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FISCAL CONSTRAINTS AFFECTING AGRICULTURAL PRODUCER GROUPS

Abstract: The article is aimed at presenting and analysing the principles governing the operations of agricultural producers groups with a special emphasis on corporate income tax obligations. The author will focus on income taxes imposed on the groups' sales of plant products from their members' farms as well as on agricultural assets transferred free-of-charge. The article consists of theoretical section presenting definition, objectives and tasks as well as economic environment for agricultural producer groups' operations and income tax imposed on their sales of plant products, and empirical section presenting: profile of two groups of agricultural producers conducting their activities in Opole Voivodeship including relevant income tax principles.

Key words: agricultural producer group, corporate income tax, tax allowances.

1. Introduction

The idea of farmers setting up production groups dates back to the early 1990s. Nevertheless, over recent decades it has been invested with new significance due to market economy mechanisms which force farmers to integrate their efforts and meet market requirements. The above is affected mostly by the principles of supply, demand and the tense competitive environment – major sales determinants, also in terms of pricing. It is the goal of each producer to maximize revenue in certain market environment; success depends on sales income and the cost of production [Kucab 1997, pp. 17–19].

Agricultural producer groups organisation and the setup process in Poland spans a period of only ten years starting from 21 September 2000 – the day the Act on Groups of Agricultural Producers and their Unions came into force. Pursuant to the provisions of the Act, individuals or entities with no legal status as well as legal entities running a farm within the meaning of the Act on Agricultural Tax or conducting farming activities in special sectors of agricultural production are allowed to form agricultural producer groups aimed at adjusting their production to the market environment, enhancing efficiency, planning production processes in terms of quantity and quality, supply concentration, better organisation of farm products sales and natural environment conservation activities.

The formation of an agricultural producer group involves conducting business activity as a legal entity, therefore knowledge of legislation in terms of formation and operations of agricultural producer groups, provisions of commercial and tax law as well as of the Accounting Act seem indispensable.

According to the above, the article is aimed at presenting and analysing the principles governing the operations of the agricultural producer group with a special emphasis on corporate income tax liabilities. The author will focus on income taxes imposed on the groups' sales of plant products from their members' farms as well as on the agricultural assets transferred free-of-charge.

2. Definition, objectives and tasks as well as the economic environment for agricultural producer groups' operations

The term *agricultural producer group* does not involve a particular legal status, but refers to an entity focused on marketing the products manufactured by the group members. Regulations that govern the operations of agricultural producer groups allow to distribute any excess income according to the participation in group services, not to the capital invested. This being the reason, the agricultural producer groups differ from other business organisations in their organisational structure and form [Boguta (ed.) 2008a, p. 42].

The simplest definition of an agricultural producer group characterises it as a team of farmers acting together to increase income and improve the market position of their farms [Ejmsot, Milewski 2005, p. 8]. The definition specifies only the aim of an agricultural producer group's operations, i.e. optimisation of benefits to the group members. The definition fails to indicate the modes of meeting the objectives depending on the group's legal status.

According to the regulations of the European Union, a producer group is a group which is set up for the purpose of jointly adapting the production and output of its members to market requirements, in particular by concentrating supply. A producer association consists of recognised producer groups and pursues the same objectives on a larger scale [Community Guidelines... 2000].

"Producer group" means a group which is set up for the purpose of jointly adapting, within the objectives of the common market organizations, the production and output of its members to market requirements, in particular by concentrating supply [Commission Regulation (EC) No 1857... 2006]. The meaning of producer's groups for the development of agricultural markets in developing countries was written about extensively in J. Bingen's studies. According to him, "in establishing and assessing the role of producer groups, it is useful to consider three types of groups, based on farm type or the dominant economic base of the member farm enterprises" [Bingen 2012].

According to J. Małysz, a producers' group (team of producers) is a grass-root voluntary initiative aimed at the team marketing of group products. Joint merchand-

ising activities allow any group of farmers to increase its bargaining power and thus get better prices for the production assets acquired [Małysz 1996, pp. 13–14].

Pursuant to the provisions of the Act on Groups of Agricultural Producers and their Unions, and on Amendments to Other Acts, group members may be “individuals or entities with no legal status as well as legal entities running a farm within the meaning of the Act on Agricultural Tax or conducting farming activities in special sectors of agricultural production; they are allowed to form agricultural producer groups focused on adjusting their production to market environment, enhancing efficiency, planning production processes in terms of quantity and quality, on supply concentration, better organisation of farm products sales and natural environment conservation activities” [Ustawa z 15 września 2000...].

Agriculture producer group shall conduct business activity as a legal entity providing that [Romas 2010, p. 18]:

- it was founded by manufacturers of a single product or a group of products,
- acts in compliance with the articles of association, or an agreement (memorandum),
- consists of members, shareholders or stockholders (none of them shall hold more than 20% of votes at the general or other meeting of shareholders),
- revenues from sale of products or group of products manufactured at the single farms of the group members account for more than 50% of the group revenues from the sale of products or a group of products it was established for,
- it sets out the regulations governing the group operations in terms of the quality and quantity of the products delivered as well as the sales preparation modes in the memorandum.

The group will operate along with other market players, thus complying with the same economic principles. Therefore, it is supposed to introduce the farmers’ (organisation members’) products in the market and facilitate their efficient competition with domestic and international agricultural manufacturers.

Group based activities will extend members’ individual operations and provide them with an opportunity to introduce their products into the market of refined goods due to increased added value (enhancement, pre-processing). Group operations are aimed at increasing profits (cost cutting) and enhancing the quality of services rendered to the producers – group members. According to the above, group-based activities are often referred to as the “extension of farm operations” [Boguta (ed.) 2008a, p. 42].

“Extension of farm operations” involves group distribution of products, i.e. transfer of goods from production sites to points of sales where they are purchased (acquired) by end users as well as providing consumers and users with the required goods in due time and place, at agreed upon conditions and at the lowest possible total cost.

Setting up producer groups will result in replacing the direct distribution channel (direct associations with the end buyer) by an indirect one with an intermediary on

one or several stages of the process or substituting a producer group for an entity in the role of an intermediary (in the existing distribution channel).

Intermediaries in the channels are supposed, first and foremost, to transform production goods into merchantable selection of products, to ensure continuous sales process and unrestrained choice of merchandise, to offer products at an accessible location in a convenient time [Czubała 1996, p. 31].

An agriculture producer group acting as an intermediary is the distribution channel “wholesaler”, the one who provides limited or wide range of wholesale services, depending on the variety of facilities offered. In the farm products market a wholesaler intermediary’s activities will focus on the purchase of agricultural products at one’s own risk, storing and selling them to processing plants, retailers, institutions, etc.

Intermediary activities of the producer groups seem advantageous both for the producer and for the successive purchaser. Major benefits for the producer include:

- producers reaching potential buyers at a relatively low cost,
- easier market penetration for the producers,
- producers enjoy cost-free warehouse maintenance, stock storage, transport, etc.
- assistance in promotional and brand building activities as well as in introducing new products onto the market,
- potential advantageous long-term agreements with products recipients and higher sale feasibility,
- optimised use of equipment and fixed assets, higher investment efficiency.

Major benefits for the end user of farm products distribution channel:

- no need to keep large costly warehouses; establishing relations with various producers, collecting information on products’ supply, etc.,
- transforming production goods into a merchantable selection of products through adjusting the assortment to the recipient’s requirements.

Services related to the appropriate storage of farm products are considered one of the major tasks for agricultural producer groups acting as intermediaries in the farm products distribution channels. Such services are perceived to play a major role on the Polish market due to the highly fragmented farm ownership structure and dealing with the trade of farm products – major components for the food production industry. High quality storage services involve, among others, ensuring satisfactory order processing and customer service as well as the physical protection of the stock.

Order processing and customer service quality will be assessed in terms of the delivery time, conformity with the order and readiness to deliver. Delivery time involves first of all the average lead time for an order, the average time dedicated to a client in the process of negotiating and making an order as well as the picking time.

Conformity with the order is defined as the accuracy or inaccuracy of assembling products according to the client’s order in terms of the amount or number, quality

as well as the exact choice of products. Readiness to deliver means the amount or number of products available instantly upon the client's making the order.

The physical protection of stock is supposed to ensure the good quality of the stored products and to prevent possible natural defects of the merchandise through, for instance, the good organization of the storing processes, avoiding prolonged storage and ensuring the right storing conditions with the appropriate technological solutions.

Satisfactory storage services, in particular for farm products, require major capital resources, which most often remain out of reach for individual farmers and, furthermore, are considered unprofitable in a small scale due to high technological requirements. The service (function) provision by a producer group will allow large scale production benefits and, as a result will translate into not only better stock protection but also the improved quality of order processing and customer service.

The effective market activities of a group require well trained and committed management staff, accurate planning, precise market analysis and sufficient financing [Boguta 2001, pp. 10–12].

Apart from strictly economic objectives related directly to increasing income, an agriculture producer group may also take up social initiatives focused on improving the skills and knowledge of its members, such as arranging training sessions or talks as well as representing or defending farmers' interests.

All things considered, the following will weigh in favour of setting up agricultural producer groups [Kozłowska 2001, pp. 17–18]:

- cost killing potential in trade and distribution operations,
- potential advantageous long-term agreements with products recipients and higher sale feasibility,
- increased sale prices and more advantageous conditions to be negotiated when compared with individual transactions, which will result in higher income and enhanced profitability,
- production cost killing potential, especially in terms of fixed assets,
- optimised use of equipment and fixed assets, higher investment efficiency,
- ability to minimize intermediate trade and thus to increase profitability of intermediary margin,
- lower acquisition price of tools and equipment as well as advantageous payment and delivery conditions for wholesale purchase,
- access to exchange markets, wholesale markets as well as to supermarket and hypermarket chains,
- easier access to market information and better insight into the market,
- ability to adjust production to recipients' and consumers' demands,
- supply and sale time saving,
- efficient use of production potential,
- ability to hire a marketing specialist [Kryński 2004, p. 268],
- access to financial support,
- exemption from property tax.

An agricultural producer group should be formed by the agricultural producers themselves in order to adjust production to the market environment and conduct joint marketing activities including pre-sales preparations, sales and delivery centralisation. A group's operations on the agriculture market should be economically effective.

3. General profile of two groups of agricultural producers conducting their activities in the Province of Opole

“Ziarno” Sp. z o.o. Corn Producer Group based in Nasiedle was founded on 12 June 2001, by signing the Articles of Association at the Public Notary office in Opole. The Company was founded by 33 grain and oilseeds producers from the Głubczyce region. On 13 August 2001 the company was incorporated in the Register of Entrepreneurs of the National Court Register maintained by the District Court in Opole, VIII Commercial Division, under the KRS number 0000034672. On 3 August 2004 the company was entered in the Register of Agricultural Producer Groups of the Opole Voivodeship as reference No 4. The Company headquarters is located in Nasiedle in Poland, Voivodeship Opole, commune of Kiertz.

The “Ziarno” Corn Producer Group holds the legal status of a limited liability company. The Company was incorporated as an Agricultural Producer Group specialising in grain and oilseeds production. On 27 January 2005 the entity was registered in the Register of Producers under the No 057193433 by the Head of BP ARiMR in Głubczyce. The following day an application was filed for dedicated financial support under the Rural Development Plan for the period between 3 August 2004 and 2 August 2009 (7 PROW 2004-2006 “Agricultural Producer Groups”). Following due administration proceedings, pursuant to the decision No 1/5 issued by the Head of OR ARiMR in Opole, the “Ziarno” Sp. z o.o. Corn Producer Group was granted the financial support dedicated to agricultural producer groups covering the period between 3 August 2004 and 2 August 2009.

Association in the “Ziarno” Sp. z o.o. Corn Producer Group resulted in the following benefits for its members:

- reduced acquisition prices of production tools and equipment,
- prolonged payment terms,
- higher sale prices,
- possibility to develop permanent sales markets for their products,
- possibility to establish lasting trade relations,
- access to the group's specialised facilities,
- improved knowledge,
- time savings,
- even distribution of risk among the group members,
- market identification.

Currently “Ziarno” Sp. z o.o. has got 31 shareholders (members of the group). All of them are individual farmers based in the district of Głubczyce conducting

their activities in a land area of 647.55 ha. At present the Company deals with the purchasing and sale of wheat, barley, maize and rape grain, mostly produced by its members. Moreover, “Ziarno” Sp. z o.o. is involved in the sale of feedstuffs, fuel, construction materials and pesticides.

The “Ziarno” Corn Producer Group holds the status of a typical trade enterprise. The range of operations is strictly limited to the activities specified by the Polish classification of business activities as: 46.21 Z – wholesale of grains, unmanufactured tobacco, seeds and animal feeds. It involves entities dealing with wholesale of grains, rape or marketing plant and vegetable seeds.

The trade potential of the Company is strictly correlated with the production capacity of the associated members of the “Ziarno” Sp. z o.o. Corn Producer Group. The Company purchased from the group members in 2009:

- wheat – 1905.32 t,
- barley – 145.30 t,
- corn – 39.87 t,
- rape – 458.96 t.

The “Ziarno” Sp. z o.o. Corn Producer Group members constitute the major group of grain and rape seed suppliers with a 53.55% share in company grain and rape seed sales. Deliveries are made pursuant to the provisions of the Company’s Articles of Association and the regulations governing the Agricultural Producer Group operations. In addition, in 2009 the Company bought on the market:

- wheat – 1506.46 t,
- barley – 458.68 t,
- rape – 177.39 t.
- maize – 68.46 t.

Table 1 presents the major recipients of the group’s products.

Table 1. Major recipients of the products offered by the “Ziarno” Sp. z o.o. Corn Producer Group

| No. | Entity |
|-----|---|
| 1 | Młyn Usługowo-Handlowy Adam Zabiegała |
| 2 | Przedsiębiorstwo Rolno-Zbożowe Mieszko Sp. z o.o. |
| 3 | Agencja Obrotu Rolnego “Agrolid” Wąbrzeźno |
| 4 | Małgorzata Orłowska “Maxima” Głubczyce |
| 5 | F.H.P.U. Przemiał Zbóż Bogusław Żółtek |
| 6 | Zakłady Tłuszczowe “Bielmar” Sp. z o.o. Bielsko-Biała |
| 7 | Młyn Nad Wartą Sp. z o.o Kochlew 39 |
| 8 | P.H.U. “Rol-Dap” Giżycki Leszek Lubrza |
| 9 | P.H.P. “Agro-Efekt” Głubczyce |

Source: own study based on the Company’s data.

The JOANNA Sp. z o.o. Grain Producer Group was set up pursuant to the provisions of the Articles of Association signed on 12 February 2010. Its founders – two individuals and three legal entities (limited liability companies) – conduct their business activities on their farms located in the vicinity of Grodków. On 24 February 2010 the Company was incorporated in the Register of Entrepreneurs of the National Court Register maintained by the District Court in Opole, VIII Commercial Division, under the KRS number 0000349702. On 15 June 2004, according to the decision issued by the Marshal of the Voivodeship of Opole, the company was entered in the Register of Agricultural Producer Groups of the Opole Voivodeship as reference No 62. The Company headquarters is located in Nowa Wieś Mała, commune of Grodków, Brzeg District, Voivodeship Opole. The company has no internal business units. Its share capital amounts up to PLN 5000 and is divided into 100 shares of PLN 50 each and is distributed among the shareholders (Table 2).

Table 2. Shareholders of the JOANNA Sp. z o.o. Grain Producer Group

| No. | Shareholder | Number of shares | Share value | Shares' value |
|-------|--------------------------|------------------|-------------|---------------|
| 1 | Gigant Sp. z o.o. | 20 | 50.00 | 1000.00 |
| 2 | Partner Sp. z o.o. | 20 | 50.00 | 1000.00 |
| 3 | P.P.R. NOWPOL Sp. z o.o. | 20 | 50.00 | 1000.00 |
| 4 | Bednarski Zbigniew | 20 | 50.00 | 1000.00 |
| 5 | Sajdutka Adam | 20 | 50.00 | 1000.00 |
| Total | | 100 | 50.00 | 5000.00 |

Source: own study based on the Company's data.

The Company has a one-person management board and was set up for an unlimited period of time. According to the Ordinance issued by the Minister of Agriculture and Rural Development, the group was founded for a specific product – grain seed, in particular for the wholesale of barley, wheat and maize seeds produced by the group members. Pursuant to the Articles of Association of the JOANNA Sp. z o.o. Grain Producer Group, the Company's activities are aimed at:

- adjusting the shareholders' production to the market environment,
- enhancing effectiveness,
- planning production with special attention paid to the amount and the quality,
- concentrating the supply and organizing the sale of farm products,
- protecting the natural environment.

The Grain Producer Group JOANNA Sp. z o.o. consists of five members conducting their activities in a land area of 2 846 ha. Table 3 presents the farm size for each group member.

Table 3. Farm size for each group member

| No. | Shareholder | Area (in ha) |
|-------|--------------------------|--------------|
| 1 | Gigant Sp. z o.o. | 1057.00 |
| 2 | Partner Sp. z o.o. | 408.00 |
| 3 | P.P.R. NOWPOL Sp. z o.o. | 373.00 |
| 4 | Zbigniew Bednarski farm | 908.00 |
| 5 | Adam Sajdutka farm | 100.00 |
| Total | | 2846.00 |

Source: own study based on the Company's data.

The JOANNA group members have been cooperating for many years, which should guarantee their successful meeting of the established objectives. In the first year the group concentrated their efforts on making arrangements for the joint sales by its members (grain seeds), on coordinating the purchase of production facilities, pesticides and outsourcing services in order to minimize unit prices and on developing the administrative structure of the group. As a result, the delivery of the established goals translated into the plant production as presented in Table 4.

Table 4. Plant production for the JOANNA Sp. z o.o. Grain Producer Group

| No. | Type of product | Cultivation area (ha) | Crop volume (t) | Average crop (t) |
|-------|-----------------|-----------------------|-----------------|------------------|
| 1 | Winter barley | 200.15 | 987.05 | 4.93 |
| 2 | Winter wheat | 1 045.18 | 5 931.39 | 5.67 |
| 3 | Grain maize | 514.50 | 4 919.40 | 9.56 |
| Total | | 1 759.83 | 11 837.84 | 6.72 |

Source: own study based on the Company's data.

The Grodków-based P.H.U AGRO-AS Sp. j. – a major recipient of the group grain – signed a long-term co-operation agreement with the JOANNA Sp. z o.o. Grain Producer Group thus allowing the group to transfer the crop directly to the end buyer with no storage, transport or handling expenses.

To facilitate the fulfilment of the established goals, the group applied in 2010 to the Agency for Restructuring and Modernisation of Agriculture in Opole for advance funding dedicated to the Agricultural Producer Group under the Rural Development Policy for 2007–2013. Upon approval of the application, the Group received PLN 50 000 support dedicated to group administration activities and the potential purchase of production facilities for its members. In 2011 the group will apply for the first-year payment.

The JOANNA Sp. z o.o. Grain Producer Group intends to focus its activities on improving the functionality of individual farms and on adjusting to the increasingly

competitive market environment. Subsequently, the group will actively encourage the exchange of knowledge and experience with regard to agricultural production, fertilizers and pesticides used and cultivation technologies.

4. Income tax on plant product sales

Both the “Ziarno” Sp. z o.o. Corn Producer Group and the JOANNA Sp. z o.o. Grain Producer Group are legal entities and hence they are subject to the provisions of the Corporate Income Tax Act [Ustawa z 15 lutego 1992...]. The Groups’ activities involve first and foremost the purchase and further sale of corn produced by their members and trading corn acquired from other sources. For reimbursement thereof a company will gain revenues less tax deductible expenses incurred in relation to the purchase of plant products and administration costs of setting up a company and administrative operations.

Pursuant to the provisions of the Corporate Income Tax Act, taxable income is any income of a company regardless of the income sources. Income is defined as any surplus revenue to tax deductible expenses reported in an accounting year. Therefore, the companies reporting revenues from their agricultural production are obliged to pay due income tax at the rate of 19% of the tax base to the local tax office. Income tax is settled by means of monthly advance payments due until the 20th day of each successive month following the previous accounting month. Next, not later than until the end of the third month of the subsequent year, the companies are obliged to submit the CIT-8 tax return with an earnings report (a preliminary tax return) for a given financial year. Due tax or the difference between the tax due in compliance with earnings identified in the return and the total amount of all the due advance payments for the entire period commencing upon the beginning of the year should be settled at the same time. Upon approval by the authorised institutions, companies are supposed to submit the final return along with the financial report and copies of General Shareholders Resolutions approving the report within 10 days from the approval date.

It is worth noticing that effective tax regulations allow an agricultural producer group to sell crop grains acquired from its members at the net price equal to the purchase price. Therefore the JOANNA Sp. z o.o. Grain Producer Group may purchase agricultural products from its members and resell them at the same price. The above is possible as it fails to affect the tax base and reduce the tax liabilities. As pursuant to the provisions of Art. 17 clause 1 point 49 of the Corporate Income Tax, an incorporated agricultural producer group earnings from the sales of products or group of products the group was established for and produced by its members are tax exempt in the portion spent for the benefit of the group members in a given fiscal year or a subsequent one. Furthermore, production facilities are also transferred to income tax exempt entities conducting agricultural activities. This being the reason, the group margin charged on the sales of grains purchased from and produced by

its members has no impact on the income tax payable. Hence, it is possible that the purchase and resale price are equal with tax liabilities remaining at the same level. Nevertheless, the JOANNA Sp. z o.o. Grain Producer Group is strongly recommended to keep the resale prices equivalent to the market price of a given product at a given moment, which seems to be a prerequisite to introduce the zero margin.

Moreover, the company was set up to enhance the operation of its individual members conducting agricultural business activities and due to low operational costs covered by their own financing and subsidised by the Agency for Restructuring and Modernisation of Agriculture so there is no need to make profits on the sales of the crops purchased from the group members. In connection with the above, the purchase of the group members' crop at a price lower than the resale price to make a profit would not be justified, whatsoever. Supposedly such operations would lead to a deterioration of the members' economic situation and, thus, stand in contradiction with statutory requirements.

The JOANNA Sp. z o.o. Grain Producer Group applied to the Head of Tax Office in Katowice for an individual interpretation of its stance. The applicant's position was given legal recognition.

Accordingly, pursuant to binding tax regulations, agricultural producer groups may avoid paying income tax on sales of products purchased from its members. Such a beneficial solution for a tax-payer will encourage setting up new agricultural producer groups which seem to appear more and more frequently in the Polish market and increasingly become a major player in the competitive European markets.

The "Ziarno" Sp. z o.o. Corn Producer Group will apply a similar price policy, however, it also purchases grain from non-members at a price lower than the resale price thus making taxable income in the meaning of corporate tax legislation.

5. Tax levied on agricultural production facilities transferred to group members free-of-charge

According to the provisions of Corporate Income Tax, an incorporated agricultural producer group earnings from the sales of products or group of products it was established for and produced by its members are tax exempt in the portion spent for the benefit of the group members in a given fiscal year or a subsequent one. Expenses incurred for the benefit of the group members are deemed to be costs of production assets transferred to the agricultural producer group members as well as cost of training dedicated to group members. This being the reason, both the "Ziarno" Sp. z o.o. Corn Producer Group and the JOANNA Sp. z o.o. Grain Producer Group stipulated the conditions governing the provision of production facilities to the group members by means of free-of-charge transfer in their Articles of Association.

In 2010 the "Ziarno" Sp. z o.o. Corn Producer Group reported the income from the sales of grain. Compliant with the resolution of the General Meeting of Shareholders the earnings were allocated for purchasing production assets to be next

transferred free-of-charge to group members. The facilities were purchased pursuant to the provisions of the Articles of Association proportionately to the amount of crop purchased from each member.

The JOANNA Sp. z o.o. Grain Producer Group generated an income of PLN 14 475.02 from the sales of corn seeds. Compliant with the resolution of the General Meeting of Shareholders, the earnings were allocated for purchasing production assets to be next transferred free of charge to group members. The assets included: proteus, asahi, scenic, expert, nutribor, tobsin. The money was spent in compliance with the provisions of the Company's Articles of Association and transferred, as specified in the protocol, in the following way:

- the “GIGANT” company received production facilities proportionately with regard to the value of the corn grain delivered for the group benefit in the previous fiscal year, i.e. PLN 4359.15;
- the Zbigniew Bednarski farm – 60% of the remaining portion, i.e. PLN 6069.52;
- the Adam Sajdutka farm – 40% of the remaining portion, i.e. PLN 4046.35.

The income so distributed was free of 19% tax. The companies would only disclose zero income in the attachment to CIT-8, Item 12 tax-exempt income. According to the annual tax return submitted, the tax office refunded the overpay of taxes to the Companies' bank accounts.

Importantly, due to the free-of-charge transfer of production assets, both groups were not liable to collect taxes levied on dividends and other income generated from interest in legal entities revenues. It is the group's position that the transfer of profit in the shape of production assets purchased by the Companies is allowed when the profit is made from sales of products the group was established for and acquired from the group members. The above may also apply to the surplus profit from the remaining portion of the Agency for Restructuring and Modernisation of Agriculture subsidy when the administrative needs of the members have been satisfied. Such profit is not liable for 19% income tax due to the interest in other legal entities' profits. Pursuant to the Corporate Income Tax Law the provisions of the act are not applicable to the income generated from agricultural business activities, apart from revenues of special sectors of agricultural production.

Pursuant to the provisions of the Act on Groups of Agricultural Producers [Ustawa z 15 września 2000..., art. 2], “individuals or entities with no legal status as well as legal entities running a farm within the meaning of the Act on Agricultural Tax or conducting farming activities in special sectors of agricultural production are allowed to form agricultural producer groups aimed at adjusting their production to market environment, enhancing efficiency, planning production processes in terms of quantity and quality, supply concentration, better organisation of farm products sales and natural environment conservation activities”. The above involves the group's complex organisation of agricultural production in its members' farms through the supply of production assets, preparation of goods for trading and sales activities. Therefore, the trading activities of a group of producers and agricultural operations

of its members are correlated with their individual production aimed at enhancing their products' competitive advantage and at profitable sales. Undoubtedly, the income generated from the Restructuring and Modernisation of Agriculture subsidy will relate directly to the agricultural activities of its members. The subsidy paid out to the group is calculated with regard to the total production reported by all the members and sold by group agency. As a result, the company's profit made from the sales of goods produced by members and sold by the group is calculated not only as the difference between the buy and sell price of the farm products, it is also enlarged by the profit from the subsidy granted according to the substantiated net annual revenue from sales of products or group of products the group was established for originating from the members' farms and sold to non-members.

This means that both the agricultural producer group's revenues from the sales of farm products and production assets transferred to them free-of-charge are considered agricultural activities and lawfully deemed tax-exempt.

Similar tax regulations have been introduced in other EU member countries, however there farmers are usually grouped in cooperatives while in Poland they have the legal status of a limited liability company. Table 5 presents the legal status of Agricultural Producer Groups in Poland.

Table 5. Establishment of Agricultural Producer Groups by legal status from 2005 to 2009

| Legal status | As of 31 Dec 2005 | | As of 31 Dec 2007 | | As of 31 Dec 2009 | |
|--------------------------|-------------------|------|-------------------|------|-------------------|------|
| Public limited companies | 42 | 35% | 129 | 51% | 315 | 62% |
| Cooperatives | 28 | 23% | 68 | 27% | 136 | 27% |
| Unions | 42 | 35% | 47 | 19% | 48 | 9% |
| Associations 8 | | 7% | 8 | 3% | 10 | 2% |
| Total | 120 | 100% | 252 | 100% | 509 | 100% |

Source: [www.krs.com.pl of 10 October 2011].

In Germany, Portugal, the Netherlands, Greece and Luxemburg the cooperative members' share in the surplus is tax deductible, yet (cf. [Lachowski (ed.) 2006, pp. 145–146]):

- Germany, Portugal – the entire amount, if paid to the members,
- the Netherlands – only, if paid to member individuals,
- Luxemburg – solely in agricultural cooperatives,
- Greece – not tax-deductible, however the members are not liable for taxes in relation to their surplus share.

In Spain the cooperative members' share in the surplus is not tax deductible, yet the profits from transactions with members are taxed according to lower rates with tax-free provision transfers.

6. Conclusions

Income tax is a direct tax levied on any of tax-payer's income, regardless of the income sources. Tax-payers are legal entities, companies in the process of formation, tax capital groups, as well as the organizational units with no legal status, except partnerships.

The paper focuses on the identification of the major corporate income tax characteristics with regard to a special tax-payer – an agricultural producer group. The proper interpretation of tax regulations in terms of such tax payers was represented by the example of the “Ziarno” Sp. z o.o. Corn Producer Group and the JOANNA Sp. z o.o. Grain Producer Group.

The analysis of tax regulations for agricultural producer groups would disclose benefits for the individual farmers associated in groups, in particular tax exempt income of the incorporated agricultural producer groups referred to in the Act on agricultural producer groups and generated from the sales of products or group of products they were established for, produced by its members, in the portion spent for the benefit of the group members in a given fiscal or the subsequent year. The tax allowance applies only when the agricultural producer group allocates the income generated for the purchase of production assets to be transferred further to the group members free-of-charge. It may also be allocated for training dedicated to group members. Therefore, the allowance should be perceived as subject exemption strictly conditioned by specific income generated from sales of particular products. It is also limited by particular deadlines.

Producer groups are also not liable for collecting income tax on dividends and other revenues from profits generated due to their interest in other legal entities. This involves the profit in the shape of the free-of-charge transfer of production assets made on the sales of products the group was established for.

The results of the analysis identify agricultural producer groups as privileged tax-payers. Provisions of the act allow avoiding all the taxes levied on the income generated by the sales of the products obtained from its members. It is also closely correlated with agricultural business activities which is income tax exempt according to the Polish legislation system. Measurable financial benefits are possible. At the same time group members find the cooperation reasonable and get the understanding that joint activities are not only profitable but facilitate growth as well. Integration allows to reduce production costs and negotiate good sales prices. It enables sales on the markets unavailable to individual farmers and competing in an increasingly challenging market environment.

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OBCIĄŻENIA PODATKOWE GRUP PRODUCENTÓW ROLNYCH

Streszczenie: W artykule zaprezentowano i zanalizowano zasady funkcjonowania grup producentów rolnych ze szczególnym uwzględnieniem ich opodatkowania podatkiem dochodowym od osób prawnych. Przedmiotem zainteresowania było zwłaszcza opodatkowanie dochodu ze sprzedaży produktów roślinnych wyprodukowanych w gospodarstwach członków grup producentów rolnych oraz opodatkowanie nieodpłatnie przekazanych środków do produkcji rolnej. Artykuł podzielono na cztery powiązane ze sobą części, prezentujące w części teoretycznej: definicję, cele i zadania oraz aspekty gospodarcze funkcjonowania grupy producentów rolnych, zasady opodatkowania dochodu ze sprzedaży produktów roślinnych, w części empirycznej: charakterystykę dwóch grup producentów rolnych działających na terenie województwa opolskiego z przedstawieniem zasad opodatkowania ich dochodu.

Słowa kluczowe: grupa producentów rolnych, podatek dochodowy od osób prawnych, ulgi podatkowe.