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LOCAL ENTERPRISES IN THE SYSTEM OF REVENUE AND EXPENDITURE OF LOCAL BUDGETS — A MODEL SOLUTION

I. The concept of model enterprise consists of some segments, including economic, organizational-legal, legal-financial and managerial ones. A model of enterprise should be complete, internally consistent and logic. A model is complete if legal solutions concerning the enterprise include norms determining its economic, organizational-legal and financial-legal status, and a system of management. Consistency and logic of a model are decided by conformity of the economic position of enterprise with its organizational-legal and legal-financial position, and with the system of management of enterprises.

II. Local enterprises are a historical category. They appeared and appear in various socio-economic and political systems. Here a question arises whether there is or can be a uniform model of local enterprise, or different models depending on socio-economic and political conditions exist. It is also a question whether a model of local enterprise is a construction consciously formed by the lawmaker, or it is a construction which can be reconstructed on the basis of an analysis of practically applied legal solutions.

III. Considering the legislation and Polish practice referring to three structural systems of local authorities, i.e. the territorial local government (1918-1950), people's councils (1950-1984) and people's councils and local government (1984-1988), three corresponding models of local enterprises can be distinguished. Each of them has different advantages and disadvantages. A discussion about them should help to formulate the future model for the Polish economy and to settle the legal position of local enterprises.

IV. In the system of local government the model of local enterprise (local government enterprise) was characterized by the following features:

1) the organs of territorial local government had a complete freedom in establishing and organizing, as well as financing and managing the local enterprises; the problems of local enterprises were not strictly regulated by state legislation;

2) local government enterprises had a model different from other enterprises (state enterprises, private enterprises);

3) local government enterprises were one of economic-financial instruments of realization of tasks of territorial local government; they were established first of all to meet specially important needs of inhabitants, but also for other reasons, such as to prevent monopolization and increase of burden on the population, and also to obtain revenue for local budgets;

4) local government enterprises had no independence as regards property and economic-financial matters, and were strictly dependent on local organs which decided about their organization, tasks and development;

5) local government enterprises had no strictly determined organizational-legal form and presented a pattern of various solutions mostly basing upon such criteria as: economic (profit-making enterprises and public utility enterprises), property (own enterprises, enterprises with mixed capital, licensed enterprises), financial (enterprises not separated from the budget, enterprises separated but working on budget account, enterprises with separate legal person);

6) financial system of local government enterprises was in fact equal to the budgetary system of territorial local government; local government enterprises were not submitted to commercialization;

7) management of local government enterprises was entirely left to organs of territorial local government;

8) local government enterprises were established only in some spheres of realization of economic tasks, where they became necessary.

V. In the system of people's councils the model of local enterprise is characterized by the following features:

1) local enterprises are state enterprises; their organization, rules of activity and management are formed basing upon a general model of state enterprise, which changes together with a change of economic model and the model of management of national economy;

2) the range of local enterprises changes together with the degree of centralization or decentralization of local economy and position of people's councils in the socio-economic system of the state; thus the range of local enterprises is not directly dependent on local organs but is regulated by acts of supreme and central state organs;

3) local enterprises appear beside other forms of nationalized (central enterprises, cooperatives) and not nationalized economic activity; they are organized (with a few exceptions on certain stages of development) basing upon the principle of trades, most of them being a local equivalent of central enterprises; local organs are practically restricted in their ability of free deciding about establishing and organization of local enterprises;

4) the organizational-legal model of local enterprises is principally identic with the general model of state enterprises, where central enterprises predominate;

5) economic and financial independence of local enterprises is restricted in two ways: by the binding model of independence of state enterprises, and by the sytem of local management (competence of local organs in relation to local enterprises);

6) the only differences which distinguish more clearly central enterprises from local ones occur in the financial system of local enterprises (budgetary burden and grants, crediting, fund economy, financing of investments and technical progress); besides, they are not favourable for local enterprises because as a rule they are less modern solutions than those binding central enterprises;

7) decentralization of local economy and of the system of management was not consequently realized in practice and thus has not led to essential changes in the model of local enterprises, particularly its distinction from the general model of state enterprise;

8) the process of concentration of production and accompanying it system of centralized planning and financing have led to an almost complete elimination of the category of local enterprises; they are not replaced by any economic substitute, as the large central enterprises are not interested in meeting local economic needs;

9) instability of political conception as regards the position of people's councils and range of local economy does not allow to develop a separate model of local enterprise, there is rather a regress;

VI. Local enterprises working within the system of people's councils and territorial local government are characterized by the following features:

1) local enterprises remain state enterprises, but their connection with local economy and organs is more stressed; it refers mostly to the purpose of their establishment (realization of tasks connected with the social and economic development of the area and meeting the needs of the population);

2) because of the wide range of their tasks, local organs are obliged to establish local enterprises in almost every economic trade, both in production and non-productive spheres; it is beyond their property, financial and organizational abilities; attempts to introduce market mechanisms and enrich-

ment of subjective structure of local economy do not give the expected economic effect; the local organs are also unable to influence the not subordinated economic subjects in a non-authoritative way;

3) the administrative territorial division of the country favours economic and financial centralization on regional tier, not allowing to realize decentralization within the system of people's councils and to realize the idea of local independence, only slightly touched in the legislation of 1983 on people's councils and local government; a specially alarming phenomenon is the lack of local enterprises on the level of basic tier local organs;

4) in the organizational-legal and financial aspects the model of local enterprises hardly differs from the basic model of state enterprise determined in the economic reform; it is slightly modified by the legislation on people's councils and local government; it does correspond to needs and demands of local economy;

5) attempts to differentiate the organizational-legal forms of local enterprise refer only to a transformation of enterprises working on general principles into enterprises of public utility; they are in general not dictated by economic reasons but by a desire to obtain larger right of supervision by local organs; the category of joint local enterprises has in practice not been largely adopted;

6) under the new legislation the local enterprises have obtained a significant legal, property, economic and financial independence, which makes them too much independent from local organs, becoming the source of a crisis in local government;

7) the financial system of local enterprises in practice does not differ from the generally binding financial system of state enterprises, thus disregarding the specificity of those enterprises, causing a loss of their separate economic-financial character;

8) the system of management of local enterprises distinguishes itself in this way that along with a supervision competence of local organ of state administration, it is also based on a wide competence of the people's council; it also has some broader elements of socialization, as beside a competence of workers' self-management of the enterprise, a competence of other organs in management of the enterprise is provided;

9) the local organs must respect the range of independence of local enterprises, settled by law, which have a legal protection against decisions of the founding organ; at the same time enterprises are not economically responsible for realization of tasks of people's councils, and their activity is very doubtful;

10) the model of local enterprise, existing in the system of people's councils and local government, is a projection of that system; it is markedly charged with a lack of clearly determined conception of local organs and economy.

VII. A tendency dominates now in Poland to realize a structural reform of local authorities toward establishing local governments understood in a traditional way. If the tendency is accompanied by successful attempts to introduce market economy, it will be also possible to return to the conception of local enterprise. However, a deep reform of the budgetary system would be needed before (among others: elimination of the collective budget of the state; new division of tasks, expenditure and revenues between the state budget and local budgets; rearrangement of purpose funds economy). Also a re-structure of the range and potential of own economic activity of local organs will become necessary. Local enterprises should work only there where other economic subjects cannot or should not operate. Along with enterprises of public utility there should be remunerative local enterprises, bringing revenue to the local budget, among others to cover the deficit of enterprises of public utility.

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PRZEDSIĘBIORSTWA LOKALNE W SYSTEMIE DOCHODÓW I WYDATKÓW LOKALNYCH BUDŻETÓW — ROZWIĄZANIA MODELOWE

Na pojęcie modelu przedsiębiorstwa lokalnego składa się kilka elementów tworzących całość. Są to: rozwiązania ekonomiczne, organizacyjno-prawne, prawno-finansowe i w zakresie zarządzania.

Przedsiębiorstwa lokalne są kategorią historyczną. Nie występuje jednak jeden jednolity model przedsiębiorstw lokalnych. Biorąc pod uwagę prawodawstwo i praktykę polską dotyczącą systemów ustrojowych władz lokalnych, Autor wyróżnił następujące modele przedsiębiorstw lokalnych: samorządowy i państwowy (przedsiębiorstwa terenowe) oraz mieszany (samorządowo-państwowy). Różnią się one między sobą w sposób dość istotny. Powrót do instytucji samorządu terytorialnego w Polsce wymaga odrzucenia koncepcji państwowych przedsiębiorstw terenowych i przyjęcie samorządowego modelu przedsiębiorstwa lokalnego.