



Bodnar G.

## STUDY OF THE TAX MANAGEMENT PROBLEM

Об'єктом дослідження є сфери діяльності, пов'язані із оподаткуванням. Виділено найбільш важливі питання у сфері оподаткування, зокрема:

- дослідження адміністрування податку;
- нормативне забезпечення необхідних змін у сфері оподаткування;
- державне податкове планування;
- питання трансфертного ціноутворення.

Визначено, що одним з найбільш проблемних місць є оподаткування податку на прибуток, вирішення якого пропонується шляхом його заміни на податок на виведений капітал. Аналізування публікацій щодо досвіду оподаткування у світовій практиці дозволив обґрунтувати доцільність запровадження стимулюючих інструментів оподаткування діяльності підприємств, удосконалення державного податкового планування, що дозволить уникати подвійного оподаткування, а також нормативного забезпечення трансфертного ціноутворення.

Проведені дослідження дозволили узагальнити, що сьогодні досягнуті значні успіхи у сфері адміністрування податків, зокрема:

- введено єдиний соціальний внесок (ЄСВ) замість існуючих раніше нарахунків та утримань з заробітної плати;
- зазнало значного спрощення адміністрування податку на додану вартість;
- запровадження єдиного реєстру податкових накладних дало можливість уникати так званих «податкових ям» та змінити процедуру відшкодування з бюджету ПДВ.

Проте залишається ряд питань, які потребують вирішення, особливо враховуючи динамічні процеси глобалізації.

З метою визначення умов уникнення агресивного державного податкового планування розглянуто досвід імплементації міжнародної практики, зокрема:

- запровадження ефективних інструментів боротьби з виведення прибутку з-під оподаткування;
- застосування заходів відповідно до конвенції про уникнення подвійного оподаткування та міжнародного співробітництва в сфері адміністрування податків.

Завдяки цьому забезпечується можливість створення сприятливого для ведення бізнесу середовища. В результаті Україна не тільки зможе підняти свої позиції у рейтингах конкурентоспроможності та легкості ведення бізнесу, але й створити передумови для стійкого економічного зростання.

**Ключові слова:** податковий менеджмент, напрями та тенденції податкових змін, податкова реформа.

### 1. Introduction

According to the annual Doing Business 2018 Report Ukraine became the 76th out of 190 countries [1]. Undoubtedly, thanks to the Tax Reform of 2015, Ukraine in recent years has managed to improve its position significantly in the international Doing Business rating on «Taxation» criterion. The improvement of the «Taxation» indicator over the past year allowed Ukraine to move up by 4 positions and took the seventy-sixth place. This was facilitated by the simplification of the process of paying taxes for companies, thanks to the introduction of an electronic system for filing declarations and payment of a unified social tax.

So, the effectiveness of the taxation process in the economy is a prerequisite for creating favorable conditions for business entities to increase their business activity in the legal economy by improving the investment and business climate in the country. As well as creation of the institutional environment that would motivate the activation of the entrepreneurial initiative.

However, there are still some issues, the solution of which will not only allow Ukraine to rise in the world

ratings, but also create favorable conditions for doing business, among which the tax question is really important.

Therefore, the issue of tax management research is timely and relevant.

### 2. The object of research and its technological audit

*The object of research* is the activity in the field of taxation, in particular the mechanisms for tax administration, issues of the tax laws reform in part of income tax, transfer pricing, as well as state tax planning issues.

One of the most problematic areas is the institutional support of activities in the field of taxation, the need to improve fiscal planning and management planning, and the ability and willingness to use modern tools in the Ukrainian tax practice.

### 3. The aim and objectives of research

*The aim of the work* is the research of the important issues of the tax management at the boundary of the fiscal

reforms implementation and the spread of the world experience of tax regulation.

To achieve this aim, the following objectives should be executed:

1. Identify the main issues that need to be addressed in Ukrainian tax practice.
2. Analyze the directions and trends of tax changes.
3. Identify the directions for improving tax management at the current stage of development.

#### 4. Research of existing solutions of the problem

The issue of taxation remains relevant and is considered through new opportunities for effective accumulation of funds for the purposes of social development on the one hand, and creation of favorable conditions for economic development, on the other.

Among the main directions of solving this problem can be identified:

- issue of choosing tax instruments and mechanisms for regulating business processes in the economy to motivate their development [2, 3];
- issue of tax regulation of innovation and investment activities [4–6];
- study of the world's experience in solving tax problems and getting to know the ways to solve them [1, 7–10].

In particular, the importance of taxation for the development of enterprises is emphasized in works [1, 4]. The work [2] is devoted to the modern instruments of tax regulation, in particular to special economic zones and preferential tax regimes.

In work [3] it is noted that the main forms of support for investment and innovation activities are such tax instruments as preferential lending, granting tax benefits and vacations.

The author [5, 6] shows that the tax policy of the country is an important lever of state intervention in socio-economic processes through a set of economic, organizational and legal measures to regulate tax relations. Such policy should be coordinated with the goals of long-term economic growth and act as an effective tool for the country's socio-economic development in a market economy.

This alternative solution to the problem of tax optimization presupposes overcoming such obstacles in this process as weak tax administration, weak governance, corruption, work with sectors that are difficult to be taxed (small business, farming, professional activity) [7].

And also corporate tax harmonization [11] and attention to a wider understanding of inequality and impact of taxation on poverty [8].

Thus, the results of the analysis lead to the conclusion that the issues of tax management are constantly in the field of view of scientists. They are interested in the problems of choosing instruments of tax regulation to balance business interests, innovation and investment development and the growth of the country's population well-being. Despite the fact that these issues remain unchanged, the processes of globalization introduce new challenges and demands into them.

Therefore, today the task is finding tax solutions to harmonize the interests of all those parties interested in the issue of taxation.

#### 5. Methods of research

The following scientific methods were used in the research:

- method of analysis in determining strengths and weaknesses, as well as opportunities and threats to taxation activities;
- method of classification in determining the content and types of activities in the field of tax management;
- method of comparison in the study of foreign experience, in particular the use of incentive instruments of taxation, state planning of taxes and regulatory support for transfer pricing.

#### 6. Research results

Specific decisions and actions regarding the provisions being considered are the result of the tax policy that is considered as [6]:

- one of the most important levers of state intervention in socio-economic processes;
- such that is a complex of economic, organizational and legal measures to regulate tax relations.

We tend to think that, tax management in business means the actions within the limits of the tax policy specified in regulatory documents, which are quite difficult due to numerous changes in the tax legislation of the country. In order to highlight important issues in the field of taxation, let's suggest considering tax management in three categories, in particular:

- as a tax management system;
- as a form of entrepreneurship (corporate and personal tax management);
- as a certain category of people, the social layer of those who carry out work on tax management.

Their condition and peculiarities of application at the level of an individual enterprise or organization determine the prerequisites for development. In the conditions of unstable tax legislation, unqualified personnel, sufficiently clear and transparent tax administration mechanisms, the attractiveness of any business becomes extremely low. In turn, this affects negatively both the process of business development, since development without attracting investment is impossible, and the motivation of employees, their focus on results and self-improvement.

In the conditions of stable tax legislation, tax management can be aimed at resolving strategic issues of investing in various business areas depending on the tax burden of the business or area of activity.

Under the conditions of Ukrainian practice, tax management basically performs the function of a «tax optimizer», that is, a tool through which the company legally reduces or delays the tax burden.

It should be noted that the last three years there have been numerous positive changes in the tax administration, the definition of the base and objects of taxation, which led to a significant simplification of the taxation system. In particular, a unified social tax (UST) has been introduced in place of pre-existing accruals and deductions from wages, that is, contributions to the pension fund and the social insurance fund are actually combined. Administration of one of the most important and budget-paying taxes – value-added tax (VAT) – has undergone significant simplification as well. Introduction of a unified register

of tax invoices made it possible to monitor transparently calculation and payment of this tax, avoiding the so-called «tax holes». The procedure for refunding VAT from the budget has also been significantly changed through the introduction of a unified register. The specified changes have generated an opportunity in an electronic mode of publicly accessible registries to receive the information on VAT amounts claimed for reimbursement and the terms of return. Such mechanisms have significantly cleared the tax administration system from both unscrupulous payers and from the corrupt part of the controlling bodies. After all, the refund of VAT from the budget during 2000–2013 was almost the most criminalized and corrupt mechanism for enriching individual oligarchic structures. It is the requirements of foreign donors, the IMF, other creditors that put strict requirements for VAT administration, and forced to introduce this mechanism.

Another important aspect of tax management, which has undergone significant changes over the past three years, is the special taxation regime for agricultural producers. One of the IMF's conditions regarding the continuation of lending was the obligation to abolish the special taxation regime for agricultural producers. In particular, by 2015, agricultural producers used a special regime for VAT taxation, which provided for the VAT payable due to the results of the submitted declaration to be paid not to the budget, but to the company's special account. Subsequently, agricultural enterprise should use these funds to purchase machinery, equipment, that is, spend on the needs of agricultural activities. Such mechanism allowed agricultural producers to be in preferential terms in comparison with other branches. This contributed to the active development of this branch of the national economy in comparison with other branches.

It should be noted that in the world as a whole, the practice of supporting agricultural producers through tax privileges and subsidies is quite common. The essence of tax management in this case is the following: the state reduces the tax burden on a certain industry by creating a special taxation regime, makes it more profitable and attractive for investment. In 2016, the mechanism of the special regime has changed somewhat, at the disposal of agricultural producers there was only 50 % of VAT. The remaining 50 % was paid to the budget. Since 2017, the special VAT regime has been liquidated, that is, the mechanism for paying VAT is the same for all enterprises. But it was decided to grant subsidies to agricultural producers, which provided for a proportional return of funds paid to the budget as VAT from agricultural activities. In this case, tax management means redistribution of funds coming to the budget from enterprises of one industry in the interests of individual producers, which are significant players in this segment of the economy. From the business side, such a system of redistribution of funds required a clear structuring of production, a clear division of accounting by areas of activity, and coordinated tax planning.

The next important step that must be implemented by the state in terms of tax management is the reform of tax legislation in terms of income tax.

For the past five years, a large-scale discussion has continued on the need to replace the direct tax on profits with the tax on the withdrawn capital. For today in Ukraine there is a norm of the current tax legislation, which provides for determining the object of taxation of

income tax and tax rate. The object of taxation is understood as the difference between income and expenses, which in turn are determined by the Accounting Regulations (Standards) or International Financial Reporting Standards (IFRS). The basic tax rate is determined by 18 % [12].

In practice, large companies, in order to avoid the tax burden, registered their enterprises abroad, in countries with so-called low jurisdiction, that is, where the income tax rate is significantly lower than in Ukraine. Realizing the goods, for example, for export, the shipment occurs from the Ukrainian enterprise at zero margin, and the real income is formed when selling from a non-resident registered in the so-called offshore. This made it possible to avoid real income taxation and thus the funds are withdrawn from the country, and the budget does not receive any potential income.

The introduction of the transfer pricing law, which stipulated the definition of controlled transactions, that is, transactions between related persons and those that occur between countries with low jurisdiction, somewhat complexified this mechanism for avoiding taxation [13]. However, the norms of this law make it possible to treat certain concepts freely enough. In particular, the limit of controlled transactions within one counterparty is quite large (500 million USD a year). At the same time, the process of disclosing the so-called ultimate beneficiary, that is, the owner of the company, is rather complicated through legal contradictions, therefore, no significant progress towards controlling the completeness of taxation has been achieved.

One of the alternative and sufficiently effective solutions to this problem is the replacement of the profit tax with the tax on the withdrawn capital.

The basic idea of the tax on the withdrawn capital is that the profit received by the enterprise is not taxed until it is paid to the owners in the form of dividends and payments equal to them.

In fact, the idea of a tax on the withdrawn capital is not new. This taxation model has been operating in Estonia since 2000, which takes the 12th position in the Doing Business ranking for ease of doing business (for comparison, Ukraine is the seventy-sixth).

In Ukraine, this model was first proposed in the liberal law draft No. 3357 [14], many provisions of which were embodied in Law No. 909 [15]. The idea of a tax on the withdrawn capital turned out to be too revolutionary for Ukraine that is why it was taken hostile, both in parliament and in government. The opinions divided in the expert environment as well. So a year ago this idea proved impassable. However, its authors cooperate actively with the Verkhovna Rada Committee on Tax and Customs Policy with a view to its implementation.

Any business exists, first of all, to earn money for the owner (otherwise it is not business, but something else). While money is circulating in business, they create added value, provide jobs, budget revenues from VAT and personal income tax (PIT), fill the Pension Fund. To withdraw a part of the profit at this stage is not only senseless, but even harmful for the economy in the long term – the ideologists of the tax on the withdrawn capital consider. And so they propose to take the tax already «at the exit» – when the money is sent to the owner in the form of dividends or other benefits.

The idea, as it is possible to see, is good. The important thing is how it will be realized. Let's consider the key provisions of the law draft.

Speaking specifically about the operations for the withdrawal of capital, they are:

- payment of dividends in favor of the non-payer of the tax on the withdrawn capital;
- payments in cash and in kind in favor of the owner of corporate rights, even if they are not issued as dividends.

In addition, the following payments are considered equal to the payments for the withdrawal of capital:

- interests, commissions on loans to related persons – non-residents;
- insurance payments in favor of non-residents;
- financial assistance to the non-payer of the tax on the withdrawn capital, as well as free provision of goods, works, services;
- any untargeted payments in cash and/or in kind, carried out by non-profit organizations (and for them it is fraught with loss of «non-profit» status);
- investments in facilities outside Ukraine, both in cash and in kind;
- royalties;
- contributions to the authorized capital, trust management or in joint activities transferred/given to non-payers of the tax on the withdrawn capital in cash and/or in kind;
- accounts receivable for goods, works, services, delivered to non-payers of this tax.

There are operations for which it will be necessary to make independently additional tax accrual, in particular:

- controlled transactions within the framework of transfer pricing, the conditions of which do not correspond to the arm's length principle;
- royalties in favor of offshore non-residents or those in whose country royalties are not taxed, and for rights that first arose in Ukraine;
- sale of goods to non-payers of the tax on the withdrawn capital (here normal prices will be used).

Taxpayers are resident legal entities and permanent representations of non-residents. As for non-resident legal entities, to work with them in Ukraine, the resident will have to make sure that the non-resident has opened a permanent representative office here.

Tax rates of 15 % are foreseen for operations on the withdrawal of capital directly by the owners (dividends and other direct payments in cash and in kind, even if they are not registered as dividends). The rate of 20 % for operations that are equal to the withdrawal of capital, and for additional accruals demonstrate the principle of fairness. It is possible to talk about the hidden withdrawal of capital for all «interest and royalties to offshore non-residents», which provides for a high tax rate of 20 %. Official payment of dividends reduces the tax rate by 5 percentage points, and in case of return of investment within the initial contribution to the authorized capital – you pay nothing.

The advantages of applying such taxation model include:

- 1) creation of incentives for business and investment activity. As shown by the experience of Estonia, the influx of foreign investments into the country increased immediately;
- 2) enterprises do not need to underestimate the financial result, and therefore, the financial statements of

enterprises can become more transparent and attractive for investors and banks;

3) tax obligations are easy to verify, because the operations related to the object of taxation are difficult to hide. It will be enough for tax auditors to verify the existence of such transactions.

Opponents of this approach to taxation put oncoming critical questions:

1. If this tax is so effective, why has not it been implemented by any country, except Estonia? In most developed economies of the world, the corporate tax, which is analogous to our profit tax, is coping.

2. How to close a hole in the budget, which inevitably forms after the refusal from the profit tax? After all, very this happened in Estonia: first the revenues from the new tax were half that of the profit tax.

3. Would not the company simply «cash» funds by hiding behind the purchase of any fictitious services, instead of paying the tax on the withdrawn capital? Although there is just the answer: at a tax rate of 15 % there is already no point in risking.

4. There will be no need for a simplified taxation system: the general system itself will be simplified. Only the VAT will need to be addressed. After all, the current third group of the unified tax at the rate of 5 % without VAT is the only way out for business in the sphere of services, consulting and IT, where VAT is converted to 20 % from turnover due to lack of input tax.

So, for today the tax management of introduction of the tax on the withdrawn capital instead of the existing profit tax is a subject of discussion both in business circles, and state structures which are responsible for completeness of filling the budget.

Another important aspect of tax management, which is worth paying attention to, is the state's aggressive tax planning. Most countries in the world understand, and even calculated how much state budgets lose from aggressive tax planning. Understanding the problem is more important than finding answers on how to deal with it. It turns out that Ukraine has not yet formed an understanding of the impact of aggressive tax planning on the country's budget. Most discussions are held around the tax reform, while incomes without any restrictions are moved abroad. Existing international conventions on the avoidance of double taxation are used with abuse not only by multinational corporations, but also by «domestic investors» – often for the legalization of proceeds from crime. Most of these conventions are obsolete and contain exemption from taxation in Ukraine.

For the first time the problems of double taxation were discussed in 1910 at the International Financial Conference in Brussels. That year, the League of Nations was established, which worked out the first model draft convention on the avoidance of double taxation and international cooperation in the field of tax administration. Since the mid-1950s, the Center for International Tax Cooperation has become the Tax Committee of the Organization for Economic Cooperation and Development – OECD. Obviously, the time for change has come, because the governments of the countries face new challenges: double taxation of income and movement of income taxation in low-tax jurisdictions. The result of the changes is the development of measures to counteract the reduction of the tax base and the movement of profits abroad [9, 16].

The lion's share of world GDP is now made up of multinational corporations. Whereas in the past tax planning was often used by an internal network of companies in one country, now companies are quickly moving to a new operational model with a matrix management system and integrated supply chains at the regional and global levels. This is facilitated by the development of the service component and e-commerce. Business becomes easier: production does not have to be at the customer's location. The corporate attention is now focused on low cost and tax preferences. This encourages business owners to engage in aggressive tax planning.

The loss of state tax revenues due to the aggressive tax planning of multinational corporations united the world around the search for effective tools to combat the withdrawal of profits from taxation. This is how the action plan of the OECD and the «Big Twenty» – BEPS (Base Erosion and Profit Shifting) appeared, whose goal is to counter aggressive tax planning, combating the erosion of the tax base and the removal of profits from taxation [17].

In the BEPS action plan, the actions of the OECD to counteract the erosion of the tax base and the withdrawal of profits from taxation, are formed in 15 steps. Some of these measures require a revision of the transfer pricing rules. Other measures will require amending the bilateral tax convention on avoiding double taxation. This can be achieved through a special multilateral instrument and changes in domestic tax legislation. In general, the BEPS action plan is not mandatory for states, but the implementation of the so-called minimum standard – 4 mandatory steps out of 15 is necessary.

In order to build effective cooperation on the implementation of the action plan, a comprehensive platform, the BEPS-Association, has been created. On November 22, 2016, Ukraine applied to join the BEPS Association on January 1, 2017, confirming its willingness, jointly with most countries, to combat aggressive tax planning and protect its tax revenues.

Members of the BEPS Association are developing further recommendations for countries on these steps. It is obvious that the changes will affect the OECD model convention on avoidance of double taxation, as well as domestic legislation with regard to the expansion of requirements for transfer pricing documentation. Also, the issue of exchange of tax explanations between countries is being discussed. Ukraine, which has joined the BEPS Association, has the right to participate in discussions both at the level of the OECD Committee on Taxation and at the level of regional meetings on tax policy and administration.

The modern world is becoming more globalized, and business – more digitized. Technologies are developing rapidly, which creates not only the wide opportunities for business development, but also new challenges. Distribution of crypto currency, launching of unmanned missiles, powerful transnational companies based on IT resources are only one side of progress. On the other hand there are powerful DOS-attacks on servers, which lead to the destruction of information and the actual loss of management tools.

It should be noted that the success of implementing decisions in the field of tax management depends on the personnel issue, in particular, comprehensive professional development and professional development of employees. It is also important to introduce the principles of corporate

culture and social responsibility that form the environment for partnership, support and consideration of the interests of all stakeholders in the process of tax management and regulation.

## 7. SWOT analysis of research results

*Strengths.* The modern world is becoming more globalized, and business - more digitized. Technologies are developing rapidly, which creates not only the wide opportunities for business development, but also new challenges. Distribution of crypto currency, launching of unmanned missiles, powerful transnational companies based on IT resources are only one side of progress. On the other hand there are powerful DOS-attacks on servers, which lead to the destruction of information and the actual loss of management tools.

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*Weaknesses.* It was stressed that the tax activity was and remains on the verge of interests of economic entities and the state. Harmonization of this relationship depends on many factors, which were discussed in this work:

- improvement of tax regulation;
- improvement of state tax planning;
- solution of the issue of transfer pricing;
- taxation of the profit of the enterprise;
- a number of related issues of corruption, in particular, the moral conduct of taxpayers.

These components of taxation today are its weaknesses and need to be addressed.

*Opportunities.* The study and the use of taxation experience of the countries that have achieved success in this issue deserves attention, as it creates the conditions for the formation of competitive advantages, in particular, through:

- formation of a responsible business;
- creating a positive image;
- achievement of well-being both at the level of an individual enterprise and society.

*Threats.* It is shown that taxes are an important tool for stimulating the development of both the economy of a single enterprise and the country as a whole. In an effort to compete in foreign markets, Ukrainian enterprises must comply with the requirements of the legislation of foreign countries and be responsible for their tax activities. For this, it is necessary to study, implement, observe not only Ukrainian, but also foreign norms of tax regulation. This creates both activity risks and additional costs, and requires the involvement of professional experts and specialists.

Integrating into the world economic space, Ukrainian enterprises must solve their problems, in particular taking into account modern requirements of tax management.

## 8. Conclusions

1. Analysis of the world's resources on the issue of the tax management made it possible to identify the issues

that are important for the Ukrainian economy and require solution:

- tax administration;
- reform of tax legislation in the part of profit tax;
- state tax planning;
- transfer pricing.

2. The carried out analysis of the trends of tax changes draws attention to the appropriateness of changes in the tax on profit from the activities and creation of such taxation conditions that are more favorable both for the development of enterprises and for the state by introducing a tax on the withdrawn capital. The issue of avoidance of double taxation, as well as the improvement of domestic legislation with regard to expanding the requirements for transfer pricing documentation, is worth noting.

3. It is determined that the prospective areas for improving tax management lie in the three interacting spheres of the enterprise, which is regulated by certain legal norms of financial and budgetary activity and relevant legislative acts of the state, and determines:

1) establishment of instruments for the fulfillment of tax obligations of subjects of tax legal relations;

2) adoption of scientifically grounded levers of the current intervention in the course of the implementation of the state budgets of a stimulating nature, including through the implementation of the norms of tax legislation and the implementation of international norms;

3) development of incentive mechanisms of taxation based on balancing the interests of the enterprise and the state, taking into account the experience that demonstrates successful results in this issue.

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*Bodnar Galyna, PhD, Associate Professor, Department of Management and Administration, Ivano-Frankivsk National Technical University of Oil and Gas, Ukraine, e-mail: bodnar@grand.if.ua, ORCID: <https://orcid.org/0000-0002-3769-4689>*