

According to the ability-to-pay theory, a fiscal burden imposed on taxpayers should reflect their capacity to contribute to public revenues. The meaning of the ability to pay concept has been discussed by various scholars dealing with public finances since the ancient times and is still ongoing in the modern-day tax law. Modern debate about tax fairness and the concept of taxation based on the ability to pay was initiated by Adam Smith and continues to the present today.

Nowadays, the ability-to-pay principle is one of the two fundamental principles of taxation, under which tax obligations are imposed on taxpayers. According to this principle, tax payment is a manifestation of the obligation to bear the tax burden, which arises regardless of the fact whether an individual taxpayer receives any benefits from the state. It is argued that since public goods are consumed by everyone, everyone is obliged to bear the tax burden. Such burden should, however, be levied on taxpayers according to their ability to pay, i.e. should be levied mainly on those who have that ability. The ability-to-pay principle underlines the theory of equal sacrifice. According to that theory, the ability-to-pay principle provides justification for tax-free personal allowance, covering the amount of income that is not high enough to prove a taxpayer's ability to pay tax.

The second tax principle under which the tax burden is levied on taxpayers is the benefit principle (also known as the principle of equivalence), which assumes that taxes should be borne by taxpayers in proportion to the benefits received by them. Under this principle, the obligation imposed on a taxpayer is therefore associated with the scope and method of redistribution of public revenues.

It is widely accepted that the ability-to-pay principle should be applied to the tax system as well as to particular taxes. It has been indicated in the doctrine of tax law that this principle should be respected first and foremost in income taxes. According to the ability-to-pay principle, the tax burden in these taxes should be born in proportion to the level of income, in accordance with the rule: higher income (greater ability to pay), higher tax (taking into consideration the source of income). The ability-to-pay theory also provides justification for progressive taxation.

The main aim of this research project is to find a universal definition of the ability-to-pay theory, to determine its importance to the legal system and to identify constitutional limitations on the power to tax, resulting from the ability-to-pay principle. It is hoped that the results of this research will make it possible to answer the question regarding the possibility of relying on the ability-to-pay principle, and will enable to determine its content and importance for the legal system, with particular focus on Polish law.