

Financial Liabilities of the Hard Coal Mining Sector in Poland

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Abstrakt

In this article, the authors analyze the hard coal mining sector. Global, European and national trends are presented. The financial situation of mining enterprises and the financial liabilities of this sector are described in detail. Fees and charges to the state budget and local budgets are analyzed in detail.

The problem of competitiveness of Polish mining enterprises and their contribution to the functioning of the national economy has been noticed.

The article ends with the most important conclusions.

Keywords: coal mining, taxes, tributes, public related payments

Introduction

Coal is the main energy source in many of the world's economies. According to International Energy Agency, global production of this raw material in the years 1973–2017 shows an upward trend with slight fluctuations in 1995 and 2016 – in 1973 it amounted to 3 073 million Mg, while in 2017 it reached 7 548 million Mg (IEA, 2018). In the analyzed period, the production increased by almost 150%. China is the largest producer of coal in the world; coal production in 2017 amounted to 3.376 billion Mg. The global demand for this raw material also increased: the consumption in 2008 amounted to 3 503.4 Mtoe, while ten years later it reached the level of 3 782.1 Mtoe (BP, 2019).

Taking into account the European countries, a downward trend in coal production can be observed – in 2008 the amount of produced coal amounted to 244.9 Mtoe, while in 2018 it amounted to 170 Mtoe. In the European Union, a move away from coal is clearly visible; in 2018 the production amounted to 125.8 Mtoe and was almost 30% lower than in the previous ten years (BP, 2019). The same is true for coal consumption, which in the European Union has fallen by over 84 Mtoe.

In Poland, fossil fuels play an important role in meeting energy needs. Hard coal is the main energy source in Poland – in 2017 over 70% of electricity was generated by coal-fired power plants (IEA, 2018). Assuming the year 1990 as a baseline year, it can be stated that the domestic hard and brown coal production has maintained a downward trend and decreased from 215.32 million Mg in 1990 to 127.05 million Mg in 2017 (IEA, 2018). The share of hard coal in electricity and heat generation in Poland also shows a downward trend (84.76 million Mg in 1978 and 43.83 million Mg in 2016) (IEA, 2018). The consumption of coal in Poland is also on a downward trend. On the other hand, a relatively small increase in the consumption of this commodity was recorded in 2018 (50.5 Mtoe compared to 49.8 Mtoe in 2017); it was the highest value recorded for four years (BP, 2019).

The decrease in the importance of hard coal in the Polish power industry may be related to economic changes that took place in the 1990s – the departure from a centrally planned economy (which assumed limited freedom in decision-making by management boards of energy companies and prevented the development of individual methods by imposing solutions regarding work organization or the technological process itself) in favor of the free market economy (state-owned companies were privatized, which allowed the freedom of action for private individuals, increased the development opportunities, and allowed the development of optimal business models). After the Polish accession to the European Union, the reduction of hard coal shares in the national energy mix can be explained by the adopted EU climate policy which seeks to move away from conventional energy sources in favor of alternative energy sources, which is regulated by a number of directives and packages, including the energy and climate package. These documents set the following goals: a 20% reduction of greenhouse gases compared to 1990 levels, increasing the share of energy from RES, increasing energy efficiency by 20%, and a minimum target of 10% for transport biofuels.

The above translates into the situation in domestic mining enterprises. Polish mining industry is struggling with numerous problems, including financial issues, the lack of funds for technological development, and unprofitability of some enterprises. After many years of necessary restructuring programs of the sector, it was once again necessary to implement rescue plans. In 2015, an amendment to the Act on the Functioning of Hard Coal Mining was adopted, which initiated the restructuring process envisaged for 2016–2018. Currently, the following entities are responsible for the mining of hard coal in Poland (state-owned enterprises): Polska Grupa Górnicza Sp. z o.o., Węglokoks KRAJ Sp. z o.o., Jastrzębska Spółka Węglowa S.A., TAURON Wydobycie S.A., Lubelski Węgiel Bogdanka S.A. and private coal mines: PG Silesia Sp. z o.o., ZG Siltech Sp. z o.o., and Eko-Plus Sp. z o.o. The

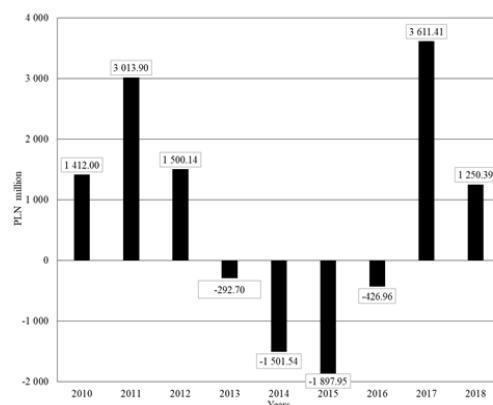


Fig. 1. Net financial results of Polish mining industry. Sources: ARP 2012–2018, Gawlik et al. 2016
Rys. 1. Wyniki finansowe netto polskiego górnictwa. Źródła: ARP 2012–2018, Gawlik i in. 2016 r

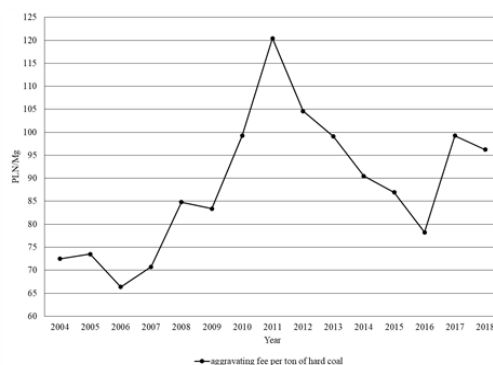


Fig. 2. Public liabilities per ton of extracted hard coal in 2004–2018 (PLN/Mg). Source: Own study based on GIPH 2019
Rys. 2. Zobowiązania publiczne na tonę wydobytego węgla kamiennego w latach 2004–2018 (PLN / Mg). Źródło: Opracowanie własne na podstawie GIPH 2019

largest coal producer in Poland is the Polish Mining Group, which manages eight mines, formed in 2016 from the former Kompania Węglowa S.A.

Restructuring processes are reflected in the financial results of the industry. The first chart shows the net financial results of the Polish hard coal mining in 2010–2018. The years 2011 and 2017 are characterized by good financial results of the industry, exceeding PLN 3 billion. The lowest, negative value was recorded in 2015 and amounted to -1.89 billion PLN. The change in the net financial result for the years 2015–2017 results from the implementation of the hard coal mining restructuring plan, which included changes in the functioning of unprofitable mining enterprises, changes in severance pay, and the establishment of the Polish Mining Group that took over the assets and liabilities of Kompania Węglowa. At the same time, in 2017, the mining sector received aid from the state budget in the form of direct subsidies – almost PLN 1 314 541 thousand and additional PLN 50 940 thousand PLN – exemption from penalties and fees (GIPH 2019).

Structure of regulatory liabilities

Polish hard coal mining is burdened with payments linked to the specifics of its operations. The discussed taxes paid by mining enterprises include those that cover all enterprises operating on the Polish market and the so-called specific ones, i.e. related to the specificity of the discussed industry resulting mainly from the Geological and Mining Law (The Geological and Mining Law, 2019).

The liabilities of the mining sector are discussed below.

Social and Health Insurance (USiZ)

Social and health insurance consist of a series of payments for retirement, disability, sickness and accident benefits as well as those related to the provision of basic health care financed from public funds. This insurance covers all employees and persons working on the basis of contracts (e.g. contract of mandate, agency agreement, specific-task contract, or service contract), regardless of any other forms of insurance or regardless of working time. Thus, the amount of insurance depends on the number of people employed in the enterprise (ZUS2019a).

Personal Income Tax (PIT)

Personal income tax is charged on every natural person who earns income from work performed in the country, business, real estate, securities, transfer of ownership of shares in companies or payment of receivables, regardless of the place of revenue sources. As above, it depends on the number of employees (Leksykon a).

Corporate Tax (CIT)

Corporate tax is a tax paid on income obtained from various types of business, real estate, securities, or from the transfer of ownership of shares in companies. The payers of this tax may be legal persons, capital companies or tax capital groups. It can be deducted from income earned in Poland or from income earned domestically and abroad (Leksykon b).

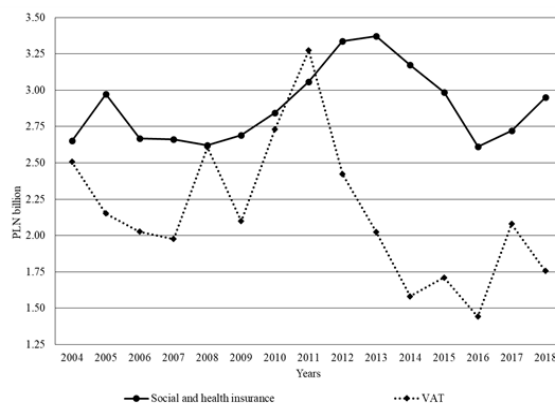


Fig. 3. Social and health insurance and VAT payments of mining enterprises. Source: Own study based on (GIPH 2019)
Rys. 3. Ubezpieczenia społeczne i zdrowotne oraz płatności podatku VAT przedsiębiorstw górniczych. Źródło: Opracowanie własne na podstawie (GIPH 2019)

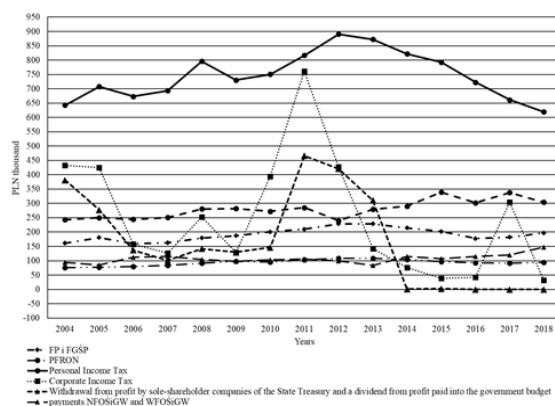


Fig. 4. Fees and taxes paid by mining companies: the Labor Fund (FP), the Guaranteed Employee Benefits Fund (FGSP), the State Fund for Rehabilitation of Disabled Peoples (PFRON), personal income tax (PIT), corporate tax (CIT), VAT, payments from profit of state owned enterprises and sole shareholder companies of the state Treasury, dividends from profit (payments from PoS enterprises), payments to the National and Province Fund for Environmental Protection and Water Management (payments NFOŚiGW&WFOŚiGW), taxes and fees for municipalities (including exploitation fee) (payments municipalities). Source: Own study based on (GIPH 2019)

Rys. 4. Opłaty i podatki płacone przez przedsiębiorstwa górnicze: Fundusz Pracy (FP), Fundusz Gwarantowanych Świadczeń Pracowniczych (FGSP), Państwowy Fundusz Rehabilitacji Osób Niepełnosprawnych (PFRON), podatek dochodowy od osób fizycznych (PIT), podatek od osób prawnych (CIT), VAT, płatności z zysków przedsiębiorstw państwowych i jednoosobowych spółek Skarbu Państwa, dywidendy z zysków (płatności od przedsiębiorstw PoS), płatności na rzecz Krajowego i Wojewódzkiego Funduszu Ochrony Środowiska i Gospodarki Wodnej (płatności NFOŚiGW i WFOŚiGW), podatki i opłaty dla gmin (w tym opłata eksploatacyjna) (gminy płatnicze). Źródło: Opracowanie własne na podstawie (GIPH 2019)

State Fund for Rehabilitation of Disabled Peoples (PFRON)

Payments to the National Disabled Persons Rehabilitation Fund are based on mandatory monthly payments from employers with the disability employment rate of less than 6%. The obtained funds are transferred for the purposes of co-financing the remuneration of disabled persons, foundations and non-governmental organizations, or they are transferred directly to the disabled. Thus, the amount of funds depends on the number of people employed in the enterprise (PFRON 2019.). It should be noted that due to their specificity, mining enterprises are not able to obtain the required minimum employment of disabled people, and thus incur a higher fee than other companies operating in the market. The functioning of mining enterprises is mainly based on the employment of individuals who work underground, where the employment of people with disabilities is difficult. Therefore, this applies only to some positions that are not directly related to underground coal mining.

The Labor Fund (FP), The Guaranteed Employee Benefits Fund (FGsP), and The Bridging Pension Fund (FEP)

The compulsory contributions to the Labor Fund paid by employers are determined on the basis of contributions to pension and retirement insurance. A minimum contribution is the lowest remuneration that employers pay their workers within one month (ZUS 2019b). The Guaranteed Employee Benefits Fund (FGŚP) is to secure employee financial claims in case of insolvency of the employer, while payment of contribution to the Fund are made by employers (ZUS2019b). The Bridging Pensions Fund is paid by employers for employees that work in special conditions (these jobs are listed in a separate act) (ZUS2019b).

VAT

The goods and services tax is charged by the seller selling goods or services, and thus all supplied, exported and imported goods, as well as the provision of payable services within the territory of the country, are subject to VAT. It is included in the group of indirect taxes, which means that the final con-

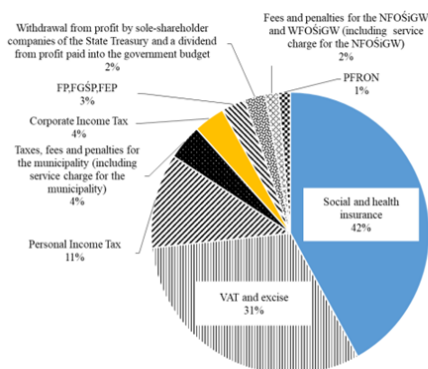


Fig. 5. The structure of total financial obligations of hard coal mining in the years 2004–2018. Source: Own study based on (GIPH 2019)
Rys. 5. Struktura całkowitych zobowiązań finansowych górnictwa węgla kamiennego w latach 2004–2018. Źródło: Opracowanie własne na podstawie (GIPH 2019)

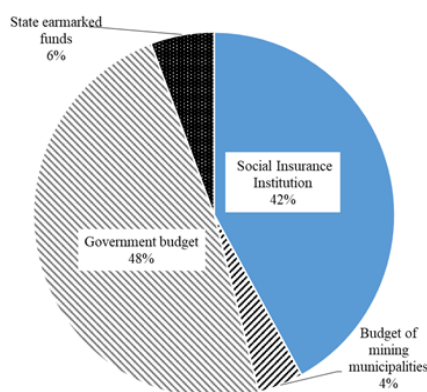


Fig. 6. Main beneficiaries fees and charges paid by the coal mining sector in 2004–2018. Source: Own study based on (GIPH 2019)
Rys. 6. Opłaty i prowizje głównych beneficjentów płacone przez sektor wydobywania węgla w latach 2004–2018. Źródło: Opracowanie własne na podstawie (GIPH 2019)

sumer of the service or good cannot deduct it from the price. This tax is harmonized in the European Union by means of relevant directives. Starting January 1, 2011 the new standard V.A.T. rate in Poland is 23% (Leksykon c).

Payments from profit of state owned enterprises and sole shareholder companies of the state Treasury, dividends from profit

Payments to the state budget in the form of a profit dividend are the result of the State Treasury holding shares in various types of companies, insurance institutions, or banks. Payments from profit are compulsory, non-returnable and gratuitous payments, which are made in advance on a monthly or quarterly basis. Both of these forms of payment are classified as non-tax revenues of the state budget (Leksykon d).

Payments to the National Fund for Environmental Protection and Water Management and Payments to the Provincial Fund for Environmental Protection and Water Management (payments NFOŚiGW & WFOŚiGW)

The applicable payments to the Fund for Environmental Protection and Water Management, incurred by mining and geological entities include (The Geological and Mining Law, 2019):

- Exploitation fees are paid by companies holding mining licenses (article 134 (1) of the Act of 9 June 2011 – The Geological and Mining Law).

- The concession fee - is paid by the entrepreneur who was granted the geological license for prospecting or exploration of minerals (Article 133 (1) of the Act of 9 June 2011 – The Geological and Mining Law).
- Underground storage fee – incurred by enterprises authorized on the basis of the concession for underground storage and storage of minerals (Article 135 (1) (1-3) of the Act of 9 June 2011–The Geological and Mining Law).
- Fee for geological works – paid by mining license holders carrying out geological work (Article 84 of the Act of 9 June 2011 – The Geological and Mining Law, in accordance with Article 134 (1) of the Act).
- Additional charge – incurred by an entity authorized to carry out the activities specified in the concession in case of violation of its provisions (Article 139 (1) of the Act of 9 June 2011 – The Geological and Mining Law).
- Increased fee – charged from entrepreneurs who conduct mining and geological activities without the required concession or in the case where they have a license, but geological works or a project carried out by them have not been approved or the authorities were not informed about these projects (Article 140 (1) of the Act of 9 June 2011 – The Geological and Mining Law).

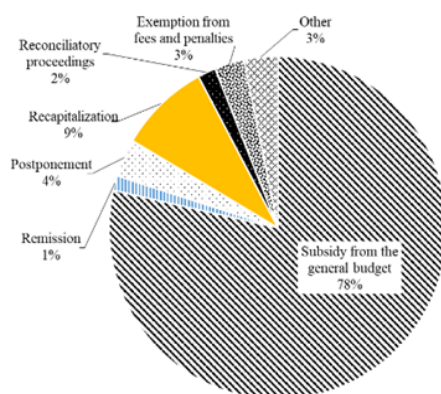


Fig. 7. The structure of public aid for the Polish hard coal mining industry in the years 2004–2018. Source: Own study based on (GIPH 2019)
 Rys. 7. Struktura pomocy publicznej dla polskiego górnictwa węgla kamiennego w latach 2004–2018. Źródło: Opracowanie własne na podstawie (GIPH 2019)

Taxes and fees for the municipality (including exploitation fee)

The exploitation fee is paid by the entrepreneur to the commune and the National Fund for Environmental Protection and Water Management (mineral extraction); its amount is determined on the basis of the exploitation fee set for a given type of mineral and on the basis of the quantity of minerals extracted in a given settlement period. The current rates of fees are announced in the Official Gazette of the Republic of Poland "Monitor Polski" by the Minister of Environment, pursuant to article 136 (2) of Geological and Mining Law (PGiG 2019).

Chart 2 shows the financial liabilities per ton of extracted hard coal, in the period 2004–2018. In the initial period, i.e. the first four years, the liabilities (including VAT) did not exceed PLN 85/Mg. In the year 2006, a downward trend has been observed; the liabilities (including VAT) were the lowest in the whole analyzed period and amounted to 66.37 PLN/Mg. A continuous increase, up to 120.46 PLN/Mg, the highest value in the analyzed period, has been observed in the years 2009–2011. Since 2011, regulatory liabilities have been constantly decreasing until 2016. This may be related to financial problems of the Kompania Węglowa, which in turn led to the restructuring of the mining industry in the years 2016–2018 and the establishment of the Polish Mining Group. These activities have their impact on the presented graph – a clear increase in the financial liabilities can be observed in 2017, when they amounted to PLN 99.25/Mg, which means an increase compared to the previous year by PLN 21.02. Pursuant to the Act, the VAT tax until 2011 was 22%, while after 2011 it increased to 23%.

The evolution of public liabilities in this period is presented in figures 3 and 4. The highest revenues for the state budget, i.e. social security payment and health insurance, depend on the number of employees. At the end of March 2019, employment in the Polish hard coal mining sector amounted to 83 000 workers. VAT, the second largest source of tax revenues, directly threatens the budgets of mining companies. It should be noted that these fees reach values in the order of millions of PLN. In the years 2008–2013, the cost of social and health insurance increased to reach more than PLN 3 372 841 thousand in 2013, which is the largest amount in the discussed years. The year 2011 is characterized not only by an increased amount of taxes paid to the public budget by

the hard coal mining sector (due to VAT payments), but also higher corporate tax in the whole discussed period.

In the years 2004–2018, the total personal income tax amounted to PLN 11 191 121.30, while corporate tax amounted to PLN 3 741 860.9. The taxes, fees, and charges to the municipalities occupy the fourth position in the overall payment structure. A small percentage share of the Labor Fund, the Guaranteed Employee Benefits Fund, and the Bridging Pensions Fund can be observed. The rest of the payments represents only 5% of the total payments; these include payments from profit of state owned enterprises and sole shareholder companies of the state Treasury, including dividends, fees and penalties, and payments to the State Fund for Rehabilitation of Disabled Persons. The percentage share of individual types of financial obligations of the mining industry in the years 2004–2018 are presented in Chart 5.

The main beneficiaries of fees and charges paid by the coal mining sector in the period 2004–2018 were also summarized (Fig. 6). The highest amount, PLN 49 835 306 thousand, went to the state budget. The next largest beneficiary of the payments, with slightly more than PLN 43 315 279 thousand, was the Social Insurance Institution (ZUS). A significant amount (over 5 880 272 PLN) was transferred to state-earmarked funds and to the budgets of mining communes (PLN 4 202 489 thousand). Analyzing the beneficiaries of these payments, it is worth mentioning that the exploitation fee paid is allocated in 60% to the municipal budget, while 40% is transferred to the National Fund for Environmental Protection and Water Management, while the contribution rate is determined by the Minister of Environment for a given year (PGiG 2019).

According to the data contained in chart 6, the largest beneficiaries are the state budget and the Social Insurance Institution (ZUS), whose total share is over 75%. The state budget and Social Insurance Institution (ZUS) received around PLN 43 billion and 50 billion in the years 2004–2018, respectively. Taking into account State earmarked funds, this value reached almost PLN 6 billion, while mining municipalities received around PLN 4 billion.

The state has aid programs and financial subsidies for state-owned companies, which can be used when needed. Unfortunately, in the case of unprofitability of enterprises, EU law does not allow such activities.

In the years 2004–2018, state aid was given to the mining sector (as part of the allowed activities in the light of EU legislation). Financial help from the state budget involves:

- Subsidy from the state budget, the budget of local self-governments, and state earmarked funds, which are specifically billed according to the Public Finance Act or international agreements.
- Recapitalization, a process aimed at increasing the value of the company's assets by means of additional capital: issuance of shares, loans, subsidies, and guarantees.
- Remission understood as a temporary decrease in the initial value of fixed assets and intangible and fixed assets due to depreciation.
- Postponement, i.e. postponing the payment deadline.
- Reconciliatory proceedings and exemptions from fees and penalties.

The budget subsidy in the discussed time period accounted for more than 75% of the state aid. The recapitalization, including various types of financial reinforcements such as loans, the increase of the equity capital, or subsidies from shareholders, was the second most common form of public aid in hard coal mining sector. Other types of public aid, including postponements, remissions, settlements, and exemptions from penalties and fees amounted to PLN 1.3 billion, which shows their limited share in the overall structure (Fig.7).

Conclusions

1. In the years 2008–2018, fees and charges paid by the coal mining sector exceeded PLN 103 233 347 thousand, while at the same time the sector received funding of PLN 13 768 307.1 thousand.
2. A high number of people employed in mining enterprises translates into the amount of taxes paid by employees.

3. The high level of financial liabilities of the hard coal mining sector significantly reduces the competitiveness of the industry, which blocks its further development.

4. Verification and the adjustment of the fiscal policy of the state towards hard coal mining sector should focus on creating better conditions for investing in high-performance machinery and equipment, innovative technologies of coal production, and new resources.

5. Possible ways for reducing certain financial liabilities of the hard coal mining sector:

- Exploitation fee – a proposal to allocate part of the fee to a newly established environmental protection fund of the mining plant in order to finance actions related to environmental protection; in accordance with the bill on the Polish Geological Agency, 20% of payments is to constitute the income of the Polish Geological Agency, 20% should be transferred to the National Fund for Environmental Protection and Water Management, while 60% to municipalities (PAG 2019).
- Mine Closure Fund – the proposal to temporarily suspend the obligation to create a fund (transfer funds to its account) and to use funds accumulated so far, in whole or in part, for example for investments.
- Remuneration for the use of geological information – a proposal to introduce the administrative mode of calculating remuneration, to limit the fee, and the proposed abolition of the duty to hold the right to geological information in case of extension of the validity period of the license held; this depends on the government bill on the Polish Geological Agency.
- The State Fund for Rehabilitation of Disabled People – a proposal to introduce an employment rate adequate to the specific nature of mining work (at least in relation to underground work places).

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Zobowiązania finansowe sektora górnictwa węgla kamiennego w Polsce

W artykule autorzy analizują sektor wydobywania węgla kamiennego. Przedstawione są trendy globalne, europejskie i krajowe. Szczegółowo opisano sytuację finansową przedsiębiorstw górniczych i zobowiązania finansowe tego sektora, szczegółowo analizując opłaty i obciążenia budżetu państwa i budżetów lokalnych. Zauważono problem konkurencyjności polskich przedsiębiorstw górniczych i ich wkładu w funkcjonowanie gospodarki krajowej. Artykuł kończy się najważniejszymi wnioskami.

Słowa kluczowe: wydobywanie węgla, podatki, daniny, płatności publiczne