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E-SPORT AND TAXES. SELECTED ISSUES[1]

Abstract

The article presents reflections on several selected issues of tax law that occur in the area of a new and emerging field of the so-called e-sport. Firstly, the features of such activity were analyzed and the question whether it could be classified within the concept of sport was answered. Next, the affirmative conclusion allowed for the consideration of a number of dilemmas related to the choice of the correct tax regime for income obtained in the sphere of professional gaming.

Keywords: Sports, e-sports, gaming, personal income tax, economic activity, self-employment, financial reward, streaming, inheritance and donation tax.

JEL Classification: K23, K34

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1. Introduction

The e-gaming industry and the accompanying specialized scene of the so-called electronic sport (or e-sport) is a subject of growing interest in many areas of law. Taking into account the progressive commercialization of activities based on broadly understood *gaming*, one of such areas should include tax law. Among the most important legal problems that may occur in the above-mentioned area it is worth mentioning, inter alia, the issue of the correct qualification of income obtained by professional players, the issue of taxation of prizes obtained in e-sports tournaments and the dilemma of taxation of income obtained in connection with conducting streaming broadcasts (the so-called *streams*) via the Internet.

The purpose of this publication is to consider the above-mentioned legal issues and to formulate conclusions that could be useful in the practice of applying the tax regime to activities undertaken in the field of electronic sport.

2. The essence of *gaming* and electronic sport

Before proceeding to the main part of our considerations, one initial problem of terminology must be resolved. The point is to indicate the fundamental difference in meaning between the areas of the broadly understood *gaming* on the one hand and electronic sport on the other hand[2].

The beginnings of the development of electronic games date back to the 1950s. In the literature, S. Mrzygłocka draws attention to the above, referring to the research of A. Douglas, to whom (as part of his research on human-machine interactions) she attributes the creation of the first computer game[3]. One can also come across sources where the development of the first game of this kind takes place even earlier. In particular, R. Bomba points to 1947 and a game developed by T.T. Goldsmith and E.R. Mann [Bomba 2014: 107]. Attention is also paid to the game *Tennis for Two* (1958) and *Spacewa* (1961-1962) [Matusiak 2013: 40] which are fundamental for the development of the game genre. The first commercial successes include the *Pong* game, released by Atari as early as in 1972. The year 1975, i.e. the date of release of this game for home consoles, is also considered the beginning of the computer games industry [Sosnowski 2017: 241-242]. The definition of games of the above type was presented by S. Łukasz, who described them as "recorded in any form and on any digital medium (tape, floppy disk, electronic circuits, etc.), a

[2] For more see [Biliński 2021: 11 et seq].
[3] It was about transferring the tic-tac-toe game to the computer screen, - see [Mrzygłocka 2017: 291].

computer program fulfilling the ludic function by enabling manipulation of electronically generated graphic objects or text on a visual screen (liquid crystal display, monitor , TV, etc.), in accordance with the rules set by the game creators" [Łukasz 1998: 11]. Whereas the PWN Great Dictionary of the Polish Language adopted the concept of a "computer game" as "a game played on a computer screen, requiring a computer program to be played where the game participants are a computer user, computer or other computer users connected by a network" [Dubisz 2018: 1113].

The lack of a legal definition of a computer game also prompts representatives of legal disciplines to present appropriate proposals. An extensive analysis on the essence of computer games was presented by K. Szpyt, who pointed out that it is “a multimedia, multi-element product whose main purpose is to provide entertainment to people (players) using it, according to certain predetermined rules, and the gameplay itself is visualized on a screen that is an independent device or part of the output device (e.g. in the case of a tablet, mobile phone or smartphone)" [Szpyt 2018: 12]. By computer game, S. Wiśniewski means “any electronic virtual game displayed on a monitor or TV screen” [Wiśniewski 2012: 43-67]. In the opinion of M. Wąsowska, from a technical point of view, "a computer game is a computer program that, when launched on a computer screen or another machine intended for it, presents data, inter alia, sound and graphics, while communicating with the user, guarantees him/her influence on the course of its display in accordance with the originally established rules and principles" [Wąsowska 2013: 36]. I. Matusiak noticed, in turn, that to define a computer game it is sufficient to use the definition of J. Huizinga, often cited in the literature[4] provided that it is supplemented with the phrase "via a computer program" [Matusiak 2013: 43].

Next, it should be pointed out that participation in games with the above-mentioned features is most often referred to as *gaming*. The essence of the activity referred to above is usually a type of entertainment or a way of spending free time, often associated with even a specific lifestyle and participation in communities integrated via the Internet (e.g. the so-called Clans).

At the same time, it should be noted that the increase in popularity of the electronic games segment has led to the formation of a kind of a specialized *gaming* scene, where participation in the game itself is only the basis (starting point) for actual competition of an

[4] According to [Huizinga 1985: 55-56] (cited after [Radowicki 2019], a game can be perceived as a certain activity performed within the set boundaries of time and space, which does not lead to the achievement of any precise goals (it is a goal in itself), and is characterized by the participant's acceptance of the applicable rules as well as an increase in tension, excitement and awareness of "being different" from ordinary life.

individual or team nature. At present, there are many electronic game titles in which various forms of competitive competition are organized. In particular, one should notice here: *League of Legends* (producer: Riot Games), *Counter Strike G.O.*, *DOTA 2* (Valve), a series of football games FIFA (Electronic Arts), Starcraft II (Blizzard), *FORTNITE*(Epic Games) or *Hearthstone* (Blizzard).

Consequently, from the general concept of *gaming* one should distinguish such activity within a specific electronic game, the aim of which is professional competition. The above allows the use of the term *pro-gaming* in relation to such types of activities.

Generally speaking, it seems that the boundaries between the above spheres should follow the pattern typical of dualism accompanying "traditional" sport, within which, apart from the amateur (unorganized) level, there is also an area subordinated to specific rules of competition [Biliński 2020: 5]. The concept *of pro-gaming* is also the starting point for establishing the understanding of electronic sport, which should also be based on a professional factor. The professionalism in question can be applied both to the way of preparing for the competition [Dąbrowski 2011: 118, 136] as well as to the commercial profile of this activity[5]. In this state of affairs, it is reasonable to ask at the outset, according to which rules will the income derived from the activities undertaken in the above-mentioned subject matter be taxed.

3. Electronic sport qualification under the Personal Income Tax Act

Moving on to further considerations, it is necessary to answer the question whether, under the Act on Personal Income Tax, the so-called “electronic sport” can be seen as a sport. This is important given the content of a number of provisions contained in this Act, including, in particular, Art. 13 point 2 of the Personal Income Tax Act, which lists, among others, income from "practicing sports" and income of judges from running "sports competitions". It should be pointed out that the tax regulations do not use the legal definition of sport established for their own needs, which leads to the necessity to use the terminology provided by the legislator in the Act on Sport at this point. This was pointed out by the Provincial Administrative Court (hereinafter: PAC) in Warsaw in the judgment of March 27, 2019, pointing out, inter alia, that Art. 2 par. 1a of the Act on Sport is important for the interpretation of Art. 21 par. 1 point 68 of the Personal Income Tax Act, also in order to determine what the contests in the field of sport indicated in this provision are [PAC in Warsaw, III SA/Wa 1079/18].

[5] More: [Biliński 2021: 11 et seq].

The legal definition of sport can be found in Art. 2 par. 1 of the Act on Sport, according to which sport should include all forms of physical activity that through interim or organized participation, affect the development or improvement of physical and mental condition, the development of social relations or the achievement of sports results at all levels. What is extremely important, based on Art. 2 par.1a of the aforementioned Act, sport can also be defined as competition based on intellectual activity, the aim of which is to achieve a sports result. The above-mentioned solution, which significantly expands the legal concept of "sport", was introduced by the amendment of July 20, 2017 amending the Act on Sport and the Act on Disclosure of Information on Documents of State Security Agencies from 1944-1990 and the Contents of These Documents. In view of the above, it should be noted that the revision of the legal definition of sport has made the question of the admissibility of placing at least some of the activities within electronic sport into its scope legitimate. However, an affirmative answer will be justified provided that there are three conditions set out in Art. 2 par. 1a of the Act on Sport. The first condition is the occurrence of an element of competition. Secondly, the competition in question must be of an “intellectual” nature. Thirdly, in order to further narrow the scope of the intellectual dimension of sport, the legislator also introduced the last criterion, which involves the necessity to subordinate such activity to the achievement of a "sporting result".

Moving on to the comments on the first of the criteria provided in Art. 2 par. 1a, i.e. the notion of competition, it should be noted that at present, it is not a legally defined term. At the same time, however, it remains deeply rooted in the terminology of the sports movement. In sports law literature, the concept of competition is explained primarily by referring to no longer valid definitions, which were found in Art. 3 point 7 of the Act on Physical Culture (individual or collective competition between persons aiming, especially during sports competitions, to overcome time, space, obstacles or an opponent) and Art. 3 point 4 of the Act on Qualified Sport (individual or collective competition of people aimed at obtaining results appropriate for a given sport discipline) [Fundowicz 2013: 77 et seq.; Cajsel 2020: 55]. To explain the essence of competition, one can also use dictionary definitions. In the PWN Great Dictionary of the Polish Language, it is defined as a competition of several people or groups for priority in something or for obtaining something [Dubisz 2018: 369]. Similarly, "competition" is understood to mean claiming primacy, competing [Dubisz 2018: 369]. M. Gniatkowski and P. Kokot also referred to the linguistic understanding of this term, specifying that competition should be understood as a specific type of practicing a given sport, which consists in competing for priority in it [Gniatkowski, Kokot 2011: 44]. In view of the above, it should be assumed that the

essence of competition should be decided by two essential characteristics, i.e. firstly, the occurrence of an element of rivalry between certain individuals or groups aimed at achieving a certain result, and, secondly, a layer of rules of this rivalry. The first of the mentioned factors should not raise any major doubts. It is simply about the intention with which the participant enters the game, which should be focused on achieving a goal, winning a prize, priority, etc. Certain doubts, however, may be related to the level of competition rules. In particular, the question arises as to which entity will be competent to define them. Looking at the solutions adopted in the Act on Sport, it can be noticed that organizing and conducting competition in a given sport is the basic rationale of the structures called the Polish sports associations (Art. 7 par. 1 of the Act on Sport. Moreover, the legislator also lists the types of competitions (for the title of the Polish Champion and for the Polish Cup in a given sport), under which Polish sports unions were granted organizational exclusivity (Art. 13 par. 1 point 1 of the Act on Sport). A consequence of the above-mentioned statutory provisions is that the term "competition" can be viewed from two points of view. In a narrow sense, these will be games organized on the basis of the Act on Sport by Polish sports associations. However, broadly speaking, these are any games equipped with the rules of competition by any entity. In this state of affairs, the answer to the question in which of the above meanings is the word "competition" used in Art. 2 par. 1a of the Act on Sport takes on a principal meaning. In my opinion, the wording used in Art. 2 par. 1a of the Act on Sport, should be related to the broad understanding of this term. The opposite position would lead to a lack of substantive justification for limiting the sphere of sports activities and, most importantly, would question any sense of extending the definition of sport expressed in Art. 2 par. 1a of the Act on Sport. As a consequence, it will be possible to attribute the games organized within the framework of electronic sport competitions with the feature of rivalry.

The second of the criteria for describing sport as defined in Art. 2 par. 1a of the Act on Sport requires an answer to the question of how to understand the "intellectual" nature of a given competition. Although the legislator does not specify this wording, it seems intuitively understandable. First of all, it should be pointed out that basing a given game on an intellectual factor should in no way mean that it takes place only on the mental plane. On the contrary, games usually also include a number of activities (e.g. resulting from their rules of "movements", behaviors, etc.), to which physical characteristics can be attributed. In the game of chess, this is, for example, the setting of pieces on the chessboard, whereas, in the board game, the behavior of individual players can be symbolized by chips, cards, pawns, etc. As a consequence, in most commonly known games, the elements of physical

participation quite smoothly blend in with their intellectual layer. It is also no different in the electronic environment. Most electronic games combine both mental challenges (e.g. strategic) as well as dexterity (the need to use controllers, button sequences, keys, etc.). On the other hand, a formula based on this factor in a decisive dimension will be intellectual. Whereas the "decisive dimension" should be related to the result of the game (result, win, payout).

It should also be noted that the intellectual aspect of sport was referred to in the justification of the bill of the above-mentioned amendment to the Act on Sport of July 20, 2017. The document emphasized, inter alia, that "engaging mental activity by playing bridge, checkers or chess, as well as electronic sports, creates the possibility of intellectual development, strengthens social relations, promotes the socialization of participants, and increases self-confidence. The effects of intellectual activity in the social aspect are therefore similar to that of physical activity. It should also be borne in mind that a professional approach to chess, checkers, sports bridge, as well as electronic sports requires participants to practice physical activity. In addition, chess, checkers, sports bridge and electronic sports games increase the speed of reaction and develop strategic thinking" [Sejm Paper No. 1410: 3-4]. The position presented above was shared by the Provincial Administrative Court in Warsaw in the already cited judgment of March 27, 2019. On the occasion of the ruling on the repeal of the individual interpretation of the Director of National Fiscal Information of February 28, 2018 no. 0114-KDIP3-2.4011.356.2017.2. This court noted, inter alia, that not only physical activity, but also intellectual activity, may lead to the achievement of a sports result, and additionally contribute to the strengthening of social ties or building one's own value.

Considering the above, it should be stated that among the vast majority of games constituting the basis for competitions in the field of electronic sports, the above premise is present. Despite the often high requirements of physical (dexterity) nature, it should be considered correct to classify these games to the "intellectual" category, because the outcome of a given game will usually be influenced by elements of tactics, strategy or a well-thought-out sequence of actions (moves). Naturally, it should also be remembered that the huge variety of electronic games does not allow for an appropriate generalization at this point, and the resolution of a possible dilemma of the occurrence of a decisive intellectual factor should always take place in a specific case. A similar point of view is also noticeable in the above-cited judgment of the Provincial Administrative Court in Warsaw, in which it was emphasized, inter alia, that not all electronic games can be treated as a

sport automatically. According to the Court, sport can be considered competition based on intellectual activity, and not competition in all types of electronic games.

The third premise listed in Art. 2 par. 1a of the Act on Sport is the goal of a given activity, which should be aimed at achieving a "sporting result". First, attention should be paid to the logical error made in constructing this requirement. The concept of sport is explained with the help of a related phrase (*idem per idem* error) [Badura, Basiński, Kałużny, Wojcieszak 2011, art. 2]. Most importantly, it also seems that the meaning of this criterion coincides with the way in which the essence of the competition itself is understood, and in this respect it is consumed by this very premise.

Summarizing the above considerations, one should take the position assuming the admissibility of the perception of e-sports disciplines within the limits of sport defined by the regulation of Art. 2 of the Act on Sport. The essence of specific electronic competition should play a decisive role here. If it is based on competition, in which the intellectual factor plays a key role, I do not see any obstacles to qualifying this type of activity as an activity in the field of sport. A similar point of view is expressed in jurisprudence as well as in literature [Stępnik 2009; Klimczyk 2020: 115; Cajsel 2020: 50; Wcisło 2019: 67-74].

4. Income from electronic sport under the Act on Personal Income Tax

As already noted, the above conclusion will also play a significant role in the field of tax law.

Moreover, taking into account the similarities between the activity of participation in sports competition, on the one hand, and electronic competition, on the other hand, the legal situation of professional e-sport players (as well as members of other staff, e.g. coaches, judges) under tax law may become considered comparable to the situation of professional participants in traditional sports. As a consequence, Ifrom activities of natural persons in electronic sports should most often be qualified within the so-called self-employment. As already noted, in accordance with Art. 13 point 2 of the Personal Income Tax Act, the above category includes, inter alia, income from practicing sports, sports scholarships awarded on the basis of separate regulations and income of judges from conducting sports competitions. The above-cited provision is therefore a convenient example of a legal solution, the interpretation of which is significantly influenced by the extension of the very definition of sport, which is included in Art. 2 of the Act on Sport. The possibility of perceiving rivalry of an intellectual nature in this way leads to giving a broader scope of meaning to the notions of "practicing sports" and "sports competitions"

contained in Art. 13 point 2 of the Personal Income Tax Act. It is noted in the literature and jurisprudence that "self-employment" should be independent and it need not be performed in a formally organized manner. Most importantly, its essence is determined by individual features and skills that make a specific person (athlete, e-athlete) appropriate to perform a certain range of activities [Tetłak 2018: 262]. There should be no doubt that the earning activities of e-sports players will typically have the above features. Naturally, however, it should be remembered that in the case of employment under an employment contract, the revenue obtained should be qualified under Art. 12 of the Personal Income Tax Act. It is also worth noting that, as in the case of activities in the field of traditional sport, also in e-sport, the catalogue of players' revenue sources may exceed this "practicing sports" wording used in the Art. 13 point 2 of the Personal Income Tax Act. While the above-mentioned framework will usually include activities constituting the core of sports contracts, consisting in participation in competitions, training camps, etc., advertising or image services, for example, should be considered outside the above scope. In the event of this type of revenue, it would be correct (in principle) to qualify them pursuant to Art. 13 point 8a of the Personal Income Tax Act. The above was confirmed in the judgment of the Provincial Administrative Court in Gliwice (I SA/Gl 1586/16) [PAC in Gliwice, I SA/Gl 186/16], in which it was emphasized that the income from the performance of "advertising" services or the provision of other services, including "image" services under a specific task or mandate contract, obtained only from the club by the athlete who is its player, unless it is obtained on the basis of contracts concluded as part of non-agricultural business activity conducted by such a taxpayer, should be classified as income described in Art. 13 point 8a of the Personal Income Tax Act.

The above-mentioned view of the Provincial Administrative Court in Gliwice leads to the observation according to which it cannot be theoretically excluded that if certain conditions are met, the income from the activity of natural persons in e-sport will, in a specific case, be included in the category of sources from the so-called non-agricultural economic activity. The requirements for non-agricultural economic activity, specified by the legislator in Art. 5a point 6 and (from the negative side) in Art. 5b par. 1 points 1-3 of the Personal Income Tax Act[6] will play a decisive role in the assesment. It should be noted

[6] Pursuant to Art. 5a point 6 of the Personal Income Tax Act, economic activity should be understood as gainful production, construction, commercial, service activity, activity consisting in searching for, identifying and extracting minerals from deposits, or activity consisting in the use of intangible and legal things, provided that it is carried out on one's own behalf irrespective of its result, in an organized and continuous manner, from which the income obtained is not included in other income from the sources mentioned in Art. 10 par. 1 points 1, 2 and 4-9 of the Personal Income Tax Act. On the other hand, pursuant to Art. 5b par. 1 of the Personal Income Tax Act,

that the tendency enabling the above qualification in the realities of sports activity is noticed in the jurisprudence of the Supreme Administrative Court (cited as SAC). In the resolution of June 22, 2015, The Supreme Administrative Court stated that the income of athletes may be included in the source of income from non-agricultural economic activity (Art. 10 par.1 point 3 of the personal Income Tax Act), if the athlete's activity meets the criteria specified in Art. 5a point 6 of this Act and does not meet the criteria of Art. 5b par. 1 of this Act [SAC II FPS 1/15]. A similar position was taken by the Supreme Administrative Court in its judgment of April 04, 2014, in which it was noted, inter alia, that the remuneration due to sports judges for conducting sports competitions may relate to activities falling within the scope of their economic activity [SAC 2014, II FSK 1219/12].

The issue of the correct tax classification of prizes obtained as part of the competition organized in the field of electronic sport may be treated as related to the problem described above. It should be noted that along with the systematic increase in the popularity of electronic sport, the amount of tournament prizes are also constantly growing[7]. In this state of affairs, a question may arise whether a financial prize not exceeding the equivalent of PLN 2,000, won in such a tournament, could benefit from the objective exemption referred to in Art. 21 point 68 of the Personal Income Tax Act. At this point, it should be noted that in the above provision the legislator directly mentioned winnings from, inter alia, competitions in the field of science, culture, art, journalism and, most importantly, also sports. In the jurisprudence, one can find the view that "the main goal of the competition is to select the best people in a given field. This means that in order for a given project to correspond to the essence of the competition, there should be an element of rivalry, competition of participants" [PAC in Warsaw, III SA/Wa 523/15]. A similar view, although from a different perspective, was expressed by the Supreme Administrative Court in its judgment of December 15, 2015, stressing that the scope of the term "competition" referred to in Art. 21 par. 1 point 68 of the Personal Income Tax Act does not apply only to such a way of claiming the award (its amount) by athletes, coaches and other persons distinguished by achievements in sports activities, in which there is no element of competition [SAC II FSK 2615/13].

Considering the above, it seems that the meaning of the concept of winning a competition in the field of sport referred to in Art. 21 point 68 of the Personal Income Tax Act may also

business activity will not be treated as economic in the event of joint liability to third parties by the ordering party, performing activities under the management and at the place and time designated by the person ordering these activities, and no economic risk related to the business.

[7] It is worth noting that in the *Fortnite World Cup* tournament organized by the producer, the prize pool in 2019 amounted to $30 million, see [Trepiński 2019].

include the winnings obtained in the competition in the field of electronic sports. It should be emphasized that the concept of a competition in the field of sport presented above, for which, pursuant to Art. 21 par. 1 point 68 of the Personal Income Tax Act, an immanent feature is the existence of an element of competition between participants, it prevents the appropriate exclusion of awards and distinctions awarded for sports achievements by public authorities. The above is confirmed by the judgment of the Supreme Administrative Court of April 9, 2014 [SAC II FSK 911/12], according to which prizes awarded on the basis of a municipal resolution for high sports performance are not exempt from income tax, regardless of the amount paid. The same conclusion also applies to occasional prizes obtained by athletes or coaches at the end of the competition seasons[8] .

From the point of view of tax law practice, one should also include the issue of taxation of funds from donations that are transferred to people (including players) who perform streaming via the Internet. In the electronic environment, these are usually small sums of money transferred during the broadcast (*stream*), the purpose of which is to support the development of a specific internet creator[9]. The specificity of the activity of the above type leads then to the question whether the regime of the Act of July 28, 1983 on Inheritance and Donation Tax or the regime of the Personal Income Tax Act should apply in this case. It is worth noting that the indicated dilemma was the subject of an individual interpretation of the Director of the Tax Chamber in Katowice [Director of the Tax Chamber in Katowice 2461-IBPB-2-1.4515.366.2016.1.MD], in which it was pointed out that the application of the Inheritance and Donation Tax Act depends on whether the benefit to the recipient is a gratuitous benefit in character. In the above decision, the authority specified that this is an activity consisting in "providing third parties (mainly YouTube fans) with the possibility of making voluntary cash donations of various values on their behalf". Bearing the above in mind, it was then indicated that payments made by third parties, since they constitute donations, are subject to Inheritance and Donation Tax (unless they result explicitly from other obligation relationships). Consequently, if the legal relationship between the person conducting the described activity and third parties

[8] In the judgment of April 24, 2013. I SA/Łd 141/13, the Provincial Administrative Court in Łódź [PAC in Łódź I SA/Łd 141/13] noted that "the prizes paid to players and coaches as winners selected by the organizer as a reward after the end of the season, for obtaining the best results in the field of sports such as volleyball, do not constitute winnings in competitions, but in fact an element of rewarding players and coaches by the club. The above-mentioned awards are not covered by the exemption under Art. 21 par. 1 point 68 of the Personal Income Tax Act, it is also not possible to tax them under the terms specified in Art. 30 par. 1 point 2 of this Act ".

[9] The indicated feature allows you to see a certain similarity to the phenomenon of the so-called crowdfunding, or in other words social financing, see [Kosmala 2017: 55].

corresponds to the donation agreement, then any third party who transfers any money in the manner described should be treated as a donor in this case.

Referring to the above-presented position of the authority in the present case, it is difficult to share its arguments. Although the funds transferred as part of internet donations are usually voluntary, it is impossible not to notice that the attempt to subordinate this method of earning to the Inheritance and Donation Tax Act seems wrong.

Firstly, the provisions of this regulation in no way allow to take into account the specific nature of online donations, the amount of which usually does not exceed the amounts referred to in Art. 9 par. 1 of this Act[10]. Secondly, there is a wide range of donors who can participate in the financing of a specific Internet channel, which also means that the solution provided for in Art. 9 par. 2 of the Act of July 28, 1983 Inheritance and Donation Tax will not always be effective. In this state of affairs, it is more justified in practice to apply the Act on Personal Income Tax in this scope. Funds from donations made in the course of streaming should therefore be treated as income from activities performed in person (Art. 13 Personal Income Tax Act) or (depending on specific circumstances) income from non-agricultural economic activity (Art. 14 of the Personal Income Tax Act). The above view is all the more justified that taking into account the specific business model of the activity consisting in commercial publishing of content on the Internet, it cannot be ruled out that Internet donations should not be considered free of charge at all. As they are transferred in connection with a specific type of activity and, to a significant extent, shape its commercial profile.

5. Conclusions

This publication presents a number of comments on the possible directions of interpretation of tax regulations in relation to the activities undertaken in the new and emerging electronic sports industry. It was also noted that the fundamental significance for the conclusions reached should be attributed to the broadening of the definition of sport, which was placed in Art. 2 of the Act on Sport. This procedure makes it possible to notice significant similarities in terms of qualifying income from sports activities on the one hand and in the field of electronic sports on the other.

It is also worth noting that the specificity of income obtained in "virtual reality" does not allow in all circumstances to use legal solutions established for typical activities undertaken

[10] It should be pointed out that the tax-free amount in Inheritance and Donation Tax in the case of the third tax group is, in accordance with Art. 9 par. 1 point 3 of the Act, PLN 4902.

in the real world. An example of this issue is the problem of the admissibility and desirability of taxing income derived from online “donations” with inheritance tax and donations. On the other hand, the essence of the business model of this type of activity should at this point lead to the choice of solutions adopted in the Personal Income Tax Act.

It should also be emphasized that this publication does not exhaust all legal problems that, may be encountered under tax law by people earning money in the broadly understood *gaming* industry. As an example, it is possible to point to the issue of taxation of income from trade in virtual items from computer games, which is also already recognized in the literature.

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