



WAYS OF IMPROVING THE ADMINISTRATION OF TAXES AND LEVIES IN UKRAINE

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Summary

The article considers some aspects of the administration of taxes and levies in Ukraine. It sheds the light on the reasons and causes of the faults in taxation reforms and administering taxes and other fees paid by the Ukrainians. The analysis has been done on the basis of scientific works of Ukrainian and foreign scientists and regulations of the legal framework that regulate relations in the areas under the analysis. Much attention is paid to the comparative analysis of the theoretical approaches to the definitions of the key notions of this study: "tax", "levy", "administration" and "administration of taxes and levies". The author lays emphasis on the ways of improving the administration of taxes and levies in accordance with the legislation, analyzes forms, methods and mechanisms of changes in the work of the State Fiscal Service of Ukraine (SFS) and suggests some possible ways of how to return taxpayers' confidence to this service. The author concludes that this might facilitate the removal of capital from the shadows and as a result it will promote the increase of budget revenues.

Key words: administration, taxes and charges, challenges, improvements, State Fiscal Service of Ukraine.

Аннотация

В статье с учетом научных взглядов ученых и положений правового поля, которое регулирует отношения в исследуемой сфере, определены некоторые аспекты администрирования налогов и сборов в Украине. Исследованы теоретические подходы к определению понятий «администрирование» и «администрирование налогов и сборов». На основании конструктивного анализа норм законодательства сформулировано авторское видение проблем в указанной сфере, а также возможных перспектив совершенствования системы администрирования налогов и сборов в Украине.

Ключевые слова: администрирование, налоги и сборы, проблемы, совершенствование, Государственная фискальная служба Украины.

Formulation of the research problem and its significance.

Ukraine faced the importance of effective management in the sphere of taxation as early as in 1990, after the proclamation of its independence, since the then existing system of formation of state revenues reflected the imperfection of transition economy and its most problematic feature was fiscal policy. The market economy reform was accompanied by the multiple attempts to improve the tax system by adopting some legislative acts, which only partially cohered with the state of economy in the country. In the result of many years of the reforming process in that sphere of social relations the Tax Code of Ukraine was adopted, but it appeared to be imperfect and also needed changes and modifications. As a result, over the past few years it was amended with a large number of changes which had negative impact on both the tax authorities and the taxpayers. It should be also noted that in the process of reform lawmakers made certain mistakes. One of the most harmful was insufficient attention to such important aspect as the administration of taxes and levies. Indeed, as O.I Lynnyk states, shortcomings in the system of administration of taxes and levies undermines the integrity of the economic system as a whole and hinders

the development of the state in other spheres too [1].

Analysis of the research into this problem. The problem of reforming the national taxation system, including the administration of taxes and levies, have been considered in the scientific works of such scholars as Yu. Hanushchak, T. Krushelnytska, S. Lekar, I. Lunina, Ts. Ogon, L. Olijnyk, A. Andriiko, A. Bandurko, A. Vasiliev, V. Kolnakov, A. Lastovstskyi, S. Rud', A. Selivanov and others. However, in the context of the socio-political changes taking place in Ukraine today, this aspect is of a particular importance and requires further development.

The goal and the specific tasks of the article. The major goal of this study is to identify the problems and outline perspectives of improving tax and levies administration in Ukraine.

Statements regarding the basic material of the research and the justification of the results obtained. In order to achieve the objectives outlined in the article, we suggest to begin the research with the definition of the notions "tax" and "levy". Generally accepted position is that tax is a compulsory, obligatory, individually gratuitous payment. Bernard J. and J. Colli support this point of view

and state that the tax is a compulsory and gratuitous (in the literal sense) withdrawal of funds, carried out by the state or local governments to finance public expenditure [2, p. 53].

In our opinion, the most complete definition of that term is provided by M. Kucheriavenko. The author considers that tax is a form of expropriation by the state certain amount of incomes received by the businesses and individuals, which is paid to the corresponding level of the budget (or a target fund) under the Act of a competent body of the state power and is regarded as an untargeted, gratuitous, implicit and obligatory payment [3].

In its turn, "levy" is a mandatory payment which is not however a tax and, in accordance with the law, is levied from a taxpayer by state authorities as a payment for the right to participate in or to use either tangible or intangible objects. There is another point of view, according to which the tax is a compulsory fee levied from organizations and individuals, the payment of which is one of the prerequisites for realization of legal activity by the taxpayers, granting them certain rights or permits (licenses) by government bodies, local authorities and other officials [4].

The term "administering" is quite new to the Ukrainian legislator, nevertheless



there are many approaches to its interpretation in the scientific literature. Since our study has certain framework, we shall consider only a few of them.

The word “administering” comes from the Latin “administration” and means guidance and management. The economic encyclopedia states that the administration is a management activity performed by the executives and government authorities, carried out mostly through the orders and instructions, which is characteristic of the command-administrative system [5, p. 25]. Thus, the administering is a form of management activity or even the process of such activity itself, which is based on special tasks and certain forms and methods of performing this activity to attain the objectives.

As for “the administration of taxes and levies”, it is worth mentioning that there are also many approaches to its interpretation in the scientific literature. For instance, Y. Ivanov, V. Karpova and L. Karpov in their works give the following definition: administration of taxes and levies is the procedure of exercising the rights and obligations of the subjects of the tax law concerning the reconciliation and paying off tax obligations. Administration of taxes and levies must be based on legally fixed set of tax-legal norms that establish the procedure for exercising the rights and obligations of subjects of the Tax law concerning the reconciliation and paying off tax obligations [6, p. 90].

A. Dadashev considers that the administration of taxes and levies is a science which formulates the principles of the effective management in the tax system in the existing socio-economic and political conditions, assesses tax system in accordance with certain theoretical criteria [7].

Noteworthy is the view of Alexander Selivanov, a prominent scientist and expert in the field of administering, who claims that administering of taxes and levies can be defined as “legal relations which are formed and shaped in the course of implementation by the authorized state bodies certain measures aimed at paying off tax debts, anticipating and providing basis for application of power-coercive methods to taxpayers” [8, p. 35].

In his book “Tax administration” T. Kalinesku summarizes that most Ukrainian scientists include into the content of administration of taxes and levies the following issues: 1) the principles of

effective management of the tax system under the present socio-economic conditions and political circumstances; 2) a system of governing bodies (legislative and administrative – taxation), the procedural duties of which include ensuring the implementation of taxation policy; 3) legal relations which are formed and shaped in the course of implementing by the authorized state bodies the measures aimed at paying off tax debts, anticipating and providing basis for application of power-coercive methods as to taxpayers; 4) the system of methods, forms and techniques of regulating and balancing economic relations in the field of taxation which create effective basis for implementation of taxation policies; 5) procedure of realization of the rights and obligations of the subjects of taxation concerning the repayment of tax liabilities; 6) administrative activity of state executive power related to the organization of the taxation process, based on state laws and legal regulations and socially predefined rules; 7) mechanism, which includes the system of methods, organizational and legal measures aimed at withdrawal of taxes and levies as mandatory payments performed by the authorized state bodies; 8) a set of measures to control the movement of payments from taxpayers to budgets of all levels and their redistribution; 9) a system of measures and techniques, set up in accordance with the norms of current legislation, which ensures mobilization of revenues to the state budget and state target funds [9].

Thus, administration of taxes and levies can be defined as an activity of the authorized state bodies aimed at the efficient management of taxation processes, and timely replenishment of the state budget at the expense of taxes and levies from individuals and legal entities. The main purpose of this activity is to ensure the payment of tax liabilities by taxpayers, to prevent occurrence of unjustified arrears and overpayments using the optimal intervention into economic activities through the use of legally established administrative mechanisms and monitoring procedures.

Administration of taxes and levies, as the administrative activity performed by the tax and other monitoring bodies and regulated by laws and other legal acts, implies solution of the following major problems [10]:

– ensuring taxpayers favorable conditions for the performance of their

duties as to the calculation, declaration and payment of taxes and levies;

– control of the state over the taxpayers’ performance of their duties regarding the calculation, declaration and payment of taxes and fees, ensuring their full compliance by all taxpayers;

– ensuring protection of the taxpayers’ legitimate rights and interests from illegitimate interference of government authorities;

– taking coercive measures on taxpayers who do not fulfill their obligations;

– granting services to taxpayers in the course of performing their obligations as to the calculation, declaration and payment of taxes and levies;

– monitoring the compliance of taxpayers’ actions with tax laws;

– settlement of disputes arising in the application of tax legislation;

– ensuring responsibility of both taxpayers and state executive bodies for violations of tax legislation;

– implementation of coercive levying of taxes not paid on time, and providing measures for the renewal of taxpayers’ solvency [10, p. 127].

Therefore, drawing on the analysis of the theoretical approaches to the definition of the notion “administration of taxes and levies”, taking into account the goal of this activity and its functions entrusted to the State Fiscal Service of Ukraine (SFS), we can emphasize the importance of this activity. However, it should be stressed that in other countries extensive tax reforms aimed at unification and harmonization of taxation began in the 80-ies of the last century, but only in the late 90’s they shifted emphasis towards improving the mechanism of administration of taxes and levies [11]. In Ukraine this process began much later, that is why many challenges in this area still remain hotly debated issues.

In her scientific research devoted to the ways of improving the administration of taxes and levies T. Krushelnytska points out that the scope of the administration of taxes and charges, which is carried out by SFS authorities should be expanded from purely fiscal and controlling activities to the constructive dialogue. To expand the limits of the tax administration and levies author suggests such measures: to focus the administration on the openness and transparency; to develop mechanisms and methods of combating the abuse and subjectivity on the part of officials



of the State Fiscal Service of Ukraine; to automate the processes of administration of taxes and levies; personnel management, enhance the qualification level; logistical and financial maintenance; tax information administration; organization of document circulation management; anti-corruption activities; internal monitoring; external consulting activities, etc. [12].

In the context of the problem under consideration noteworthy is the idea of V. A. Iliashenko. The author believes that the most effective way of improving the administration of taxes and levies in Ukraine is ensuring the principle of equality of all taxpayers under the law. Improving the administration of taxes and levies in this respect will promote creation of equal competitive conditions for all agents of economic relations and ensure tax law compliance by all participants of tax relations [13].

A major drawback of current legislation in the field of legal regulation of administration of taxes and levies are frequent amendments to the Tax Code of Ukraine. This is mainly due to the fact that it was adopted obviously being imperfect and it needs further refinement. Thus, by September 17, 2015 the Tax Code of Ukraine had been modified more than 90 times (only in 2015 the Code was modified 23 times). Under these circumstances, neither the taxpayer nor the authorities of SFS of Ukraine have any time to adapt themselves to the tax system.

And now again we are talking about improving the tax legislation. Cabinet of Ministers of Ukraine once again introduced a number of proposals to the Tax Code of Ukraine which are to be considered and adopted by Verkhovna Rada. As a result, taxpayers are confused in understanding the legal act under discussion. As to the employees of the State Fiscal Service of Ukraine, this situation does not allow them to organize the work efficiently and optimally use their working hours.

The solution to this problem is possible only in the case when legislator enables the SFS authorities and taxpayers to work without frequent changes for at least 2–3 years. It would allow one and the other party to plan and perform their work effectively both in taxation and in the production sectors, after all the more effective is the activity of the taxpayer and more profits he gets and the greater amount of taxes he pays. As a result both a state and the taxpayer take their advantages.

Another significant shortcoming that must be noted is the fact that the administration of taxes and levies is basically aimed at coercion. But we believe that tax compliance can not be achieved only by the use of coercive measures. Of course, we agree that the use of coercion is reasonable and justified concerning taxpayers who fail to fulfill their obligations or in case of levying taxes, if they are not paid on time.

We propose to solve this problem through the application of incentives for the taxpayers. It should be pointed out that motivating and encouraging foundations still exist. For instance, some agencies of the State Fiscal Service award top taxpayers with diplomas at the end of the year, but it is not sufficient. To improve the administration of taxes and levies and encourage taxpayers to timely payment of taxes we offer: the most conscientious taxpayers who did not violate the terms of obligatory payments for some time, and in the result of inspections any violations have not been found, must be granted tax relief in the form of lower interests rates. This approach allows to stimulate taxpayers to withdraw capital from the shadow and build up partnership relations between them and the State Fiscal Service of Ukraine.

We should lay emphasis on another problematic issue – how to return taxpayers' confidence to the State Fiscal Service of Ukraine? This problem, unfortunately, is everlasting because there exists high level of corruption among officials. Frequent inspections that mostly are aimed not at control and prevention, but to find a reason to fine the taxpayer at any price and by all means or even to get a bribe, undermine the confidence of taxpayers, violate their "peace" and prevent from working quietly. Vivid proof of the aforementioned is the report on the survey "Corruption and risks of corruption in the state administration of Ukraine" according to which 78% of taxpayers perceive the risks in directing activities of control and supervisory agencies on the mandatory identification of violations and penalties; 13% of the respondents regard it as little risk and less than 2% of the surveyed do not see any risks in it (the remaining 7% did not give a definite answer). Almost all interviewed experts saw the risk of corruption in the "punitive-biased" inspection goals [14].

To solve the problems outlined above it is necessary to develop an effective

mechanism to combat abuse among the official authorities of the State Fiscal Service of Ukraine. It concerns not only the immediate perpetrators but also those who hold positions of directors, as it often happens that they force workers to carry out the acts of corruption under penalty of being fired or punished. In this context it is unfair to speak only of the employees of the State Fiscal Service of Ukraine or any other public body, but it should also be emphasized that most taxpayers deliberately violate tax laws, knowing that it might be a good way to redeem. It seems to be quite clear that if the first stopped "taking", and the second – "giving", then such a thing as corruption would disappear as a phenomenon.

Conclusions and prospects for further research. Thus, summing up this study, we can conclude that the main problem with the system of administration of taxes and levies in Ukraine is the fact, that it is built on confrontation between the state and taxpayers. The main drawback is that none of the parties of tax relations wants to concede their principles or take into account and respect the interests of each other.

The outlined above list of issues is not comprehensive and not exhausted, but we think it has a considerable negative impact on the administration of taxes and levies in Ukraine. The solution of these burning issues is mostly aimed at increase of trust in the State Fiscal Service of Ukraine, as well as establishing partnership between the taxpayer and the state. This shall facilitate the removal of capital from the shadows and as a result it will promote the increase of budget revenues. The logical consequence of the process will be improving the welfare of the state, on the whole and of every citizen in Ukraine, in particular.

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КРИМИНОГЕННОСТЬ ПОЛИТИКИ: СУЩНОСТЬ И СИСТЕМНЫЕ ПРОЯВЛЕНИЯ

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Summary

This article analyzes the criminality of the politics as its property to create political crime and factors of determination of general crime (political criminogenic factors). This property is described through the features and symptoms of systemic dysfunctions of the politics. Among the latter the author focuses attention on the criminogenic deformation of political organization of the society, political relations, political principles and norms, means of political communication, political consciousness and culture. The author follows the opinion that the political consciousness and culture play a fundamental role in the formation and functioning of the entire political system. On this basis, their dysfunctions have the most criminogenic value.

Key words: criminality of the politics, political system, political regime, dysfunction, crime, determinants of crime.

Аннотация

Статья посвящена анализу криминогенности политики как её свойству воспроизводить политическую преступность и факторы детерминации общей преступности (политические криминогенные факторы). Данное свойство описывается через признаки и проявления системных дисфункций политики. Среди последних акцентируется внимание на криминогенности деформаций политической организации общества, политических отношений, политических принципов и норм, средств политической коммуникации, политического сознания и культуры. Отстаивается мнение, что политическое сознание и культура играют основополагающую роль в формировании и функционировании всей политической системы. На этом основании их дисфункции имеют наиболее криминогенное значение.

Ключевые слова: криминогенность политики, политическая система, политический режим, дисфункция, преступность, детерминанты преступности.

Постановка проблемы. Политика является специфическим социальным институтом, функционально направленным на согласование интересов различных общественных групп, содействие прогресса всего общества за счёт аккумуляции, артикуляции его потребностей, выработки и реализации бесконфликтных мер и средств их удовлетворения с соблюдением комплекса требований безопасности, в том числе и по отношению к будущим поколениям. В этом выражается метасоциальный институциональный характер политики как образования промежуточного, связующего звена, интегрирующего и упорядочивающего начала. Такое её качество связывается со сквозным, проникающим характером воздействия по отношению практически ко всем сферам общественных отношений, проекции наиболее общественно важных аспектов, развитие которых в публичной плоскости используется для конкретизации целей, методов политической деятельности.

Именно поэтому несоответствие, дисбаланс между социальными запросами и политико-институциональными реакциями на них следует рассматривать как фундаментальное общественное противоречие криминогенно детерминирующего свойства.

Актуальность темы. Научные и прикладные проблемы возникновения, существования, изменения, прекращения связей между политикой и преступностью рассматривались в работах многих ученых, среди которых, в частности, А.М. Бандурка, В.Н. Бураков, Я.И. Гишинский, В.В. Глушков, В.Н. Дремин, А.П. Закалюк, Н.А. Зелинская, П.А. Кабанов, А.Г. Кальман, А.Н. Костенко, В.В. Лунев, А.С. Овчинский, А.Л. Сморгун, А.М. Черныш, Д.А. Шестаков и другие. Признавая существенный вклад указанных исследователей в разработку обозначенного направления научного поиска, следует все же заметить то, что их работы посвящены в основном изучению сущности и проявлений по-

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