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## **Financial charges of enterprises in the mining sector**

### Key words

Corporate taxes, labour tax and contributions, royalty, competitiveness, globalisation

### Abstract

This article presents the problems of enterprise taxation in selected countries of the world with special focus on enterprises in the mining sector. The article first discusses taxes and charges incurred by enterprises of all sectors divided into real and nominal taxes. It presents statistical data concerning the nominal rate of corporate income tax (CIT), real rate of interest due to taxes on profits, real rate of interest due to labour taxes and social insurance taxes as well as the real rate of interest due to other reasons in selected countries of Europe, Asia, both Americas, Africa and Australia. According to the aim of this article the selection relates to the countries where the mining sector is developed. The summary pertains to the problem of synchronization of corporate income tax rates in the European Union. Both arguments for and against such solution are presented in short.

The second part is devoted to enterprises in the mining sector, as there are other financial charges, e.g. mining royalties, with different than taxes function. The article presents general ways and kinds of calculating mining royalties and manners for calculating them in selected countries of the world. It has been exemplified by the mining royalties calculation system in Estonia. As far as Poland is concerned, system of mining royalties as well as mining royalties incurred by KGHM Polska Miedź S.A. were presented.

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### **Introduction**

Enterprises of the mining sector in the world are generally taxed on the same rules as other enterprises. It means that they have to pay taxes and other tax-like charges for other reasons such as for example ([www.doingbusiness.org](http://www.doingbusiness.org)):

- corporate income tax (CIT),
- turnover tax,
- labour taxes and charges (e.g. social insurance contributions),
- real property taxes,
- taxes on transfer of ownership,
- taxes on dividends,
- taxes on capital raised,
- taxes on financial transactions,
- taxes on means of transport,
- taxes included in fuel prices,
- local charges, environmental charges and other fees.

In certain countries the number of various taxes and charges reaches over 40 items per year. Each of them results in the reduction of net profit of an enterprise. For the mining industry moreover special charges exist e.g. royalties, which provide access to a particular resource. Royalty is not a tax itself; it is a charge for use of the resources. In Poland for example 40% of mining royalty are assigned for National Fund for Environmental Protection and Water Management and 60% for budget of local authority (gmina), where mining activities occur. The aim of this analysis is to present the amounts of the aforementioned taxes (profit, labour, etc.) and charges (mainly mining royalty) in selected countries of the world.

### **1. Taxes and charges incurred by enterprises**

The number of taxes and charges paid and their amounts show the level of difficulty in doing business in a given country. Excluding the value added tax (indirectly paid by enterprises) the above taxes and charges can be divided into three groups:

- profit taxes,
- labour taxes and social insurance contributions,
- other taxes and charges.

Table 1 presents a breakdown of taxes and charges divided into such groups and paid by enterprises in 2007. The table also includes the nominal rate of income tax paid by enterprises (corporate income tax) which due to various reasons is different from real taxation. Data contained in Table 1 refer to the second year of activity of a medium sized enterprise while Figure 1 presents the total index of enterprise taxation in 2007.

According to Table 1 and Figure 1 the level of taxation of enterprises in selected countries is different. Profit tax as a real per cent of trading profit varies between 5.9%

TABLE 1

Taxation of enterprises in selected countries of the world (as real per cent of trading profit)

TABELA 1

Opodatkowanie przedsiębiorstw w wybranych krajach świata (jako realny procent zysku handlowego)

Country	Nominal rate of corporate income tax	Real interest rate (per cent of trading profit)			
		Profit taxes	Labour tax and contributions	Other taxes	Total tax rate*
Hungary	16	7.9	39.4	7.9	55.1
Ireland	20	14.2	12.1	2.6	28.9
Estonia	23/77 <sup>1</sup>	9.3	38.3	1.6	49.2
Czech Republic	24	5.9	39.5	3.2	48.6
Slovakia	19	9.0	39.7	1.8	50.5
France	34.4	8.3	52.1	5.8	66.3
Poland	19	12.7	23.6	2.1	38.4
Australia	30	26.9	22.2	1.5	50.6
Canada	25.12/34.12 <sup>2</sup>	26.0	12.3	7.6	45.9
USA	34 <sup>3</sup>	27.1	9.6	9.5	46.2
Argentina	35	6.0	29.4	77.5	112.9
Ecuador	25	18.8	13.7	2.8	35.3
Brazil	25 <sup>4</sup>	21.1	40.6	7.5	69.2
Peru	30	27.4	11.8	2.3	41.5
Uzbekistan	12	1.2	28.2	66.9	96.3
Kazakhstan	30	16.1	17.8	2.9	36.7
China	33	19.9	46.0	8.0	73.9
Mongolia	15/30	14.8	22.6	1.1	38.4
Philippines	35	25.3	10.0	17.6	52.8
India	33.7	19.6	18.4	32.5	70.6
Indonesia	10–30	26.6	10.6	0.1	37.3
Papua New Guinea	30	22.2	10.9	8.6	41.7
South Africa	29	24.2	4.3	8.6	37.1

Source: own analysis on the basis of [www.doingbusiness.org](http://www.doingbusiness.org)<sup>1</sup> Income tax on actual and deemed distributions.<sup>2</sup> 12% provincial income tax +13.12% federal tax on 1<sup>st</sup> \$300k, 22.12% on remaining income.<sup>3</sup> Progressive schedule.<sup>4</sup> 15% + 10% (surcharge applies on annual taxable income exceeding R\$240 thousand).

\* Relation between total taxes and charges versus trading profit.

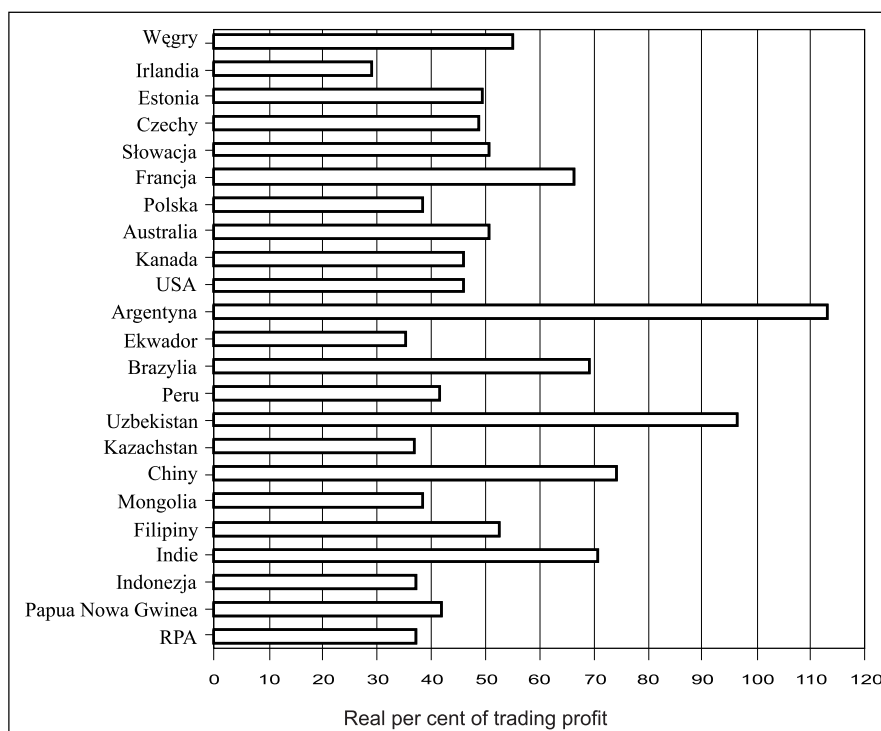


Fig. 1. Total taxation of enterprises in selected countries of the world

Source: own analysis on the basis of [www.doingbusiness.org](http://www.doingbusiness.org)

Rys. 1. Całkowite opodatkowanie przedsiębiorstw w wybranych krajach świata

Źródło: opracowanie własne na podstawie [www.doingbusiness.org](http://www.doingbusiness.org)

(Czech Republic) up to 27.4% (Peru). Labour taxes are from 4.3% in South Africa up to 52.1% of real profit in France. Other charges varies from 0.1% (Indonesia) up to 77.5% of trading profit in Argentina. The nominal rate of corporate income tax varies relatively little. It is from 12% in Uzbekistan up to 35% in the Philippines.

The highest level of total tax rate (relation between total taxes and charges versus trading profit) is in Argentina where it is 112.9% of profit. Such level is due to the turnover tax applied in Argentina and due to social insurance contributions. The second is Uzbekistan where the total tax rate is 96.3%. Such level results from unified social charges and contributions to the road fund as well as educational tax. In China the rate is 73.9% of the real trading profit and it is mainly affected by social insurance contributions and corporate income tax.

The lowest level of total tax in 2007 has been recorded in Ireland, which is 28.9% (however the corporation tax rate for some extractive industries in Ireland is higher than the standard corporation tax rate for most other manufacturing and services industries), in Ecuador – 35.3% and Kazakhstan – 36.7%. In those two countries such low level of the rate is generally due to a small number of other taxes and charges incurred. In Ecuador there are

only seven of them per year while in Ireland and Kazakhstan – nine. Also social insurance contributions are low in those three countries.

In the group of selected countries Poland has a good position since its rate is 38.4%. Taking the geographical structure into account it can be noted that in the European countries, North America and Oceania there are no significant differences as regards the total real tax, and its level varies between 40–50%. In South America and Asia they are much different (from 35 up to 112%) and a special analysis of any burdens is necessary for making any investment there. It is especially important for analysis of mining undertakings that are capital consuming and long-term investments additionally encumbered with various charges due to environmental protection or exploration of resources.

Taxation of mineral production is a complex problem. It is caused by the unique combination of mineral extraction and time and amount of economic income generated. The mining sector has some features that, if taken together, do not have their equivalents in other sectors. Such features include risk and uncertainty connected with geological conditions, big scale of an undertaking (which entails significant investment expenditures) and significant negative impact of mining activity on the environment (Kulczycka 2001).

In order to determine the actual impact of possible fiscal burdens in a given country on the profitability of a selected mining undertaking one should take into account both generally applicable fiscal regulations and regulations specific for the mining sector (different charges).

## 2. Mining royalties

The royalty is the mineral property owner's share of the minerals, which are produced and sold from the owner's property. These descriptive royalty terms are not always used in the same sense in which they are described here and consequently, both the mineral property owner and the mining operator should ensure that the mining lease accurately describes the type of mineral production royalty they intend to have on the property.

There are several type of mining royalties but generally in practise there are unit based, value based or profit or income based, and in some countries – Sweden, Chile, Mexico – no royalties. Hybrid system that combine several methods are also in use on unit with the principal (Otto 2006). Based on these rules mineral production royalties usually take one of four basic forms:

- flat rate unit of production royalty,
- gross, or net smelter return (NSR),
- net revenue,
- net profits royalty.

“The **flat rate unit of production royalty** is simply a fixed amount of money that the mineral property owner and mining operator have agreed upon will be paid for each ton, pound or ounce of mineral product that is produced or sold from the owner's property. This royalty is perhaps the simplest to understand and administer because it only requires an

accurate count of the 'units of production' produced or sold during a royalty accounting period. This royalty does not take into account the selling price or any costs of production of the mineral product being mined from the property, and does not usually have any adjustment for inflation. This type of royalty appears to be most commonly used in construction materials properties, those that are mined for sand, gravel and crushed stone. This type of royalty has lost some of its popularity because mineral property owners realized that the payments did not keep pace with inflation, or were not providing them with a fair return for the use of their land.

The **gross, or net smelter return (NSR)** royalty, is characterized by royalty payments that are a fixed or variable percentage of the sales price, or gross revenue, the mining operator receives from the sale of mineral product from the property. The mining operator's gross revenue, in metal mines, is often referred to as Net Smelter Return because it is common for the mining operator to sell the mineral product in a form that requires further processing by a smelter or refinery. The Net Smelter Return is the amount of money which the smelter or refinery pays the mining operator for the mineral product and is usually based on a spot, or current price of the mineral, with deductions for the costs associated with further processing. In non-metal mines the selling price is usually 'fob mine site' because of the transportation costs involved in delivering the mineral product to the buyer. Gross, or NSR, royalty payments are also fairly simple to calculate and administer in that only the selling price and quantity of mineral product produced or sold are required for their determination. A mining lease clause usually specifies the selling price that is to be used because of the differences in price among the spot, contract and forward markets that exist for different mineral products. Because the mineral price and quantity of mineral produced or sold may vary considerably during a royalty accounting period, the mining lease must provide details regarding the amount of information that is supplied to the mineral property owner in order for the owner to verify, or audit, the royalty payment amounts. This type of royalty will usually have the highest market value of all the royalty types in the event the royalty owner should want to sell it to a royalty buying company.

A **net revenue, or net proceeds royalty** is often interpreted to mean that some operating costs associated with the on-site mining and processing of the mineral are allowed to be deducted from the gross revenue before calculation of the royalty. Net revenue is defined as gross revenue less allowable production costs. Net revenue royalties are usually a fixed or variable percentage of this net revenue. It is usual for these allowable production costs to be actual direct cash costs at the mine site and not 'accounting' or 'standard' costs that include indirect expenses such as exploration and corporate overhead. The costs of production which are allowed to be deducted must be accurately described in the mining lease to eliminate future disagreements about the amount of the royalty payment. Some mining leases will contain an exhibit, that describes by example, exactly which mining and processing costs are allowable deductions, how these allowable costs will be determined, and the calculations used to arrive at the net revenue and royalty amounts. Depending upon the amount of the

allowable deductions, a net revenue royalty may be able to be sold to a royalty buying company for a lump sum cash payment.

A **net profits royalty** is similar to a net revenue royalty in that certain production costs are allowed to be deducted prior to determination of the royalty payment. But, the allowable cost deductions in a net profits royalty may include all of the costs that can be tied to a particular mining operation, including exploration, corporate overhead, depreciation, depletion, amortization and any and all taxes. There seem to be two basic types of net profits royalties, one that is based on direct cash production costs, and one that is based on all production costs, direct and indirect and cash and non-cash, and may or may not be based on after income tax profit. The distinguishing feature of a net profits royalty is that, depending upon the exact definitions in the mining lease and the actual calculations, it will very often be zero” ([www.minval.com/royalty\\_mineral.html](http://www.minval.com/royalty_mineral.html)).

There are more combination of these four basic types, e.g. mining fee for additional raw materials (An owner of the investment, by granting a permit for exploitation of one mineral, has also the right to participate in all profits realized from sale of other minerals mined), combined mining fee (e.g. type depends on output), etc.

### 3. Mining royalties in different countries

National law, local law or negotiated agreement can be a basis for legal origin of mining royalties. There are only a few countries that require no royalty payments, e.g. Sweden, Chile and Mexico. In other European countries the types can vary significant.

“For example in Ireland royalty is establish in individual agreement between privet mining company and the government. Actual rate are settle by negotiation and an annual minimum payment called a Dead Rent, merges into royalty. Both Dear Rent and royalties are negotiated on a case-by case basis, although the mining companies in operation in Ireland are not aware of exactly how the criteria are applied in arriving at royalty rates. The current position on royalty rates, decided on a case by case basis, is difficult for exploration companies as it is complicates the investment decision, is time-consuming and leads to different companies being assessed for royalties at different rate” (Harries 1996).

In Poland and in Estonia the mining royalty is based on flat rate unit of production royalty, changing (increasing) usually every year (Table 2).

Since 1 January 2002 a flot rate system implemented. The basic elements used for calculating a royalty is the quantity of mineral mined within a quarter and the rate for a measurement unit. Unit rates of royalties for individual kinds of minerals are specified by an ordinance of the Council of Ministers issued on the basis of a statutory authorization. In 2007 the rates have amounted from 0 PLN for one m<sup>3</sup> of thermal water up to 32 PLN for a tone of oil.

Since the rates are much varied, receipts from royalties are mainly generated from charges for mining hard coal – over 46% of the total amount of royalties fixed, brown coal –

TABLE 2

Mining royalty levy in Estonia – Government ordinance under Act of Environmental Charges

TABELA 2

System opłat eksploatacyjnych w Estonii

No.	Mineral resource		Unit	Natural resource levy, kroons* – starting at			
				1-1-06	1-1-07	1-1-08	1-1-09
1	Dolomite	Low-Q, filling ground	m <sup>3</sup>	6	6.3	6.6	7
2		Low-Q,	m <sup>3</sup>	7	7.4	7.7	8
3		High-mark	m <sup>3</sup>	9.5	12	13	14
4		Technological	m <sup>3</sup>	30	33	36	39
5		Final surfacing in construction	m <sup>3</sup>	19	26	27	29
6	Phosphorite		t	10	10.5	11	11.6
7	Crystalline construction material		m <sup>3</sup>	10	10	10	10.5
8	Gravel	Low-Q, filling ground	m <sup>3</sup>	4	4.2	4.4	4.6
9		Construction gravel	m <sup>3</sup>	15	20	21	22
10	Sand	Low-Q, filling ground	m <sup>3</sup>	3.4	3.6	3.7	3.9
11		Construction (concrete etc) sand	m <sup>3</sup>	9	12.5	13	14
12		Tehnoloogiline	m <sup>3</sup>	10	15	16	17.5
13	Limestone	Low-Q, filling ground	m <sup>3</sup>	5.5	5.7	6	6.5
14		Low-Q,	m <sup>3</sup>	7	7.4	7.7	8
15		High-mark	m <sup>3</sup>	9.5	12	13	14
16		Technological (for glass etc)	m <sup>3</sup>	15	20	21	22
17		Final surfacing in construction	m <sup>3</sup>	19	26	28	29
18	Oilshale		t	10.4	10.9	11.5	12
19	Clay	Ceramic- and light-gavel (expanded burned clay)	m <sup>3</sup>	4	5	6	6.5
20		High-temperature smelting clay	m <sup>3</sup>	9.5	12.5	13	14
21		Cement clay	m <sup>3</sup>	4.5	6	6.5	7
22	Peat	White peat' (low-desintrgrated) – or high-mires peat (mainly for horticulture)	t	14	14.7	15.4	16.2
23		Dark' or well desintegrated low-bogs peat (mainly as fuel)	t	9	9.5	9.9	10.4

Source: Peeter Eek

\* Note: 1 EUR = 15.6 kroons.



22%, copper ores – 17% and charges for exploitation of hydrocarbons (natural gas and crude oil) – 11%. Fees for other minerals are insignificant e.g. for mining zinc or lead ores and rock salt just exceed 1% (Szmalek 2005).

Amounts of mining royalties in Poland can be presented using KGHM Polska Miedź S.A. as an example (Table 3).

TABLE 3

Mining royalties incurred by KGHM Polska Miedź S.A.

TABELA 3

Oplaty eksploatacyjne ponoszone przez KGHM Polska Miedź S.A.

Year	Mining royalty as per cent of net income	Mining royalty as per cent of production costs of products sold	Mining royalty as per cent of all taxes and charges*
2002	24.42	1.63	29.51
2003	14.94	1.63	28.67
2004 (first 6 months)	3.52	1.72	28.96

\* Taxes and charges constituting tax deductible costs – according to the rules of the accounting act.  
Source: own study on the basis of Szmalek 2005; www.khgm.pl

In Czech Republic it is based on ad valorem basis, the rate depends on type of extracted minerals and range between 0.5 to 10% of its trade price, e.g. value of raw material e.g. 8% for feldspar, 4% dolomites, 2% construction materials (Mineral... 2006).

In Australia most royalties are levied at the provincial level, and types are varied in different regions (mostly ad valorem based and profit based), e.g. in Western Australia royalty rate for most non-industrial minerals amount to 2.5–7.5% ad valorem, for example for s of 5% for copper concentrate value, and for coal 7.5% of value if exported (Otto et al. 2006).

In Canada the royalty rates are varied in different states, but most Canadian jurisdiction levy a tax on mines based on profits or net revenue sometimes with some additional requirements, for example royalty rate for copper in Saskatchewan is 5% of net profit (increases to 10% with lifetime production thresholds, whereas in Northwest Territories 5–14% of output value. Mine taxation in the United States is highly complex and is often tied to the type of land where minerals occur – federal, state, Native American, private land – and to the type of minerals, e.g. in Arizona for copper it is at least 2% of market price. In Latin American countries royalty are mainly calculated on ad valorem-based system, e.g. for copper in Peru from 1–3% on gross value depends on size of sale (1% up to 60 M USD, 2% from 60–120 M USD, over 120 M – 3%). In Asia nations royalties for metal usually calculated on ad valorem based, whereas for industrial minerals on unit-based, e.g. in for copper China at 2% ad valorem plus 0.4–30.0 yuan/tonne ore. In African countries royalty for most non-industrial minerals are usually calculated on ad valorem basis, i.e. sales revenue or NSR, e.g. for copper in Zambia 2% ad valorem on NSR (Otto et al. 2006).

### Summary

Financial charges of enterprises in the mining sector is a complex problem. It is caused by the unique combination of mineral exploitation with time and amount of economic income generated. The mining sector has certain features, which if taken together, do not have their equivalents in other sectors. Such features include risk and uncertainty of geological conditions, big scale of an undertaking (which entails significant investment expenditures) and significant negative impact of mining activity on the environment. In order to determine the actual impact of the all financial charges (taxes and charges) in a given country on the profitability of a given mining undertaking once should take into account tax regulations as well as specific charges (mining royalty) applicable within the entire duration of an investment. Such mining investments are usually long-term and capital consuming investments, hence the stabilization of the existing tax system (or its change for benefit of an investor) is very important. In many countries the rate of corporate income tax and of other taxes connected with mining activity is governed by general tax law and mining law, and not individual agreements, and thus it is uniform for the majority of entities. Also decreasing nominal levels of income tax which are not correlated with the real tax rate is an important phenomenon (Kulczycka 2001).

In spite of the fact that functions to be met by income tax, earnings tax or charges and encumbrances specific for a given economic activity (e.g. mining royalties) are different, they influence final decisions of an investor. In case of mining royalty the flat rate system is a transparent one mainly for bodies that monitor receipts from such royalties. The amount of receipts depends on the rates applicable within a given year, but mostly on the production volume. It does not have any impact on the competitive position of entities that mine minerals, if they are comparable in terms of quality (which is not always the case), because each entity pays the same royalty regardless of the production volume. However, due to cyclical conditions in the mineral market, the share of royalties in the case of boom and price increase, is relatively low, however when there is recession and prices go down, it might be a significant burden for the producer. Furthermore, as regards the national royalty system there are still doubts and reservations as to (Kulczycka, Nieć, Uberman 2003):

- amount of individual rates of mining royalties,
- the list of minerals presented in the act and lack of their relation with the manner of economic usage,
- determination of quantities of minerals mined,
- using a free interpretation (meaning) for certain terms (e.g. mineral).

The fact that there are many complex systems of mining royalties indicates that there is no single and good system of their calculation. Such system should be linked with other charges and taxes so that it does not affect a competitive position in the international market.

It is especially important in the times of liberalization of the international market and Poland's accession to the uniform EU market. It is worth mentioning that the European Union plans to unify the base rates of corporate income tax (CIT). This issue has been

discussed for many years. Direct taxes have not been harmonized as deeply as indirect taxes. According to art. 93 of the Treaty establishing the European Union the harmonization of taxes may only be applicable to indirect taxes. However, if a relevant procedure is observed and all states agree, the synchronization of indirect taxes is also possible. For a few years now there has been a new goal for the synchronization of corporate income tax, namely to remove tax obstacles for companies that conduct their activity within the territory of more than one Member State. The European Commission has now been working on the project of the Common Consolidated Corporate Tax Base – CCCTB. The harmonization of corporate income tax base would especially facilitate the operation of big international companies. It would result in reduction of expenditures for maintaining separate accounting systems in Member States and for reducing the tax risk of doing business in the EU. Apart from benefits the synchronization of corporate income tax may bring problems and raise reservations. It is generally pointed out that the unification of CIT base would result in reduction of the existing tax competition between Member States. Such competition is contributed by various investment reliefs, exemptions, “tax holidays”, deduction schemes, etc. All these elements would be now unified. Many experts think that tax competition between states has good impact on the economy and counteracts the increase of taxes by the states. Thus it is some kind of warranty that tax burdens will remain low. In other case both capital and taxpayers could go to another country where taxation is more favourable. The final result of tax competition is the equalization of taxes on a socially effective level. Too high tax increase would mean decrease in tax receipts. Tax competition is then a factor that disciplines and mobilizes governments to effectively manage the economy and to fix tax burdens on a socially acceptable level ([www.monitorpodatkowy.pl](http://www.monitorpodatkowy.pl)).

At the end it is worth saying that the unification may be delayed by Ireland that definitely criticizes the idea. A referendum on the new EU Treaty will be soon held in Ireland. If before the referendum date the European Commission makes concrete decisions regarding the CIT unification, it may happen that both the Treaty and tax reform will be rejected by Ireland. Members of the European Commission opt for implementing the reform only after the Irish referendum is held.

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#### OBCIĄŻENIA FINANSOWE PRZEDSIĘBIORSTW PRZEMYSŁU WYDOBYWCZEGO

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Podatek dochodowy, podatek od wynagrodzeń, opłaty eksploatacyjne, konkurencyjność, globalizacja

##### Streszczenie

Artykuł prezentuje problematykę opodatkowania przedsiębiorstw w wybranych krajach świata ze szczególnym uwzględnieniem przedsiębiorstw przemysłu wydobywczego. W pierwszej kolejności omówiono podatki i opłaty ponoszone przez przedsiębiorstwa wszystkich branż w podziale na opodatkowanie realne i nominalne. Przedstawiono dane statystyczne dotyczące nominalnej stawki podatku dochodowego od osób prawnych (CIT), realnej stopy opodatkowania z tytułu podatków od zysku, realnej stopy opodatkowania z tytułu podatków związanych z zatrudnianiem pracowników i składek na ubezpieczenie społeczne oraz realnej stopy oprocentowania z pozostałych tytułów w wybranych krajach Europy, Azji, obu Ameryk, Afryki i Australii. Zgodnie z celem artykułu wybrano kraje, w których rozwinięty jest przemysł wydobywczy. Nawiązano do dyskutowanego problemu synchronizacji stawek podatku dochodowego od osób prawnych w Unii Europejskiej. Przedstawiono krótko argumenty przemawiające za tym rozwiązaniem, jak i jemu przeciwne. Część druga poświęcona jest przedsiębiorstwom przemysłu wydobywczego, który poza podatkami obciążony jest specjalistycznymi opłatami np. eksploatacyjnymi, mającymi spełniać inne funkcje niż podatki. Przedstawiono ogólne sposoby i rodzaje naliczania opłat eksploatacyjnych oraz konkretne sposoby naliczania tych opłat w wybranych krajach świata. Jako przykłady przedstawiono system naliczania opłat eksploatacyjnych w Estonii. Jeśli chodzi o Polskę, to przedstawiono zasady tu obowiązujące oraz wysokość opłat eksploatacyjnych ponoszonych na przykładzie producenta miedzi – KGHM Polska Miedź S.A.