

**THE ECONOMIC DIMENSION OF THE DEFINITION
OF AN ENTERPRISE CONTAINED IN ARTICLE 55(1)
OF THE CIVIL CODE FROM THE PERSPECTIVE
OF THE POSSIBILITIES AND METHODS OF ASSESSING ITS VALUE**

Agnieszka MACIĄG

Warsaw University of Life Sciences; Agnieszka_maciag@sggw.edu.pl, ORCID: 0000-0002-8082-3765

Purpose: The aim of the article was to present the assumptions of the definition of an enterprise, taking into account the criteria for its valuation from the perspective of Article 55 of the Civil Code. The main assumption was the interpretation of legal assumptions and the application of appropriate methods of enterprise valuation, taking into account its definition established in legal regulations. The article pointed out discrepancies between the analysis of legal provisions and the established trend in economic science. In addition, differences in the application of selected valuation methods in the context of the components of an enterprise specified in Article 55(1) of the Civil Code were indicated.

Design/methodology/approach: The article discusses valuation methods in the context of various court proceedings, the factors determining their appropriate selection, and presents an index analysis based on data published by the Central Statistical Office relating to selected profitability indicators. Based on balance sheet data for various sectors of enterprises, the fixed asset productivity ratio was estimated and the share of fixed assets in total assets was estimated, in line with the assumption that enterprises generating income from fixed assets should be valued mainly using asset-based methods. The aim of the analysis was to identify these groups of enterprises on the basis of the relevant PKD sections and to assess profitability thresholds, assuming that the companies under review were in good financial condition. Companies whose operations were at risk or in a state of economic bankruptcy were excluded from the study. The companies were identified on the basis of the results of an index analysis and a cluster analysis using the k-means method. The analyses were performed using Statistica 13 software.

Findings: According to findings based on the literature on the subject, the greatest dilemma regarding the substance of Article 55(1) of the Civil Code is the lack of an unambiguous definition of valuation methods. The results of the study show that the highest profitability was achieved in the motor vehicle and motorcycle trade and repair sector, construction and education. Cluster analysis confirmed the similarity measures obtained in relation to the established profitability, indicating that asset-based methods should be used primarily in relation to the main manufacturing sectors.

Originality/value: The study is primarily addressed to persons involved in the valuation of companies in relation to ongoing court proceedings. An important aspect established on the basis of the analyses carried out is the reference of selected groups of companies to specific methods of determining the value of a company in the absence of relevant legal provisions.

Keywords: company value, valuation methods, asset-based company valuation methods, civil law.

Category of the paper: Scientific paper.

1. Introduction

The current value of a company has various reference points from a practical perspective, both in terms of legal and economic sciences. The definition of value depends on many aspects. It was specified in detail in Interpretation Note No. 5 developed by the Association of Property Appraisers in 2011 and modified in 2024. According to point 4.3 of Interpretation Note No. 5, the purpose of valuing a company, its organised part or share in a company may be to determine its value, inter alia, for the purposes of: purchase, sale, composition, bankruptcy or liquidation proceedings, merger or division of companies, capital increase or redemption of shares, determination of the value of assets held by funds, civil and legal proceedings, tax proceedings, financial reporting, creditworthiness and credit security verification, insurance, compensation and control of the value of capital invested by the owner in the enterprise. Given the nature and scope of court proceedings, valuations are most commonly used in practice to determine value in enforcement proceedings, bankruptcy proceedings, determining the value of an enterprise for the purpose of estimating the parties' joint property, and also to a large extent in relation to compensation cases.

This publication focuses on discussing the definition of an enterprise and the essence of enterprise valuation in selected civil law proceedings relating to the established definition formulated in Article 55(1) of the Civil Code. The key research problem was an attempt to answer the question: Is every enterprise subject to the same valuation criteria depending on the type of jurisdictional proceedings, and what are the reasons for the differences in the approach to its value? Is the value of an enterprise determined by applicable legal regulations or is it only an element of financial analysis, and which valuation methods are closest to selected sectors of the economy, taking into account the balance sheet status of selected enterprises?

2. Definition of an enterprise from the perspective of its valuation methods.

The essence of an enterprise has been clarified in numerous legal acts. The key definition is included in Article 55(1) of the Civil Code. According to this provision, an enterprise is an organised set of intangible and tangible components intended for conducting business activity. This definition clarifies the components of an enterprise, while also indicating the scope covered by the valuation. These include: designations identifying the enterprise or its

separate parts, ownership of real estate or movable property, including equipment, materials, goods and products, as well as other property rights to real estate or movable property, rights arising from real estate lease and tenancy agreements, and rights to use real estate or movable property arising from other legal relationships. The article then lists receivables, rights arising from securities and cash, concessions, licences and permits, patents and other industrial property rights, copyrights and related property rights, trade secrets, and books and documents related to the conduct of business.

Some of the above-mentioned components represent direct value for the company, while others are a kind of goodwill, i.e. value created by customers, expressed mainly through the value of its revenues. It should be noted that each element of the specified assets is estimated using different methods depending on the type of proceedings and using different valuation methods. It also depends on the form of business activity. "Currently, there is no single definition of market value; there are as many definitions as there are national and international associations and entities that set valuation standards (Morri, 2019). The definitions of an enterprise contained in the literature allow us to conclude that "it is not possible to fully implement the postulate of standardising the concept of an entrepreneur throughout the legal system (Materna, 2009), and thus to assign specific valuation methods to selected proceedings corresponding to the definition of an enterprise formulated in Article 55(1) of the Civil Code.

The legal definition of an entrepreneur indicates that an entrepreneur is a natural person, a legal person or an organisational unit that is not a legal person, to which a separate act grants legal capacity (Article 4 of the Civil Code). "The definition of an enterprise expressed in Article 55(1) of the Civil Code separates this concept from the entity to which the enterprise belongs and emphasises its tangible and intangible components and their organisational and functional combination (Szczygieł, 2019). Therefore, the methods of determining the value of an enterprise will depend on the industry and the method of keeping accounting records and access to data on the business activity. In the case of a sole proprietorship, the form and possibility of determining the value of the enterprise becomes crucial. The dilemmas associated with the valuation of a small enterprise mainly concern proceedings relating to the division of marital property, which is currently becoming one of the key elements of such cases. Article 55(1) of the Civil Code does not specify how to determine the value of such enterprises.

With regard to property matters, it is crucial to determine the nature of the spouses' joint property and their contribution to the development of the business, both tangible and intangible. Formal employment is not always taken into account, and sometimes assistance with accounting, work organisation or relief from household duties is sufficient, provided that it can be established that these activities have translated into an increase in the value of the business and an increase in the number of customers. The involvement of the other spouse in the business is key to the assessment. The possibility of such involvement depends on the type of business activity. Pursuant to Article 31 § of the Family and Guardianship Code, upon entering into marriage, a statutory community of property is established between the spouses by operation of

law, which includes property acquired during its duration by both spouses or by one of them. Personal property (Article 33 of the Family and Guardianship Code) includes property acquired before the establishment of the statutory community, acquired by inheritance or donation, as well as property used exclusively by one of the spouses. If a business develops during the marriage and its value increases, the value of that business is taken into account when estimating the expenditure from the joint property on personal property.

A common problem is determining both the capabilities and involvement of one of the spouses in the development of the business and whether that person has increased the value of the business. For the analyst, the key factors are the choice of valuation method, the nature of the business, and whether other persons were involved in the business. The definition formulated in Article 55(1) of the Civil Code does not provide any significant guidance on how to determine the value of a business. Usually, in property proceedings, the aim is to use property-based valuation methods, which do not always relate to the type of business activity. In practice, the content of the article does not specify the method of valuing the enterprise in such cases. This means that the valuation method is up to the financial analyst, who is obliged to make a preliminary assessment of the enterprise's situation.

A common problem arises: Does Article 55(1) of the Civil Code allow for the valuation of a company using different methods? Valuations formulated in the available standards applicable to financial analysts, i.e. Interpretation Note No. 5 on subsequent guidelines amended in July 2024. Therefore, this article does not allow for the selection of the appropriate valuation method without a detailed financial and economic analysis of the entity being valued. According to NI 5, the methods of valuing an enterprise go beyond the criteria set out in Article 55(1) of the Civil Code. The very definition of an enterprise formulated in Article 55(1) of the Civil Code indicates valuation using asset-based methods, aiming to estimate the value of the enterprise's fixed assets in the form of determining the value of real estate, movable property and specific rights. This article narrows the definition of an enterprise mainly to the value of fixed assets. This article does not indicate how to separate and value other intangible assets that are not included in intangible assets, such as: the intangible value of an enterprise (goodwill) and the demand for the enterprise's products valued according to income methods.

According to section 8.3.1 of NI 5, one of the methods of valuing a business is the income method based on projections of future economic income. The provision only indicates a set of components necessary to conduct business activity, defining an enterprise in the objective sense as an organised set of both tangible and intangible components, defining rights of various forms (Supreme Court ruling, 2009-2010). The period of revenue projections, as defined in economic science, specifies that the financial forecast should be based on the following conditions: in the case of enterprises whose operation is limited in time, the projection should coincide with the period of planned activity, and with regard to the possibility of continuing the activity for an unlimited period of time, the projection should cover the period preceding the phase of full maturity of the operating activity, characterised by the achievement of stable income.

Article 55(1) of the Civil Code does not refer in any way to the possibility of using income preceding the conduct of the valued activity, especially since in cases concerning the division of joint property, the composition of the property is determined at the moment of termination of joint ownership, i.e. on a specific date. When analysing the situation of many companies operating after the date of division, it should be noted that their financial condition is not at risk, so there are no grounds for determining the value of their assets using asset-based methods, as is often requested by the parties in such proceedings. Asset-based methods are based on the valuation of individual assets and liabilities (p.8.2.1 NI 5). They do not take into account the synergies between the components of the enterprise related to their organised use. In practice, they mainly cover enterprises whose balance sheet value consists largely of fixed assets, mainly tangible fixed assets, which generate a large part of the enterprise's revenue.

The case law of common courts points to the principles of valuation selection, indicating that the rejection of the income approach and, consequently, the necessity to apply the asset approach is primarily due to the fact that the income approach departs from the asset substance of the enterprise (Judgment of the Court of Appeal of 9 November 2013).

In order to assess their value, it is important to determine how much revenue the company generates from tangible fixed assets. These issues can be assessed by calculating the turnover (productivity) ratio of fixed assets, and above all, the productivity of tangible fixed assets, measured by the ratio of net sales revenue to the average value of tangible fixed assets. In addition, it is important to determine the share of fixed and current assets in total assets in order to determine which part of the assets finances the business. Determining the relationship between asset categories is one of the elements of assigning the appropriate valuation method.

3. Methods

The study uses the following method of secondary survey analysis, which is a retrospective analysis. In addition, documents and available sources on valuation methods were analysed. The analyses were supplemented with statistical analyses. The study formulated the following research hypothesis: What is the predictor of profit generated by a company in relation to specific companies, and which companies can be valued using asset-based methods?

In order to determine the appropriate valuation method, the results of analyses presented by the Central Statistical Office published in 2024 (GUS, 2024) were taken into account. The analyses determined values for the following indicators: return on fixed assets and the ratio of fixed assets to current assets. The results were analysed taking into account the relevant section and PKD name according to the classification presented in Table 1. The classification criteria were profitable enterprises (<0.1; <1.2; <2.5; < 5.10; 10 and above) and by the number of people employed in 2024.

Loss-making enterprises were excluded from the study. Cluster analysis was used to present the results in order to categorise the collected observations into smaller sets with similar profitability ratios, taking into account the assumed criteria. The cluster analysis was performed in the Statistica 13 software environment. The study estimated the share of fixed assets in total assets and the return on fixed assets ratio. The return ratio in terms of determining the amount of net profit per unit of value of assets involved in the company. This ratio is called the return on assets ratio. It provides information on the efficiency of fixed asset utilisation in an enterprise. The higher the value, the better the enterprise is rated (Kowalak, 2022).

The purpose of the analysis was to determine which companies are suitable for the income approach and which can be valued using the adjusted net asset method. In practice, the adjusted net asset method is most often used for companies that finance their operations with fixed assets. These are most often manufacturing companies or companies that derive profits from fixed assets, e.g. hotels. The high share of the indicated indicators made it possible to determine which of the main activities should also be valued using asset-based methods and for which it is more appropriate to use income-based methods. The analyses included companies according to the PKD (Polish Classification of Activities) sections listed in Table 1.

Table 1.

List of PKD sections included in the research sample selection

A	AGRICULTURE, FORESTRY, HUNTING AND FISHING
B	MINING AND QUARRYING
C	MANUFACTURING
D	ELECTRICITY, GAS, STEAM, HOT WATER AND AIR CONDITIONING SUPPLY
E	WATER SUPPLY; SEWAGE AND WASTE MANAGEMENT AND REMEDIATION ACTIVITIES
F	CONSTRUCTION
G	WHOLESALE AND RETAIL TRADE; REPAIR OF MOTOR VEHICLES, INCLUDING MOTORCYCLES
H	TRANSPORT AND STORAGE
I	ACCOMMODATION AND FOOD SERVICE ACTIVITIES
J	INFORMATION AND COMMUNICATION
K	FINANCIAL AND INSURANCE ACTIVITIES
L	REAL ESTATE ACTIVITIES
M	PROFESSIONAL, SCIENTIFIC AND TECHNICAL ACTIVITIES
N	ADMINISTRATIVE SERVICES AND SUPPORT ACTIVITIES
P	EDUCATION
Q	HEALTH CARE AND SOCIAL ASSISTANCE
R	ACTIVITIES RELATED TO CULTURE, ENTERTAINMENT AND RECREATION
S	OTHER SERVICE ACTIVITIES

Source: Central Statistical Office, Local Data Bank, GUS - Bank Danych Lokalnych, 21.10.2025.

The findings obtained on the basis of the research also made it possible to determine which elements of the enterprise specified in Article 55(1) of the Civil Code can be valued using the indicated methods. The share of fixed assets in the balance sheet total allows us to conclude that not all methods can be applied to all types of activities. ‘A high valuation obtained using the income method in relation to valuations obtained using other methods indicates the high efficiency of the company's team (Matusiak, 2015),’ but also the possibility of generating

income through current assets and the intangible nature of the business. In practice, "the oldest methods of company valuation are asset-based methods, which use fixed assets as the basis for determining value. The balance sheet is used as the starting point for determining value. However, this method does not take into account future prospects, the overall condition of the company, problems within the entity, or the state of the economy, i.e. all information not included in the balance sheet" (Prędko, 2015). The productivity ratio allows us to determine the range of methods that we can use when selecting the appropriate valuation method.

4. Results

According to the research conducted using the method of comparing the return on fixed assets in key sectors of activity, the highest profitability was observed in the following sectors (Table 2): retail trade, including repair of motor vehicles and motorcycles, construction, and education (Table 3). As part of the analysis, a cluster analysis was also prepared using the Ward's method, with Euclidean distances used as a measure. "Cluster analysis is a technique that allows the detection of interdependencies between objects. Its main purpose is to identify relatively homogeneous groups (clusters, classes) that form an interpretable classification of the analysed objects. Cluster analysis therefore allows the creation of clusters of objects that are as similar as possible within groups and diverse between groups. The first stage of cluster analysis is the selection of objects and variables, as well as the normalisation of their values. Next, a distance measure and classification method must be selected.

The next stage is to determine the number of clusters and evaluate the classification results. The final step is to describe and interpret the clusters obtained (Domagała, 2019). In terms of Euclidean distances, the measure of similarity within feature vectors was provided by companies operating in the fields of healthcare, social assistance, transport and warehousing, information and communication, real estate, electricity generation and supply, construction, education, and wholesale and retail trade. The smallest Euclidean distance was 0.7867 and the largest was 9.6247.

Table 2.*Return on fixed assets ratio for enterprises by profitability levels for selected PKD sections*

	profitability (0:1)	profitability (1:2)	profitability (2:5)	profitability (5:10)	profitability after 10
Agriculture, forestry, hunting and fishing	b.d	5,5	5,96	10,5	20,5
Mining and quarrying	b.d	5,1	b.d.	15,3	40,63
Manufacturing	1,63	6,33	9,7	22,16	43,36
Electricity, gas, steam and air conditioning supply	1,3	33,6	12,93	13,6	11,13
Water supply, sewerage, waste management and remediation activities	0,26	1,56	2,93	6,26	24,86
Construction	2,56	10,66	19,83	35,73	58,13
Wholesale and retail trade, repair of motor vehicles including motorcycles	5,8	14,3	28,36	46,7	75,8
Transport and storage	2	7,5	12,76	23,2	21,23
Accommodation and food service activities	1,1	3,3	7,9	15,56	16,7
Information and communication	2,06	7,86	16,76	8,6	18,9
Financial and insurance activities	b.d	6,5	1,26	3,5	8,8
Real estate activities	0,4	1,16	1,83	3,33	9,5
Professional, scientific and technical activities	3,13	12,63	27	26,93	19,66
Administrative and support service activities	4,7	10,2	13,13	30,23	19,56
Education	2	18,16	10,2	47,03	65,66
Health care and social assistance	2,33	10,1	9	16,33	43,13
Cultural, entertainment and recreational activities	1,3	26,93	b.d.	12,33	28,3
Other service activities	1,66	7,6	29,86	27,9	45,46

Source: Own study based on data published by the Central Statistical Office, Financial results of enterprises in 2024, 02.11.2025.

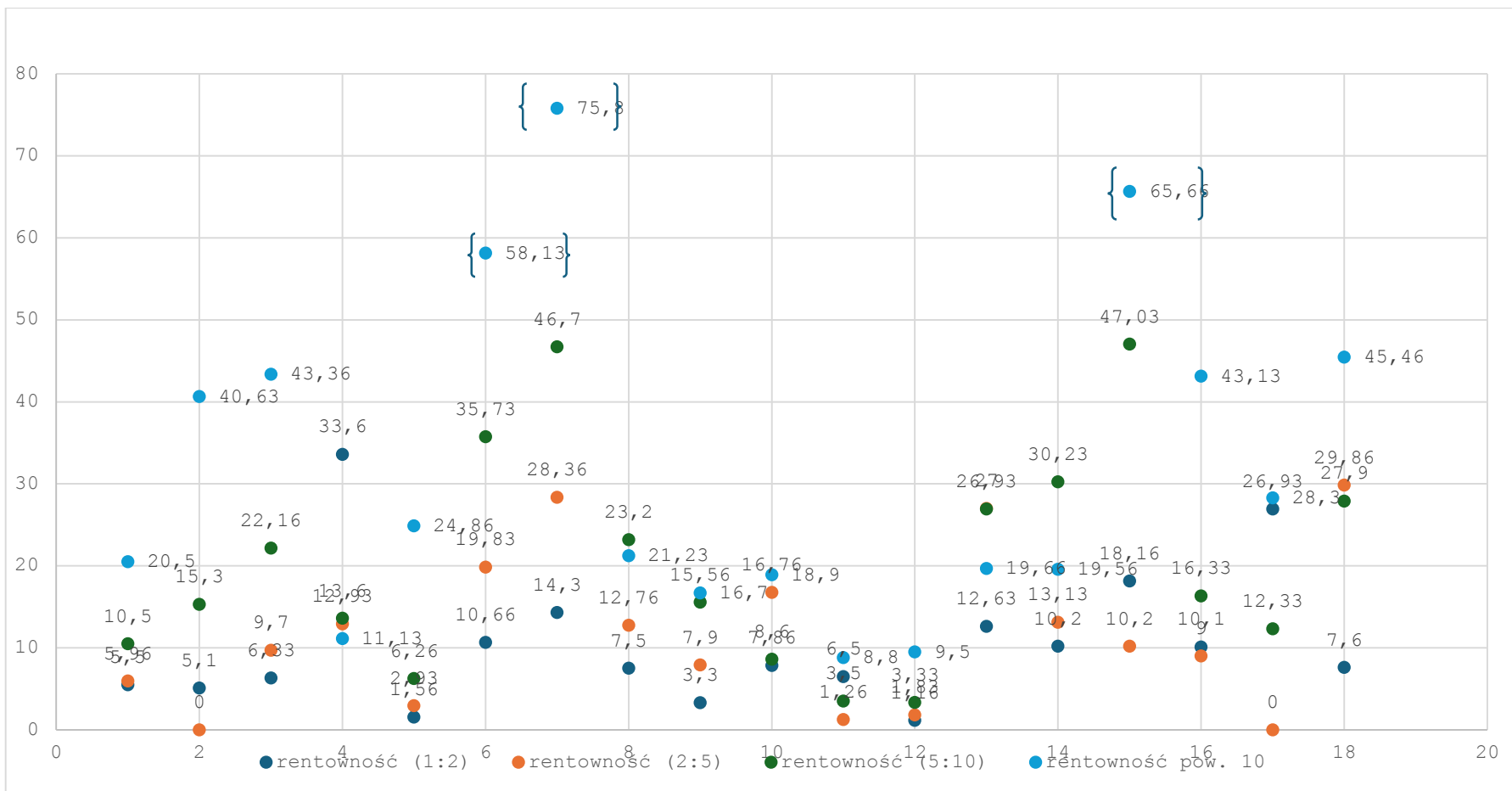


Figure 1. Profitability levels for industries according to PKD (Polish Classification of Activities).

Source: own research.

Table 3.*Share of fixed assets in total assets for enterprises by profitability levels for selected PKD sections*

	profitability (0:1)	profitability (1:2)	profitability (2:5)	profitability (5:10)	profitability after10
Agriculture, forestry, hunting and fishing	b.d.	48,48	57,8	56,29	62,56
Mining and quarrying	b.d.	42,11	b.d	54,05	48,26
Manufacturing	41,91	41,64	53,37	44,23	43,36
Electricity, gas, steam and air conditioning supply	70,28	16,34	52,5	54,28	79,98
Water supply, sewerage, waste management and remediation activities	87,63	74,24	79,01	79,27	63,39
Construction	26,38	23,12	24,41	27,84	27,31
Wholesale and retail trade, repair of motor vehicles including motorcycles	29,12	29,06	32,54	30,66	30,35
Transport and storage	53,16	46,65	54,29	50,95	70,84
Accommodation and food service activities	68,4	69,66	66,4	71,13	78,67
Information and communication	47,18	40,23	42,05	67,91	66,1
Financial and insurance activities	b.d.	7,94	55,92	41,35	57,04
Real estate activities	74,74	76,98	77,07	75,97	69,08
Professional, scientific and technical activities	28,72	22,61	23,59	37,28	49,97
Administrative and support service activities	31,84	49,65	56,27	43,66	61,13
Education	51,82	57,17	60,62	39,84	44,45
Health care and social assistance	60,02	50,14	65,12	65,75	58,39
Cultural, entertainment and recreational activities	61,53	56,87	b.d	70,55	67,23
Other service activities	46,57	39,63	31,06	47,94	53,36

Source: Own study based on data published by the Central Statistical Office, Financial results of enterprises in 2024, 02.11.2025.

Table 4.*Agglomeration process for the analysed sections carried out using the Word method (Euclidean distances)*

Euclidean distance connections	Obj. No 2	Obj. No 3	Obj. No 4	Obj. No 5	Obj. No 6	Obj. No 7	Obj. No 8	Obj. No 9	Obj. No 10	Obj. No 11	Obj. No 12
,7867573	health care and social assistance										
,8174480	activities related to real estate market services										
1,130617	Activities related to accommodation and catering services										
1,340543	Activities related to accommodation and catering services	Information and communication									
1,566633	other service activities										
1,890237	administrative services and support activities		Activities related to accommodation and catering services								
2,241015	health care and social assistance	Transport and warehousing		Information and communication							
2,649618	other service activities	education	Wholesale and retail trade, repair of motor vehicles including motorcycles								
3,741691	other service activities	education	Activities related to accommodation and catering services								
3,788911	health care and social assistance	Transport and warehousing	Wholesale and retail trade, repair of motor vehicles including motorcycles	Information and communication	activities related to real estate market services						

Cont. table 4.

3,992282	other service activities	education	Activities related to accommodation and catering services	professional, scientific and technical activities							
5,068548	health care and social assistance	Transport and warehousing	Activities related to accommodation and catering services	Information and communication	activities related to real estate market services	Production and supply of electricity, gas, steam	Production and supply of electricity, gas, steam				
9,624718	health care and social assistance	Transport and warehousing		Information and communication	activities related to real estate market services	Production and supply of electricity, gas, steam	Production and supply of electricity, gas, steam	Construction	other service activities	education	Wholesale and retail trade, repair of motor vehicles including motorcycles

Source: own research.

The study confirmed that asset-based methods are most appropriate for companies with high profitability and those whose operations involve a large share of fixed assets in the structure of the assets under review. A high share of fixed assets is particularly important. The analysis confirmed that the value of fixed assets argues in favour of using asset-based methods. Among the examined companies that are similar to each other, not in bankruptcy and in good financial condition, the following can be included: companies operating in the areas of construction, real estate, transport and trade, as well as education. The k-cluster analysis confirms the results of previous analyses using ratio methods.

5. Discussion

The analysis of the profitability of fixed assets based on data from the Central Statistical Office confirms the current trend that companies with a high share of fixed assets and their productivity are taken into account in asset-based valuation methods. In practice, companies with a high share of fixed assets are not always those that generate income from tangible fixed assets. As indicated in the literature, ‘asset-based methods are very useful in companies that rely heavily on the use of their assets to create enterprise value. These mainly include oil and gas companies or entities with large amounts of real estate’ (Kiess, Soprenzetti, 2024, p. 202).

Other studies point to the types of assets that should be valued using the adjusted net asset method, i.e. one of the asset-based methods, including office buildings, production facilities, assembly lines, and inventories of materials and products. It is pointed out that the advantage of using the adjusted net asset method is the condition and suitability of the assets for use (Zarzecki, 2020, p. 58).

Currently, the scope of activities of enterprises that use asset-based methods for income-based valuation is indicated, specifying what methods these should be without specifying which enterprises they should be. The research conducted made it possible to group these enterprises and classify them according to those for which asset-based methods are most appropriate. Other studies, without reference to specific groups of enterprises, indicate that this method is most appropriate for entities that generate returns on their assets rather than on their use. The authors of the study emphasise that the adjusted net asset method may also be appropriate for enterprises in the early stages of development, without a significant financial history (IFRS, 2016, p. 25). For some companies, market trends such as changes in consumer behaviour, changes in industry dynamics or technological advances can significantly affect the value of the company (Viversity Online Courses, 2025).

When applying asset-based methods, the financial standing of the company, its profitability and, above all, its productivity determine the choice of the appropriate method. It should be noted that the studies used are among the few currently conducted that refer to specific groups

of companies. Most analyses in the field of studies on determining the value of a company are primarily a polemic with the current state of affairs in this area. The research confirmed the hypothesis that manufacturing companies from sectors with a high share of fixed assets have the highest productivity in terms of fixed assets. However, not all manufacturing companies can be included in this group, which means that the remaining group of companies operating in the manufacturing sector can also be valued using income-based methods. Currently, the biggest limitation in conducting this type of analysis is access to data. The value of companies can be determined when access to reporting data is available. The possibilities for valuing small and medium-sized enterprises are still limited due to the fact that these companies use simplified accounting, which is not available to most analysts.

6. Conclusion

Currently, in practice, we encounter types of enterprises for which we have knowledge of valuation methods. Often, these types of enterprises are the subject of property proceedings. They include both small specialist companies, often run by a single person, and micro-enterprises without significant tangible fixed assets. On the other hand, large enterprises or small companies whose productivity is mainly dictated by fixed assets are subject to valuation. Differences in the approach to valuation often result solely from tangible fixed assets, as not every company has to generate income of a similar value, having only a larger share of fixed assets in its total assets. The research conducted confirmed that the selection of asset-based methods for valuation is primarily dictated by the productivity generated by selected fixed assets.

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