse of one bank. According M. Barnier the financial sector itself should bear the cost of bank crises in the future [www 2].

The proposal of the European Commission concerning the imposition of bank taxes was politically supported by the European governments on 17 June 2010. According to the European Council: "member states should introduce a system of contributions and taxes imposed on financial institutions so as to ensure the equal burden and determine stimuli to minimise the systemic risk" [17]. Next, the European Commission dealt with the harmonisation of the principles of approaching the bank tax. According to the European Commission there was a risk of violating the principle of fair competition in the situation of the lack of coordination in the introduction of regulations on tax collection from some institutions involved in trans-border business. One bank could be taxed a number of times. The proposals of the Commission of the summer of 2010 assumed that: [17. p. 3]

• the bank levy will be an element to create the crisis management framework,
• detailed issues like the purpose of introduction, the scope or the calculation base will be agreed on by the whole Union,
• the tax base will be credit institutions' liabilities reduced by the deposits under guarantees and the bank own capital; guaranteed deposits are excluded because they are insured by the guarantee systems (e.g. in Poland by the Bank Guarantee Fund), and bank own capital would be excluded because its main goal is to absorb losses in business entities,
• the subject scope of taxes reflects the responsibility for supervision and crisis management; it is essential to avoid the risk of double taxation of the same bank operating in several EU countries at the same time,
• the necessity to calibrate taxes on banks so that they would not build too heavy burdens for them,
• carrying out regular reviews of taxes with respect to their connection and complementarity with other regulations, including tax regulations.

On 20 October 2010 the European Commission presented another outline of the Framework for Crisis Management to take effect in financial institutions [www 8]. The European Commission followed the principle that no bank is too large to collapse. Having learned from the sad past experiences, the EU authorities did not resign from introducing regulations aimed at the improvement of the security of the financial system in the future.

The European Commission in the Framework for Crisis Management in financial institutions did not resign from the idea of a joint bank fund for all member states, financed from the new tax. Detailed guidelines are to be published in 2011.

² Michael Barnier – EU commissioner for domestic market and financial services
In relation to the Communique of 20 October 2010, the European Commission announced on 6 January 2011 the beginning of the procedure of consultations on technical details concerning the framework for the crisis management for financial sector [www 4]. The Commission hopes to present a complex proposal of the new regulations on the proceedings in relation to collapsing banks.

The working process on the uniform bank tax in the European Union has extended in time due to different preferences of the member states.

3. The review of solutions in European countries

Great Britain
In 2010 the British government decided to introduce the bank tax from 2011 [www 16]. The Cameron cabinet's decision was first of all meant to implement budgetary cuts and to maintain the highest credit rating without cooling down the economy recovery. British banks will pay tax in relation to their balances and foreign operations. The state budget revenues estimated at 2 billion pounds would be directed to a special fund to come to the rescue to the indebted banks in the future. According to the statement of British Finance Minister G. Osborne the tax will be introduced in Great Britain irrespective of the decision about it made by other European Union member states.

The tax will affect the banks whose liabilities exceed 20 billion pounds with the following assumptions: [17, p. 14]
- the liabilities of bank groups in Great Britain and building societies will be evaluated at the consolidated level,
- liabilities of British banks operating within non-bank groups will be included,
- liabilities in aggregated balances of subsidiaries, foreign banks' branches and bank groups will be included,
- the tax will concern parent banks, their branches, subsidiaries, foreign banks subsidiaries and foreign banks' branches.

Bank tax in Great Britain will be calculated on banks’ liabilities reduced first of all by the initial capital, guaranteed retail deposits, treasury securities secured repo, also liabilities of retail insurers in relation to the insured customers within bank groups.

Tax rates have been set as follows: [17]
- at 0.04% on bank liabilities in 2011, whereas in the period of 2012 – 2015 at 0.07%,
- in relation to the sources of funding acquired on the interbank market with maturity not longer than 1 year, there will be a rate reduce by 50% i.e. 0.02 % in 2011 and 0.035% from 2012. [www 1, 16]

Belgium
Belgium imposed taxes from financial institutions like banks, brokerage or insurance companies in 2010. [17, p. 15] Money acquired in this way, estimated at 1.43 billion euros in 3 years, create a special fund, separated within the state budget. The tax is calculated on the amount of deposits of banks and brokerage companies according to the basic rate of 0.15%, and on the total value of qualified insurance policies in the case of insurance companies. There are two parts of the levy:
1/ Entry Fee concerning banks and partnership brokers raised by 10 bps,
2/ Annual Levy assumed to rise by 15 bps.

France
The French government planned to include the new bank tax in the 2011 state budget. This tax revenue was estimated at about 400 m euros in 2011 [www 7]. The bank tax will be calculated on risk weighted assets according to the rate of 0.25%. The new tax burden will concern only banks with some reservations:
- French bank groups and foreign banks subsidiaries will pay the tax at the consolidated level,
- foreign bank branches operating on the French market will be exempt from the tax [17, p. 17].

It is worth mentioning that the French government plans to tax with the rate of 50% the bonuses exceeding the amount of 27,500 euros paid to the managers of banks and foreign bank subsidiaries operating in France. [www 6]

Sweden
Bank levies in Sweden have been effective since 2009 and the revenues are injected into a special stability fund. [www 10] The most important features are as follows: [17, p. 13]
- the main aim is to finance the activities indispensable to fight the risk of serious distortions within the Swedish financial system,
• the revenues come from the stability tax transferred by banks, credit institutions and also other levies connected with the support of the public sector like state guarantee charges,
• the money is deposited on interest accounts within the state budget,
• Sweden’s Debt Agency is the managing body,
• the amount accumulated in the period of 15 years comes up to about 2.5% of Sweden’s GDP.

The stability tax is levied on parent banks operating in Sweden, foreign banks subsidiaries based in Sweden and parent banks branches operating outside Sweden.

Bank tax is calculated on the amount of liabilities reduced by the initial capital and also some subordinated debt securities. The annual bank tax rate in Sweden amounts to 0.036%. However, in connection with the difficult economic situation in 2009 and 2010 the Swedish government reduced the rate by half. The authorities also planned to relate the tax to the risk suffered by banks and credit institutions and also to the deposit guarantee system [www 13].

Germany

In Germany work on the bank tax has been carried out in cooperation with the French government. Both countries were willing to agree on a relatively common position in this matter [www 5]. The revenues from the German bank tax estimated at about 1-1.3 billion euros annually will be injected into a special Restructuring Fund, [www 9] whose main task would be to carry out restructuring activities in banks of strategic and systemic significance for Germany. The bank tax will concern: [17, p. 13] parent banks operating in Germany, their branches based outside Germany and foreign banks’ subsidiaries operating in Germany. Foreign banks’ branches operating in the German Republic are not levied with tax.

The tax base will be the liabilities reduced by the bank own capital, guaranteed liabilities in relation to clients, and also derivatives nominal value. The amount will depend on the scale of the operation of the bank.

The following progressive scale has been established:
• 0.02% on liabilities below 10 billion euros,
• 0.03% on liabilities from 10 to 100 billion euros,
• 0.04% on liabilities above 100 billion euros.

In order to reduce excessive bank taxing, it has been decided that the tax cannot exceed 15% of the net profit. It is important that banks showing no profit are not exempt from paying tax. In such cases banks will be obliged to pay 5% of the amount of obligatory rate.

Hungary

In Hungary bank tax was enacted in 2010 [17, p. 15]. The amounts taxed fund the state budget they have been effective since 30 September 2010. The revenue was estimated at 700 million euros annually. The new tax concerns banks, credit institutions, insurance companies and other institutions rendering financial services.

The tax bases and rates in Hungary are differentiated depending on the kind of institution:
• banks pay 0.15% of net assets, if the assets do not exceed 500 billion forints, and 0.5% on this part of assets that exceed the limit,
• insurers are levied with the rate of 6.2% on the adjusted insurance income,
• in financial firms the rate amounts to 6.5% on interest incomes and incomes from charges and commissions,
• investment firms and venture capital firms pay the rate of 5.6% on adjusted net incomes,
• investment fund managing companies pay the rate of 0.028% on the net value of the managed assets.

The imposition of such a high tax resulted in lay-offs of bank Staff carried out by for instance the Belgian KBC or Austrian Erste Bank. [www 15]

Poland

It is worth noting that in Poland the subprime crisis did not occur, there are no great structures within the bank system and the Bank Guarantee System (BFG) possesses a separate aid fund for bank recovery, though the sums accumulated there are low.

In Poland the project initially announced by the Finance Minister concerns tax on all banks, including foreign branches and would possibly contribute to BFG earmarked for bank recovery purposes [18, www 11]. One of the projects assumes taxing bank assets. According to the Finance Ministry the banks inclined more to grant risky loans should pay higher taxes [12].
The Association of the Polish Banks (ZBP) claims that the banking sector is taxed more than other sectors due to other public and legal duties (mandatory contributions to BFG, KNF - Financial Supervision Authority etc.). The imposition of bank tax translates into unequal competitive conditions among financial institutions: banks in relation to SKOK (Co-operative Savings and Credit Unions), loan companies and insurance companies. It will have an adverse effect on the whole economy, for instance in the area of credit prices [www 17]. In 2001 banks paid to the budget more than 2 billion zloty in tax, which amounts to 0% of the budget revenue on account of income tax. [1, 5]

In general, the proposal of introduction of this sort of tax should be assessed negatively. Firstly, for banks it will be an additional cost, which admittedly will be shifted to the clients, and credit prices in Poland are high anyway. Secondly, there is a loan fund within the Bank Guarantee Fund and banks pay mandatory contributions to BFG. The possibilities of raising the premium are flexible and quick to introduce, why then multiply bank public and legal duties? Thirdly, BFG is obliged to place free funds mandatory contributions to the deposit guarantee fund, the possibilities of raising the premium are flexible and quick to introduce, why then multiply bank public and legal duties? Thirdly, BFG is obliged to place free funds to the deposit guarantee fund, which amounts to 8% of the budget revenue on account of income tax. [1, 5]

To recapitulate, both the introduced and planned tax solutions are considerably diversified. There are technical issues, e.g. inter-temporal regulations [13]. Pan-European unification of regulations will not till the time of crisis [1]. In conclusion, the imposition of bank tax in Poland cannot be currently sufficiently justified.

Other countries

In Austria the tax concerns banks with liabilities over 1 billion euros with the rate of 0.055% for liabilities below 20 billion euros and 0.085% for liabilities above this amount. Tax is levied on liabilities excluding bank own capital, reserves and guaranteed deposits. The tax funds the state budget (about 0.5 billion euros annually).

Denmark plans to levy the bank tax on all banks, with deposits to be the tax base with the rate of 0.2%.

Portugal plans to impose the tax on the principles similar to those in Denmark, however, the rate would amount to 0.01 do 0.05% on part of liabilities.

Cyprus is preparing the imposition of tax on liabilities for banks and other financial institutions with the rate of 0.05%.

Czechs generally oppose the introduction of bank tax [13].

To recapitulate, both the introduced and planned tax solutions are considerably diversified. There is also a group of countries not interested in this tax at all [5].

Conclusion

Bank tax as an anti-crisis instrument has a lot of disadvantages. Due to a considerable diversification of tax solutions and absorption of funds by the state budget it may be remarked that it is being imposed in a hasty manner without sufficient domestic and international analyses.

The most important negative consequences of the bank tax are:
- the risk of double taxation on the international scale,
- two similar domestic public legal duties (tax and mandatory contributions to the deposit guarantee fund),
- the risk of migration of bank headquarters to the countries that do not apply such restrictive regulations,
- the deterioration of competition conditions (tax asymmetry),
- the unrelated levels of tax and risk,
- bank tax costs shifted to clients, credits to become more expensive.

In the question of uniform Union tax, it is essential not only to agree on the tax model but also on the procedure; for instance what sort of legal act is to regulate it: a directive or regulation and other technical issues, e.g. inter-temporal regulations [13]. Pan-European unification of regulations will not be simple judging on the current discussion about it in the Union.

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