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Taxation of Capital Gains in European Union Member States. Comparative Analysis on the Example of Legal Regulations in France, Poland, and Sweden

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Capital gains taxation can be a crucial element of the competitiveness of a given economic area or country, especially from the perspective of investors operating at the level of international market.

The purpose of this article, which utilizes a dogmatic, historical-descriptive, and primarily comparative method, is to compare and contrast models of capital gains taxation within the European Union. In particular, the scope of general EU regulations in this area will be analyzed, as well as certain national specificities, which will be demonstrated in French and Polish law, also with reference to the model adopted in Sweden.

Therefore, a crucial issue will be to determine whether national solutions merely constitute modifications of the base model used in the EU or whether they are entirely different models based on the principle of diversification of legal solutions across the EU.

A comparative analysis will allow for deeper conclusions in this area, including answering the question of whether a single European model of capital gains taxation is possible, or whether the differences at the level of individual countries are too significant. The diverse approaches to regulating capital gains taxation presented in this study may constitute an interesting element of further, in-depth analysis, extended to other countries and continents, aimed at finding the most optimal model adapted to contemporary economic realities. It is worth mentioning that this adaptation to economic realities should take into account the disruption of international stability due to successive crises and thus adhere more closely than before to the principle of legal certainty, which is crucial today.

Keywords: capital gains, tax law, Polish law, French law, comparative law, financial market law

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1. Introduction

Given the growing importance of globalization, which, combined with widespread access to new technologies, is blurring traditional national boundaries, the issue of harmonizing tax policy is gaining additional importance. Tax law regulations are a crucial element in the process of competition between different legal systems, due to the fact that they increasingly influence the investment decisions of entities operating at the supranational level (Gajewski, 2014, p. 83).

There are already many very interesting studies showing that, consciously or not, individual countries or groups of countries compete with each other in terms of particular types of taxes (Heinemann, 2021, p. 2). In this respect, questions are also asked whether within the framework of this competition at the European Union level we are dealing with competition or with coordination of tax policy aimed at developing a more harmonized model (Działo, 2015, p. 26). Other studies also indicate that the increased mobility of capital has significantly intensified the phenomenon of tax competition (Zodrow, 2010, p. 866), and additionally, increased economic openness that favors this competition may lead to the activation of the process of adjustment to shocks and effects specific to a given period and country (Overesch, Rincke, 2011, p. 866). The above takes on a special dimension when taxation issues are linked to the financial market, which is a rather specific environment in which the competition between legal systems takes on particular importance, especially due to its essentially cross-border and supranational nature (Mariański, 2024, p. 161).

It is worth noting here that the phenomenon of tax law harmonization in the European Union is an important element of the broader process of economic integration, but it is limited and selective in nature. This selectivity stems from the fact that competences in the field of tax law generally belong to the member states, and the European Union possesses only supplementary competences. Importantly, the concept of harmonization is not identical to the concept of unification (Islamli, 2024, p. 58), because the aim of this first process is not to create a single state system, but to ensure the proper functioning of the internal market by eliminating tax barriers and preventing distortions of competition.

From the perspective of EU law, the legal basis for harmonization is the provisions of the Treaty on the Functioning of the European Union (TFEU), in particular those concerning the internal market and European freedoms, such as the free movement of persons, goods, services, capital, and payments. The case law of the Court of Justice of the European Union also plays a significant role, shaping the way in which specific regulations are understood in a uniform manner by interpreting EU law in the context of a given national case.

It is worth emphasizing, however, that the scope of tax regulation harmonization at the EU level varies depending on the type of tax. In the case of indirect taxes, such as VAT or excise duties, the level of harmonization is quite high (Gryziak, 2023, p. 35; Oręziak, 2020, p. 94). As part of the above-mentioned process, common principles for tax construction such as tax bases and minimum rates were introduced[1] in order to ensure the neutrality of the above-mentioned taxes and to limit distortions in tax competition (Modzelewski, 2023, p. 27). However, in the case of direct taxes (e.g. personal and corporate income taxes), harmonization is much more limited. Member states retain significant autonomy in this area, and EU action focuses primarily on eliminating obstacles to the functioning of the internal market, such as double taxation and tax discrimination against foreign entities (Russel, 2013, p. 78; Zdunek, 2016, p. 442).

However, this means that member states within the European Union can still compete with each other, particularly in terms of income tax rates, in order to stimulate the national tax system and make it more attractive in certain respects to external entities and investors. Consequently, tax law

[1] Dyrektywa VAT – Dyrektywa 2006/112/WE w sprawie wspólnego systemu podatku od wartości dodanej czy Dyrektywa akcyzowa – Dyrektywa 2008/118/WE (ogólne zasady podatku akcyzowego).

harmonization in the European Union is partial, evolutionary, and subordinated to the functioning of the internal market. It does not lead to complete unification of tax systems, but rather to their gradual convergence, which can be described as a model of advanced harmonization without full unification.

One form of income taxation may be the taxation of capital gains, including savings. Therefore, in this study, by examining selected national solutions, the author will verify the thesis regarding the existence or absence of a certain regulatory base or model for regulating this issue. This will also allow for the drawing of conclusions regarding the effectiveness of specific national models, either as variations of the base model or as completely different solutions. The summary will also address the question of the direction of evolution of the discussed regulations, both at the national level and in terms of harmonization or unification within the European Union.

In order to verify the theses and analyze the research problems, the article uses the formal-dogmatic, historical-descriptive and, above all, comparative legal methods (Gałędek, 2022, p. 66). The formal-dogmatic method, mentioned above, is a fundamental legal method within the European legal tradition. It involves the analysis, interpretation, and construal of applicable legal provisions to determine their content and scope of application. The historical-legal method is also used in many sections of the work, as it is appropriate for presenting the development of the analyzed institution and its historical background, while also showing the evolution of solutions at the national level. Regarding the comparative legal method, it is extremely helpful in shaping the legal culture of contemporary research, not only in seeking the origins of given legal institutions, but, above all, in verifying the effectiveness of adopted regulations. The doctrine indicates that comparative research can be conducted to determine not only the multiplicity of patterns but also to identify a dominant pattern, often leading to the optimization of one's own legal solutions (Bałaban, 2024, p. 123). This is also the author's intention: the analysis of the method of taxing capital gains should lead to an attempt to indicate either the dominant model or the target model, both at the level of EU regulations and at the level of individual member states.

2. Capital gains taxation in France: general rules

The issue of taxation of income from capital gains and savings is regulated in French law within the framework of the local "flat tax," originally known as *prélèvement forfaitaire unique*, which was introduced on 1 January 2018.

Importantly, this tax was modified by Act No. 2026-103 of 19 February 2026,[2] including in the terms of taxation, which increased in 2026 compared to the initial level in 2018.

An important element of the French tax system is the fact that it is generally regulated by two fundamental legal acts. The first one, which groups the provisions of substantive tax law, is the General Tax Code (*Fr. Code général des impôts*), while the second one, which groups the provisions of tax procedure, is the Book of Tax Procedures (*Fr. Livre des procédures fiscales*), which was established by decrees of 15 September 1981.[3]

It is worth emphasizing here that the General Tax Code (hereinafter referred to as the CGI), as a set of provisions concerning substantive tax law, was established by four decrees and a regulation of 6 April 1950, published in the Official Journal on 30 of April 1950.[4] Importantly, before that date there were several separate codes dedicated

[2] LOI n° 2026-103 du 19 février 2026 de finances pour 2026, JORF n°0043 du 20 février 2026.

[3] Décret n°81-859 du 15 septembre 1981 portant codification des textes législatifs concernant les procédures fiscales oraz Décret n°81-860 du 15 septembre 1981 portant codification des textes législatifs concernant les procédures fiscales.

[4] Décret du 6 avril 1950 no 50-178, no 50-179, no 50 180, no 50-181; Arrêté du 6 avril 1950 portant reforme est codification des arretes pros pour l'application des lois réunis dans le *Code général des impôts* (JORF n°0103 du 30 avril 1950).

to various types of taxes, such as the Direct Taxes Code or the Stamp Duty Code.

The aforementioned General Tax Code, whose regulations on the taxation of capital gains and savings will be the subject of this analysis, is divided into two main books (*Fr. Livres*). The first is the book entitled *Taxation Base and Calculation of Taxes* (*Fr. Assiette et liquidation de l'impôt – Articles 1 to 1656*), and the second one is the book entitled *Tax Collection* (*Fr. Recouvrement de l'impôt – Articles 1657 to 1965 L*).

Additionally, the first book, after a section on introductory matters (*Fr. Dispositions préliminaires*), is divided into three main parts. The first part concerns state taxes (*Fr. Impôts d'État – Articles 1 A to 1378 nonies*), the second part regulates taxes collected on behalf of local authorities and various other entities (*Fr. Impositions perçues au profit des collectivités locales et de divers organismes – Articles 1379 to 1649*), and the third part contains provisions common to parts one and two (*Fr. Dispositions communes aux première et deuxième parties – Articles 1649 A to 1656 quater*).

The previously mentioned second book of the CGI was additionally divided by the French legislator into five chapters called chapitres. Thus, the first chapter is devoted to the payment of taxes (*Fr. Paiement de l'impôt – Articles 1657 to 1724 quinquies*), the second chapter to penalties (*Fr. Pénalités – Articles 1727 A to 1840 Y*), the third chapter to procedural aspects (*Fr. Procédures – Articles 1847 à 1912*). The last two chapters of this book are the treasury priviledge and its publication (*Fr. Privilège du Trésor et sa publicité – Articles 1920 to 1929 quater*) and tax reliefs and refunds (*fr. Dégrèvements et restitutions d'impôts – Articles 1960 to 1965 L*).

Importantly, Article 200a of the CGI, crucial for the subject of this study, is found in the first part of Book I of the General Tax Code, titled *State Taxes*. Within this part of the code, it is placed under Title I: *Direct taxes and similar charges* (*Fr. Titre premier: Impôts directs et taxes assimilées*), under the chapter entitled *Income Tax* (*Fr. Impôt sur le revenu*). Another division that details the location of this regulation is Section V, concerning the calculation of tax (*Fr. Calcul de l'impôt*), within which there is a separate point IV, concerning the taxation of net gains from the sale of securities and equity shares (*Fr. Imposition des nets réalisés à l'occasion de cessions de valeurs mobilières et de droits sociaux*).

It is worth noting that the unique tax on savings and capital gains (hereinafter referred to as the PFU) is a tax on savings and capital gains, excluding real estate, aimed at simplifying and reducing taxation on savings. The total flat tax rate was 30% until 2026, including 12.8% income tax and 17.2% social security contributions. Importantly, as a result of changes introduced by Act No. 2026-103 of 19 February 2026, one of the social security components of the aforementioned tax increased from 9.2% to 10.6%.

It is worth mentioning here that the total social security contribution rate of 17.2%, or 18.6% from 2026, is the sum of three separate statutory contributions: CSG (General Social Security Contribution)[5] at the level of 9.2% (10.6% from the year 2026), CRDS (Contribution for the Repayment of Social Debt)[6] at 0.5%; and the solidarity levy[7] at 7.5%. The legal basis and components of the rates are established in the Social Security Code (*Fr. Code de la Sécurité Sociale*) and updated annually under the Social Security Financing Act (LFSS[8]), in particular in articles L136-6 and L136-7 of the aforementioned Code or article 235 ter of the General Tax Code (CGI).

As a result of the 2026 changes, the PFU fraction related to social security increased by 1.4%, from 17.2% to 18.6%, resulting in a possible total PFU rate of 31.4%. Importantly, the new rate applies primarily to movable assets, investment income, and certain types of furnished rentals.

As with other investment income, the PFU tax is levied in two stages. A flat-rate withholding tax is levied upon withdrawal. A flat-rate tax also applies to life insurance policies on interest paid from 27 September 2017. This tax is 12.8% on funds

[5] *Fr. Contribution Sociale Généralisée.*

[6] *Fr. Contribution au Remboursement de la Dette Sociale.*

[7] *Fr. Prélèvement de solidarité.*

[8] *Fr. Loi de Financement de la Sécurité Sociale.*

from contracts less than eight years old and 7.5% on funds from contracts concluded eight or more years ago. The final tax assessment is made the following year, when filing your tax return, at a flat rate of 12.8% for contracts concluded less than eight years ago. For contracts concluded eight or more years ago, the rates are 7.5% for withdrawals up to €150,000 and 12.8% for withdrawals exceeding €150,000. In addition to this flat-rate tax, social security contributions are also levied, totaling 17.2% or 18.6%. Hence the total PFU rate of 30% or 31.4%.

The PFU applies in particular to income from financial investments or financial products such as: dividends (stocks and shares with variable income) and fixed income investments (bonds, debt securities, deposit accounts and term deposits, etc.); capital gains from the sale of securities subject to income tax; life insurance,[9] so-called PEA (*Fr. plan d'épargne en actions*),[10] the so-called PEL – a savings plan for the purchase of real estate (*Fr. plan épargne logement*), or the so-called CEL – a savings account for the purchase of real estate (*Fr. compte épargne logement*).

Importantly, income from certain savings products is not subject to the PFU. These include certain regulated savings products: the Livret A savings account, the LEP savings account, the Livret Jeune savings account, and the LDDS savings account for sustainable development and solidarity,[11] Housing Savings Plans (PEL) for people under 12, and Housing Savings Accounts (CEL) opened before 2018.[12]

The flat-rate PFU tax is calculated automatically. However, it is still possible to be taxed according to the progressive tax scale in France. This option must be selected when filing your annual tax return by checking box 2OP on Form 2042.

3. Taxation of capital gains in France: detailed regulations

The previously announced Article 200a of the CGI, after the amendments of 2026, has retained its very extensive character, despite the fact that it now consists of four points instead of seven as it was originally.

The first point, which also includes Part A and Part B, states in its introduction that the income tax payable by individuals resident for tax purposes in France within the meaning of Article 4B on the income, net profits, gains, distributions, capital gains, and liabilities listed in points 1 and 2 of Part A of this Act shall be determined by applying the flat rate provided for in point B of this Act to the tax base of the aforementioned income, net profits, gains, distributions, capital gains, and liabilities.

In connection with the above, point 1° of part A specifies that the following are subject to lump sum taxation: income from movable property referred to in Article VII, paragraph 1, section II of this chapter,[13] proceeds from bonds or capitalization agreements or investments of the same nature,[14] as well as income taken into account in determining taxable income from industrial, commercial, craft, or agricultural activities or from non-commercial activities. Products listed in Article 13(5) that fall under the category of investment income are also subject to lump sum taxation. For the purposes of calculating the tax due, the income referred to in paragraph 1 of this Article shall be considered gross, subject (where ap-

[9] This investment benefits from a special tax regime that allows the policyholder to be exempt from the PFU depending on the date and amount of payments, as well as the age of the contract.

[10] This investment also benefits from a special tax regime that allows the saver to be exempt from income tax on profits after five years.

[11] *Fr. livret de développement durable et solidaire LDDS.*

[12] *Fr. plans d'épargne logement (PEL) de moins de 12 ans et les comptes épargne logement (CEL), souscrits avant 2018.*

[13] Except for income expressly exempt from tax under Articles 125-0 A, 155 B, 157 and 163 quinquies B to 163 quinquies C bis.

[14] Referred to in Article 120 point 6 and Article 125-0 A point 1 of Section I, relating to contributions paid by 26 September 2017.

plicable) to the provisions of Articles 124 C, 125-00 A and 125-0 A.

Income from foreign sources, as referred to in paragraph 1 of this Article, is also considered gross. Withholding tax is credited against the withholding tax up to the amount of the taxpayer's tax credit, under the conditions provided for in international agreements. Furthermore, for the purposes of paragraphs 2 and 3 of this Article, in the case of income referred to in paragraph 2 of Article 158, the gross amount is multiplied by 1.25.

Point 2° of Part A adds as a taxable item the net profits, gains, distributions, capital gains and receivables referred to in paragraph 6 bis, points 1–6 of Article 158, determined in accordance with the same provisions. However, the relief referred to in paragraph 1 ter or 1 quater of Article 150-0 D shall not apply to the determination of the lump sum referred to in paragraph 1 of this point 1.

Next, point 1° of part B of Article 200a specifies that the flat rate referred to in paragraph 1 of this Article is set at 12.8%.

Subsequently, point 2° of part B of Article 200a clarifies that, by way of derogation from paragraph 1 of this Section B, if the conditions for the application of Article 125-0 A paragraph 2 letter b) of Section II are met, the rate provided for in the same letter b) shall apply to proceeds from capitalization bonds or contracts and investments of the same nature referred to in Article 125-0 A paragraph I and Article 125 D paragraph II, relating to premiums paid from 27 September 2017.

The foregoing, in accordance with letter a), applies to the total amount of the said products if the amount of the premiums paid on the bonds, contracts or investments to which the products relate, as well as on other bonds, contracts or investments held by the beneficiary of the said products and which have not already been redeemed as capital on 31 December of the year preceding the taxable event for the said products, does not exceed the threshold of 150,000 EUR.

Furthermore, in accordance with letter b), if the amount of the contributions referred to in letter b) of this paragraph exceeds the threshold of 150,000 EUR the formula set out in that provision shall apply.[15] Importantly, the part of the products referred to in paragraph 1 of this section 2° that does not qualify for the rate specified in the same paragraph is subject to taxation at the rate specified in paragraph 1° of part B (i.e. 12.8%).

The last point 3° of part B of article 200a specifies that, if the conditions for the application of point b) 2 II of article 125-0 A are not met, the products listed in point 3° of part B of this article, attached to the premiums paid from 27 September 2017, are subject to the rate listed in point 1° of part B (i.e. 12.8%).

The above-mentioned provisions constituted the entire main point 1 of Article 200a. Point 2 of the aforementioned Article then stipulates, by way of derogation from point 1, that, at the taxpayer's express choice, all income, net profits, gains, capital gains, and receivables listed in point 1 can be included in the total net income base defined in Article 158. This general choice is exercised when filing the declaration provided for in Article 170, but no later than the deadline for filing.

Subsequently, point 2 ter letter a) of Article 200a establishes the method of taxation of capital gains referred to in paragraph 1 of Article 150-0 B ter, which are subject to income tax at the rates indicated in this provision, referring essentially to the 12.8% rate. However, it is worth noting that the announced Article 150-0 B ter CGI constitutes a very extensive regulation, the content of which was amended by the already mentioned Act No. 2026-103 of 19 February 2026. Without quoting the entirety of the aforementioned regulation, it is worth noting that taxation of capital gains obtained directly or indirectly from the contribution

[15] This formula indicates only the portion of these receipts determined by multiplying the total amount of these receipts by the ratio:

– as the numerator, the amount of €150,000 reduced, where applicable, by the amount of contributions paid before 27 September 2017 that had not yet been refunded in a lump sum as of 31 December of the year preceding the taxable event for the receipts in question;

– as the denominator, the amount of contributions paid from 27 September 2017 that had not yet been refunded in a lump sum as of 31 December of the year preceding the taxable event for the receipts in question.

of securities, capital shares or related rights, within the meaning of Article 150-0 A, to a company subject to corporate income tax or an equivalent tax, is subject to deferral if the conditions specified in paragraph III of this Article are met. The taxpayer must report the amount of the capital gains in the declaration required under Article 170.

Next, point 2 ter letter b) of Article 200a specifies that the capital gains referred to in point a) of the first subparagraph of this Article 2 ter, taken into account in their amount before application of the relief referred to in point 2 or 3 of the same Article (a), are also subject, where applicable, to the contribution referred to in Article 223 sexies, in an amount equal to the ratio of the two constituent elements described in detail in that Article.

To conclude this analysis of the detailed regulations for the PFU tax, whose combined rate consists of a 12.8% income tax rate and 18.6% social security contributions, it is worth citing the detailed regulations relating to the latter component. Importantly, as a result of changes introduced by Act No. 2026-103 of February 19, 2026, the social security contribution rate increased in some respects from 17.2% to 18.6%, although it still represents the sum of three separate statutory contributions. The first of them is the so-called CSG (General Social Insurance Contribution)[16] at 9.2% (or 10.6% from 2026) on broadly defined capital gains. The legal basis for this charge can be found in both Article 154 quinquies of the General Tax Code and Articles L136-1 to L136-8 of the French Social Security Code[17] (Boyer, 2020, p. 97). Importantly, the new rate of 10.6% does not apply to pensions and disability benefits, which are subject to a special scale (reduced rate 3.8%, median rate 6.6%, standard rate 8.3%).

The second component of the insurance premium is the so-called CRDS (Contribution to the Repayment of Social Debt)[18] at a rate of 0.5%. CRDS is a tax introduced in 1996 to reduce social security debt. It was established by Regulation No. 96-50 of January 24, 1996. The CRDS rate is 0.5% regardless of the type of income (earned income, substitute income, real estate income, investment income), and also applies to various types of income from unknown sources (Zemmour, 2015, p. 4).

The last component of social security contributions under the PFU tax is the solidarity contribution[19] at the level of 7.5%. The legal basis for this contribution is Article 235 ter of the General Tax Code, which provides, in its first point, that: a solidarity tax on investment income, as defined in Article L. 136-6 of the Social Security Code, and a solidarity tax on investment income, as defined in Article L. 136-7 of the same Code, are established. The second point adds that the solidarity levy referred to in paragraph 1 of section I of this article is calculated, controlled and collected according to the same rules and with the same guarantees, privileges and penalties as the contribution referred to in article L. 136-6 of the Social Security Code, without applying paragraph I ter of the same article L. 136-6. The solidarity levy referred to in paragraph 2 of section I of this article is calculated, controlled and collected according to the same rules and with the same guarantees, privileges and penalties as the contribution referred to in article L. 136-7 of the Social Security Code, without applying paragraph I ter of the same article L. 136-7. In the third point of article 235 ter of the General Tax Code, the rate of the solidarity levy is set at 7.5%.

Finally, it is worth mentioning that the concept of the unique tax is an element of the action plan for growth and investment (*Fr. plan d'actions pour la croissance et l'investissement*) presented in 2017, the aim of which was, among others, to stimulate long-term economic growth and encourage investment (Le Clainche, 2017, p. 122). Additionally, the French doctrine indicates that the scope of the PFU tax also covers profits from so-called crypto-assets (Perrin, 2019, p. 90) or tokens and other virtual currencies (Pellas, 2021, p. 189).[20]

[16] *Fr. Contribution Sociale Généralisée*.

[17] *Fr. Code de la sécurité sociale*.

[18] *Fr. Contribution au Remboursement de la Dette Sociale*.

[19] *Fr. Prélèvement de solidarité*.

[20] *Fr. jetons et des monnaies virtuelles*.

4. Taxation of capital gains in Poland: general rules

In Polish law the taxation of capital gains, including savings, has been regulated since 2002 by the so-called Belka tax, which is de facto a form of flat-rate personal income tax, regulated, among others, in Article 17, Article 30a, and Article 30b of the Personal Income Tax Act of 26 July 1991 (hereinafter referred to as the PIT Act).[21]

It should be emphasized, however, that the so-called Belka tax is not a separate tax in the formal sense, but rather a colloquial name for the regulations regarding flat-rate income tax on capital gains, regulated by the aforementioned Personal Income Tax Act.

First of all, it is worth noting that Article 10, Section 1, Item 7 of the Act lists capital and property rights as sources of revenue, including the sale of property rights other than those listed in Item 8, Letters a–c. Then, Article 17, Item 1 of the Personal Income Tax Act lists the elements that belong to the set of revenues from capital. Generally, they constitute the taxpayer's remuneration for the use by other entities of the financial capital entrusted to them or resulting from the investment of certain financial resources in a source of capital income. Monetary capital includes, in particular: interest on loans; interest on savings deposits and funds in bank accounts or other forms of saving, holding, or investing, subject to Article 14, paragraph 2, item 5; interest (discount) on securities; redemption by the issuer of bonds on which periodic benefits are due; dividends and other income from participation in the profits of legal entities actually obtained from this participation; income from participation in capital funds; income from the sale of subscription rights for consideration, including the sale of subscription rights to new shares by an employee pension fund on behalf of a fund member; and income from members of employee pension funds from the transfer of shares deposited in quantitative accounts to the assets of these funds. The Polish legislator also included in the category of monetary capital, among others: income from the sale of derivative financial instruments and from the exercise of rights arising therefrom, and income from the sale of virtual currency.

The doctrine emphasizes that depending on the type of individual income from capital gains and the tax status of the individuals earning these incomes, the rules for collecting advance tax payments or the tax itself vary. In this respect, the relevant articles of the Personal Income Tax Act apply, in particular Articles 29, 30a, and 30b, which introduce a uniform rule for settling the tax due (Modzelewski et al., 2026, art. 16).

Thus, the already mentioned Art. 30a of the Personal Income Tax Act stipulates that a 19% flat-rate income tax is levied on earned income (revenue), subject to Art. 52a. This income includes, in particular, income from interest on loans, except when granting loans is the subject of business activity; from interest and discount on securities, except for interest constituting income from the redemption of bonds by the issuer, referred to in point 2a; from income from the redemption of bonds by the issuer, on which periodic benefits are due; from interest or other income from funds accumulated in the taxpayer's account or in other forms of savings, safekeeping, or investment, conducted by an entity authorized under separate provisions, subject to Art. 14, paragraph 2, item 5; or from dividends and other income from participation in the profits of legal persons. The so-called Belka tax is also collected at a rate of 19% on benefits received from the income of a capital fund if the statute provides for payments from this income to its participants without redeeming, repurchasing, redeeming, or otherwise extinguishing the fund's participation titles. The list of tax levies provided by the Polish legislature is quite broad and also provides for the collection of tax, among other things, on the income of an employee capital plan participant obtained from the return of accumulated funds made pursuant to Article 105 of the Act on Employee Capital Plans.

[21] Ustawa z dnia 26 lipca 1991 r. o podatku dochodowym od osób fizycznych. Dz.U. z 2025 r. poz. 163, 340, 368, 620, 680, 1022, 1180, 1301, 1302, 1366.

Additionally, as part of the detailed formulation of this regulation, doctrine and case law clarify numerous doubts regarding the inclusion of a given event in the scope of Belka tax. For example, it is indicated that the payment of funds from a company's capital to its shareholder constitutes income from a share in the profits of legal entities within the meaning of Art. 17, sec. 1, item 4 and is subject to taxation in accordance with Art. 30a, sec. 1, item 4 of the Personal Income Tax Act (Starzyk, 2026, pp. 6–7). Furthermore, it is indicated that the sale by an employee of shares received under the incentive scheme for a fee will result in the employee being obliged to settle the income from monetary capital as income from the sale of shares for a fee (Słomka, 2021, pp. 66–67).

As part of the general rules, it is worth emphasizing that the tax base for capital gains is income, which is not subject to reduction by the costs of earning it. An exception to this rule is income from participation in capital funds, where the tax base is the difference between the benefit amount paid and the sum of insurance contributions paid into the capital fund. The current tax rate of 19% of the tax base replaced the general tax rate of 20% in force before 2004, and the 15% rate for dividends (Modzelewski et al., 2026, art. 30a).

To conclude this section, it is worth noting that analytical studies point to the significant importance of the personal income tax (PIT) in the overall tax system, not only due to the approximately 20 million tax returns filed annually, but also due to the significant share of such tax cases heard by administrative courts. This is undoubtedly a result of the rather extensive and frequently amended regulations, which makes it difficult for taxpayers to familiarize themselves with and fully understand the current regulations (Gajewski, Joński, 2021, p. 5). In the doctrine, there are more and more studies showing the negative impact of frequent amendments to tax law, especially in times of crisis, on the principle of legal certainty in the discussed scope (Mariański, Radvan, 2024, p. 214).

5. Taxation of capital gains in Poland: draft amendments based on Swedish law

As already mentioned, all income from monetary capital has been taxed in Poland at a uniform rate (19%) since 2004. The doctrine has analyzed the implementation of this solution and, especially after 2021, initiated a discussion on the future of this tax, which included proposals to either abolish the stock exchange tax for long-term investments or abolish both the capital gains tax and the savings income tax (Antkiewicz, 2019, p. 43).

Ultimately, as a result of the above-mentioned discussions, a draft bill was presented in December 2025, the draft bill on Personal Investment Accounts (hereinafter referred to as OKI).[22] The above-mentioned solution, which is intended to be a supplement to the Belka tax described earlier and not to replace it, was modelled on the ISK accounts introduced in Sweden (*Investeringssparkonto*).[23] Importantly, the OKI will operate alongside the Belka tax in its current form, i.e. these will be competitive systems and consistent with the trend of tax diversification, similarly to the way this aspect is regulated in Sweden.

The Swedish ISK (*Investeringssparkonto*) system is a savings and investment account that simplifies capital gains taxation by imposing a fixed, annual tax on the account value, instead of capital gains tax. This simplified taxation model, primarily from a user perspective, is the main reason for its popularity in Sweden, where approximately 40% of the adult population uses it. ISK can be invested in stocks, ETFs, mutual funds, and other financial instruments. The tax amount under this instrument is calculated annually based on the es-

[22] Projekt ustawy o osobistych kontach inwestycyjnych, Ministerstwo Finansów, 02.12.2025 r. https://legislacja.rcl.gov.pl/projekt/12404855/katalog/13173223 (accessed: 14.04.2026).

[23] Commission Staff Working document accompanying the Commission Recommendation on Increasing the Availability of Savings and Investment Accounts with Simplified and Advantageous Tax Treatment, Brussels, 30.9.2025 SWD(2025) 6800 final p. 23.

timated value of the assets accumulated in the account, and its effective tax rate for ISK savings is intended to be lower compared to the effective tax rate for savings with conventional taxation, i.e. a 30% tax on profits.

Swedish lawmakers believed that a lower effective tax rate was justified, as households should be encouraged to save long-term in financial assets they directly own. Additionally, this form of savings could also act as a savings buffer and offer good opportunities for capital accumulation. The difference in effective taxation between ISK savings and savings with conventional taxation has narrowed over time, hence the proposed ISK reforms. These reforms, which the Polish legislator has already incorporated into its OKI product, assumed that the basic tax-free level for savings in savings accounts, unit-linked insurance, and the so-called PEPP product would be 150,000 SEK in 2025 and then 300,000 SEK in 2026.

The Polish version of ISK, called OKI, is intended to be personal and voluntary, with the ability to deposit and withdraw funds at any time, in accordance with the principle of freedom to accumulate assets. Importantly, on the Government Legislation Center website on March 16, 2026,[24] the full text of the amended draft law on Personal Investment Accounts, dated March 6, 2026, has appeared, taking into account many of the demands submitted since the original date of publication of the draft, i.e. December 2025.

Pursuant to Article 3 of the Act, only one investor, i.e. a natural person over the age of 18, may accumulate assets in an OKI. Furthermore, an investor is entitled to enter into more than one OKI agreement.

Importantly, the legislator in Article 5 included a number of minimum information and data that should be included in every Agreement for the management of an OKI account.

It is also worth noting the regulations contained in Article 14, which clarifiy that an investor may accumulate OKI assets denominated in the Polish zloty or in foreign currencies of countries that are members of the European Union, parties to the Agreement on the European Economic Area, or members of the Organisation for Economic Co-operation and Development. Additionally, OKI assets and deposits denominated in foreign currencies are converted into the Polish zloty at the average exchange rate announced by the National Bank of Poland on the last business day preceding the date of the given event.

Furthermore, pursuant to Article 21 of the draft OKI Act, investors are subject to asset value tax, regardless of their country of residence. It was further clarified (Article 22) that the value of OKI assets is subject to asset value tax, and this principle applies regardless of the country in which capital investments are made from OKI assets.

The basis for calculating the tax on the value of assets, in accordance with Article 23 of the Act, is the sum of the average values of OKI assets[25] accumulated in all OKI accounts held by the taxpayer in the tax year. Importantly, the OKI Financial Institution is obliged to calculate the average value of OKI assets accumulated in a particular OKI account in a tax year, divided into its individual categories distinguished by the legislator.

It is worth noting that the Polish legislator used a tax rate very similar to the Swedish ISK. Specifically, Article 25 of the Polish Act specifies that the tax rate on the value of assets in the tax year is 19% of the National Bank of Poland's reference rate in effect on October 31 of the year preceding the tax year, but not less than 0.1%, with the tax rate rounded down to two decimal places. This rate is published by November 30 of the year preceding the tax year, by way of a notice, in the Official Journal of the Republic of Poland, *Monitor Polski*.

Importantly, following the example of the 2025 and 2026 versions of the Swedish ISK, some tax exemptions have been introduced. Under Article

[24] https://legislacja.rcl.gov.pl/projekt/12404855/katalog/13173254#13173254 (acessed: 15.04.2026).

[25] The average value of OKI assets accumulated in a particular OKI is the sum of the values of daily valuations of OKI assets accumulated in that OKI in the tax year, increased by the sum of payments made by the taxpayer in the tax year to that OKI and divided by the number of days in the tax year on which the taxpayer held that OKI.

26, Section 1 of the Polish Act, the first group of exemptions, up to a maximum of 25,000 PLN in a tax year, covers the total average value of OKI assets listed in this provision, accumulated by the taxpayer in all OKIs held by them during the tax year. This exemption applies to, among other things: funds held in bank accounts held in PLN; treasury savings bonds; participation units in retail collective investment products; treasury bills with a nominal value denominated in PLN; and cash and receivables denominated in PLN held in a cash account used to manage the securities account in which OKI assets are accumulated.

The second group of exemptions, contained in Article 25, point 2, up to an amount not exceeding 100,000 PLN in the tax year, understood as the total average value, applies to another group of OKI assets accumulated by the taxpayer on all OKI held by them in the tax year. This exemption applies to: participation units of an insurance capital fund; participation units of an investment fund or investment certificates of a public closed-end investment fund; participation units of a foreign fund; settlement units of a voluntary pension fund;[26] bonds whose nominal value, as indicated in the prospectus or other offering document, is denominated in the zloty, with the exception of bonds with an embedded derivative; covered bonds whose nominal value, as indicated in the prospectus or other offering document, is denominated in the zloty; shares, rights to shares and subscription rights issued by companies whose share capital is denominated in the zloty, and cash and receivables denominated in the zloty, which are recorded in a cash account other than the cash account referred to in item 1 letter e).

Importantly, the sum of the total average values of OKI assets exempt from asset value tax pursuant to paragraph 1 may not exceed PLN 100,000 in a tax year, and if this amount is exceeded, the exemption shall apply first to the OKI assets referred to in paragraph 1 item 1, up to the amount specified in that provision, and in the remaining part to the OKI assets referred to in paragraph 1 item 2.

Importantly, from the client's perspective, the OKI financial institution is obliged to prepare electronically a personalized report on the OKI management for the tax year for a given taxpayer and submit it electronically, in accordance with separate regulations, to the appropriate head of the tax office by the end of February of the year following the tax year. Information on the OKI management and statements of the value of assets accumulated in OKI provided by the financial institutions will be made available to the taxpayer in their e-Tax Office account.

Taxpayers will be required to file a tax return on the value of assets held in OKI via their e-Tax Office account and pay the tax due between March 15 and May 31 of the year following the tax year (Article 29 of the draft OKI Act). As part of the simplification, taxpayers will receive a pre-completed tax return, but he will be obliged to submit it and pay the tax.

Interestingly, the new draft law from March 2026 allows foreign investment firms conducting brokerage activities in Poland through their branch to operate an OKI and allows for the conclusion of an umbrella agreement, which will enable the use of various OKI forms (bank account, brokerage account, etc.) offered by a single institution. To this end, the concept of an OKI coordinator has been created as the entity authorized to conclude an umbrella agreement, which can be either a bank or a brokerage entity.

6. Conclusion

The regulation of capital gains taxation, including savings, is a crucial element of tax policy at the national level. This segment of income taxes is not subject to unification under EU law, so legislative solutions vary across Europe. Consequently, there is no definitive regulatory framework or matrix in this regard at the EU member state level.

Importantly, the description of both the French and Polish models, including references to the

[26] The statute of this fund, as part of its investment policy, provides that at least 70% of its assets are so-called eligible assets, the definition of which is included in the draft OKI act.

Swedish concept, demonstrates that each country has experienced a certain evolution of its adopted model in recent years. This should be viewed positively from the perspective of the national legislature's responsiveness to the changing socio-economic environment, especially since these changes are complementary rather than revolutionary. Consequently, each of the aforementioned legal systems strives to improve the concept adopted in its country, striving to develop the most effective and optimal model.

One of the conclusions from the analysis is that the French PFU tax is functionally equivalent to the so-called Belka tax in Poland, serving as a tool for taxing capital gains. Importantly, the taxation model adopted in France presents a higher tax rate than the aforementioned Polish equivalent and a slightly different, more complex structure, in the author's opinion.

Moreover, in the author's opinion, a comparison of the French model to its Polish counterpart also revealed different tax philosophies adopted in these concepts. Specifically, France adopts a more flexible approach, as in addition to the PFU (prelèvement forfaitaire unique at 31.4%), taxpayers can also choose to be taxed according to a progressive scale. The model adopted in Poland is less complex, but it offers a fixed tax rate, i.e. a 19% Belka tax, with no thresholds and no significant optimization opportunities. Such instruments for optimizing the Belka tax could be independent instruments such as IKE/IKZE or the planned OKI. Consequently, while French law regulations are generally contained in a single act (Code Monetaire et Financier), with only the supplementary role of the Social Security Code, in Poland there is greater legislative fragmentation. These additional instruments are regulated in separate acts, namely the Act on Individual Retirement Accounts and the Act on Individual Retirement Security Accounts[27] and the proposed law on personal investment accounts (OKI). The aforementioned OKI Act aims to increase diversification in capital allocation by providing new opportunities not only to mobilize capital but also to facilitate its flow. While the changes in France involve updating or supplementing one main piece of legislation, the changes in Poland lead to the creation of new laws, further exacerbating the problem of so-called regulatory inflation, as described in the legal literature (Glumińska-Pawlic, 2025, pp. 5–6).

The changes proposed in Polish law could have several beneficial effects on the financial market and the entire economy, including: encouraging citizens to save a larger portion of their income, increasing the liquidity and volume of trading on the stock exchange, popularizing investing in shares, bonds, and investment funds, and increasing the general level of financial security and economic awareness of society.

Importantly, the Polish OKI project takes into account the latest modifications to the Swedish model, replicating the concept of introducing a tax-free allowance, which further increased its attractiveness. Therefore, this fits into the broader context of healthy competition between legal systems, including tax systems, which is based on the gradual development of the most optimal models using comparative research. In this context, the phenomenon of tax competition takes on a slightly different meaning than simply the process of non-cooperatively setting tax rates to attract mobile tax bases (Devereux, Loretz, 2013, p. 754). Namely, in the author's opinion, the above is in line with the tendency observed in the case law of the CJEU to develop such standards of implementation of the treaty freedoms and free competition that would serve to meet the needs of participants of the internal market (Antonów, 2024, p. 36), which is crucial for the development of proper competition between tax systems without prejudice to the principles of EU law. In this regard, it was noted that some fragments of the proposed regulations in Polish law may raise doubts as to their acceptability in light of the case law of the Court of Justice, due to the fact that certain tax preferences are dependent on the denomination of the instruments in Polish currency.

[27] Ustawa z dnia 20 kwietnia 2004 r. o indywidualnych kontach emerytalnych oraz indywidualnych kontach zabezpieczenia emerytalnego (Dz. U. z 2026 r. poz. 91).

This proper competition and the evolutionary nature of changes can contribute to maintaining and respecting the principle of legal certainty and proportionality of regulations, which is facilitated by the adherence to certain general principles, which are becoming increasingly important, especially in times of crisis (Lasiński-Sulecki, Morawski, Prejs, 2022, p. 86). This competition and the gradual development of the most optimal solutions may be one of the elements of a broader process of indirect tax harmonization in the EU, constituting an alternative to the increasingly visible international competition (Gil Cruz, 2025, p. 199). The need to implement solutions supporting the tax system based on the use of modern technologies, already signaled in the doctrine, will become an increasingly integral element of the above-mentioned process (Sobiecki, Szwed-Ziemichód, 2019, p. 28), especially in a situation where selected income tax regulations are not fully adapted to the realities of the modern global digital economy and do not fully take into account the business models associated with it (Wiatrowski, 2024, p. 8).

Finally, it is worth emphasizing that this article is an analysis of the current regulations in the matter under discussion, as it takes into account the latest changes in France, Poland, and Sweden introduced or planned for 2026, which means that it provides comparative material for further research in the analyzed matter relating to other European Union countries or, more broadly, to the systems of taxation of capital gains and savings on continents other than Europe.

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