

# FIG WORKING WEEK 2019

22-26 April, Hanoi, Vietnam

Presented by the FIG Working Week 2019,  
April 22-26, 2019 in Hanoi, Vietnam

"Geospatial Information for a Smarter Life  
and Environmental Resilience"



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# Protection of agricultural lands in Poland

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## Act on protection of agricultural and forest lands

1. 26 October **1971** Act on protection of agricultural and forest lands and on re-cultivation of lands /Dz.U. nr 27 poz. 249/
2. 26 March **1982** Act on protection of agricultural and forest lands and on re-cultivation of lands /Dz.U. nr 11 poz. 79/
1. 3 February **1995** o Act on protection of agricultural and forest lands /Dz.U. nr 16 poz. 78/

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## Act on protection of agricultural and forest lands

Protection of those lands is connected with the **obligation to get permissions to change the destination of lands and to exclude them from the agricultural production** in cases when **investments are performed** on agricultural lands

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## Agricultural lands as the subject of soil classification, disclosed in the real estate cadastre – **agricultural tax**

### 1) agricultural lands, including: **arable lands - R,**

- ✓ orchards - S,
- ✓ permanent meadows - Ł,
- ✓ permanent pastures - Ps,
- ✓ built-up agricultural lands - Br,
- ✓ lands under ponds - Wsr,
- ✓ lands under ditches - W,
- ✓ lands covered by trees and bushes on agricultural lands - Lzr;

**Classes - I, II, III, IIIa, IIIb, IV, IVa, IVb, V, VI. Viz -** depending on the agricultural land type

### 2) wastelands – N **(not classified)**

**Other lands, which are not assigned to a soil class in the real estate cadastre, are the subject of the **real estate tax****

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## The value of the tax – agricultural tax

The value of the tax depends on:

- the land use
- the soil class
- the fiscal district
- the size of the farm

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## At present lands classification may be changed only when the following cases occur (6 cases)

- 1) on lands which have **not been classified** yet;
- 2) on **meliorated lands** - after 3 years since construction of water melioration facilities;
- 3) on lands covered by land **consolidation works**;
- 4) on lands where **modernisation of the land and buildings register** or the temporary verification of the register data were ordered by the starost (the head of the district) - in the case when the land use is being changed in lands being the subject of classification;
- 5) after the occurrence of a **natural disaster** resulting in changes of the soil environment;
- 6) after **forestation of lands** according to regulations concerning the support for development of rural areas using funds from the European Agriculture Guidance and Guarantee Funds or basing on regulations concerning the support for rural areas using the European Agriculture Fund for the Development of Rural Areas.

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## The State controls of unjustified changes of soil classes

- an investor is obliged to make the **financial contribution for exclusion** of lands from the agricultural or forest production

**it is the reason that**

- an investor tries to **avoid those payments** - makes attempt aiming at **decreasing the soil class**

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## destination of agricultural and forest lands for non-agricultural or non-forest purposes in local plans

In the case when local spatial development plans are developed, destination of agricultural lands for non-agricultural or non-forest purposes are specified in those plans, but by:

- the **approval of the minister for rural areas development** is required in the case of **agricultural lands being agricultural fields of classes I - III**,
- the **approval of the minister of environmental protection**, the natural resources and forestry - **for forest areas being the property of the State Treasury** –
- the **approval of the marshal of the province** is required - **for other forest lands**

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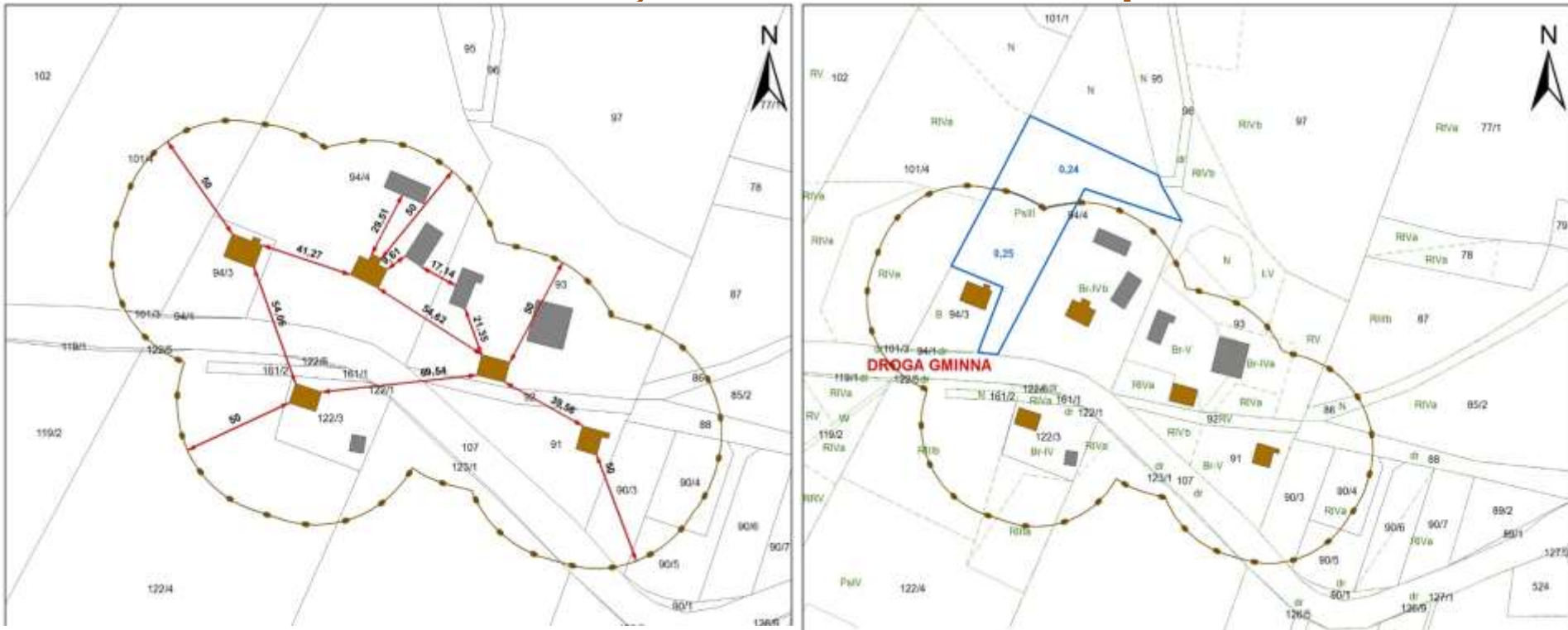
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approval of the minister for rural areas development is not needed for 0,5 ha with some exceptions



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## The act on protection of agricultural and forest lands defines the agricultural lands – exclusion of agricultural lands

### After decision of district starost for:

- ✓ developed on **mineral** type soils, classified into **I, II, III, IIIa, IIIb**
- ✓ developed on **organic** type soils classified into **I, II, III, IIIa, IIIb, IV, IVa, IVb, V, VI**
- ✓ **forest** lands

**obligation to pay fees does not concern** exclusion of lands from the agricultural or forest production for the purposes of housing:

up to **0.05 ha** in the case of a **single-family house**;

up to **0.02 ha**, for each premises, in the case of **multi-family houses**

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## Re-cultivation of agricultural areas - **penalty**

- ❑ **Obligations of re-cultivation** (restoring the useful value of degraded agricultural or forests lands) to be met by a person responsible for the loss or limitation of the useful value of agricultural or forest lands. In such cases the legislator imposes **high penalties when that obligation is not met.**
- ❑ penalty of a **doubled amount** - lands **were excluded** from production **without the decision** permitting for such exclusion
- ❑ **amount due is increased by 10%** - lands intended for non-agricultural of non-forest purposes in the local spatial development plan **were excluded** from the production **without the decision** authorising such exclusion, such a decision is officially issued.

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## Social insurance of farmers

- The insurance of farmers is currently regulated by the Act of December 20, 1990 on the **social insurance of farmers**
- Considering the average area of farms in Poland those regulations result in insurance fees paid by the farmers which are even **several times lower** than in the case of individuals **who do not run farms**
- In the case when the size of the farm **does not exceed 50 hectares** the **monthly fee for the pension insurance** for each insured person equals to **10% of the basic pension**

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The unit of the administrative division of the country	Average size of agricultural land on a farm in 2018 [ha]
Voivodeship dolnośląskie	16,72
Voivodeship kujawsko-pomorskie	16,14
Voivodeship lubelskie	7,86
Voivodeship lubuskie	21,52
Voivodeship łódzkie	7,84
Voivodeship małopolskie	4,10
Voivodeship mazowieckie	8,68
Voivodeship opolskie	18,69
Voivodeship podkarpackie	4,83
Voivodeship podlaskie	12,44
Voivodeship pomorskie	19,42
Voivodeship śląskie	7,85
Voivodeship świętokrzyskie	5,77
Voivodeship warmińsko-mazurskie	23,05
Voivodeship wielkopolskie	13,74
Voivodeship zachodniopomorskie	30,78

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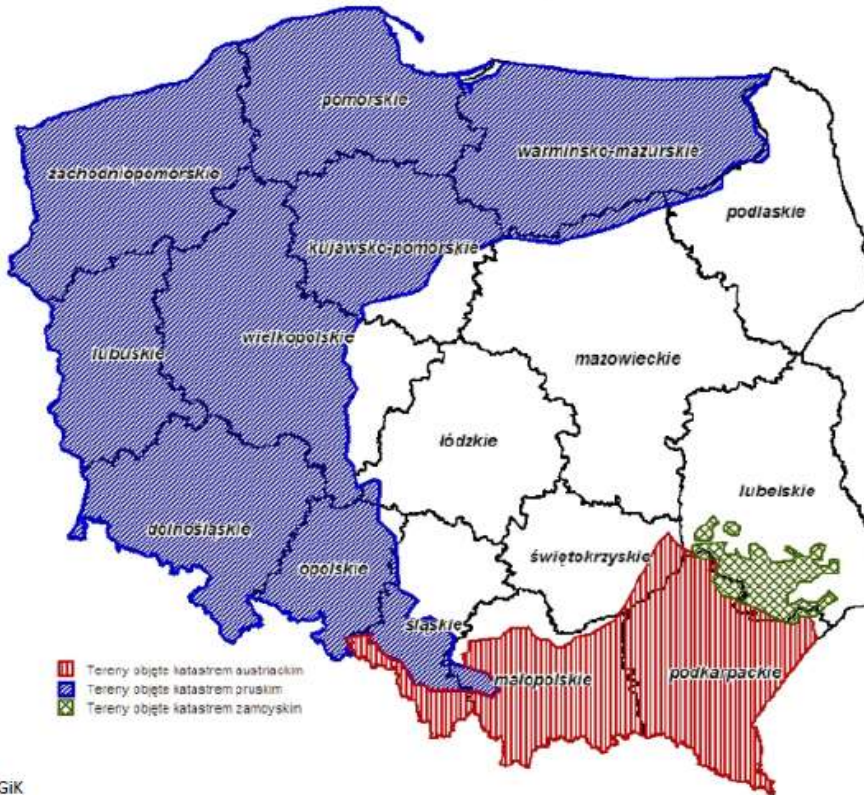
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## Cadastral maps in Poland after annexation



- ▨ Tereny objęte katastrzem austriackim
- ▨ Tereny objęte katastrzem pruskim
- ▨ Tereny objęte katastrzem zamojskim



Source: GUGiK

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## Conclusions

- ❑ an investment performed on agricultural lands, which leads to the **loss** of agricultural production capabilities of lands is **more expensive than an investment performed in urban areas**, if excluded lands are the subject of fees for exclusion
- ❑ owners of real estates (in particular owners of real estates consisting of single-family houses) **tend to recognise the lands they possess as agricultural lands, due to considerably lower agricultural tax than the alternative real estate tax**; that is why provisions included in the **real estate cadastre are highly important from the fiscal perspective**;

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## Conclusions

- important changes introduced in the Act on development of the agricultural system, which aim at limitation of real estate trading caused that **agricultural real estates are considered** by the Act as **real estate bigger than 0.3 ha**. In many operations, including land division and mortgage land division this provision leads real estate **owners to acquire areas smaller than 0.3 ha**; this allows them to acquire a **building plot of the relatively higher value and higher investment possibilities**,
- Particular **rules of insurance of farmers** and the **definition of a farm** result in **creation of "fictional" farms and "fictional" farmers** which are created **for the needs of acquiring lower insurance fees only**.

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