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VAT ADMINISTRATION SYSTEM IN UKRAINE: ADAPTATION TO THE REQUIREMENTS OF EUROPEAN LEGISLATION

СИСТЕМА АДМІНІСТРУВАННЯ ПДВ В УКРАЇНІ: АДАПТАЦІЯ ДО ВИМОГ ЄВРОПЕЙСЬКОГО ЗАКОНОДАВСТВА

The article overviewed the fundamental problems of the development and reformation of VAT in the EU Member States, the principles and procedure for calculating VAT, as well as the issues of harmonization of VAT according to the EU's requirements. The economic nature of the VAT, its fiscal nature and the shortcomings, features and rates of VAT in the tax systems of Ukraine and European countries are revealed. The main aspects of improving VAT according to the EU requirements are outlined, as well as changes in VAT rates and tax breaks that have been transformed in response to economic turmoil or political instability. The VAT legislation of the Member States of the EU and Ukraine, the features of the application of standard and reduced tax rates are analyzed. The application of VAT rates to certain types of goods and services is compared. Emphasis is placed on the need to take into account the experience of European countries' in regulating the mechanism of VAT collection in Ukraine. Methodologically research is based on the inductive method as a way of obtaining conclusions based on analysis of existing statistical material.

Key words: indirect taxes; VAT Tax Code of Ukraine; EU legislation; reform.

У статті особлива увага прикута до реформування системи оподаткування в Україні з метою її адаптації до європейських умов господарювання. З моменту запровадження ПДВ в Україні та до цього часу, ще не вдалось сформуванню оптимальний механізм цього податку, який би за високої фіскальної ефективності забезпечив позитивний регулюючий вплив на економічні процеси, а саме стимулював економічний розвиток, сприяв більш справедливому розподілу податкового тягаря серед виробників і споживачів. Проаналізовано дискусійні питання реформування ПДВ у країнах Євросоюзу: з одного боку, ПДВ є фіскально значущим, а з іншого – він характеризується незначною фіскальною ефективністю через суттєві втрати

податкових надходжень внаслідок застосування пільг при сплаті податку, особливо через існування функціональних недоліків системи адміністрування. Окреслені основні аспекти вдосконалення ПДВ згідно вимог Євросоюзу, а також зміни в ставках ПДВ і податкових пільгах, які трансформувалися у відповідь на економічні потрясіння чи політичну нестабільність. Проаналізовано законодавство ПДВ країн-членів Європейського Союзу та України, особливості застосування стандартних та знижених ставок податку. Здійснено порівняння застосування ставок податку до деяких видів товарів та послуг. Акцентовано увагу на необхідності врахування досвіду країн Європи при врегулюванні механізму справляння ПДВ в Україні. Досвід ЄС цікавий для розгляду в контексті даного дослідження тому, що для України, як і більшості європейських держав, реальної альтернативи ПДВ не існує. Незважаючи на існуючі недоліки, що пов'язані саме з характерними властивостями ЄС (структура ринків, надзвичайно висока мобільність факторів виробництва, необхідність гармонізації податкових систем різних країн), питання про скасування ПДВ в Україні не піднімається і цей податок залишається одним з центральних елементів податкової системи країни.

Ключові слова: *непрямі податки; ПДВ; Податковий кодекс України; Законодавство ЄС; реформа.*

JEL Classification: *H20; H30; H71; H87*

Formulation of the problem. Ukraine's tax system has a strong focus on indirect taxation for a number of objective reasons. Despite fact that the question of division of taxes on direct and indirect was always at the center of theory of taxation there is no still unanomous opinion which sign must be in the basis of such division. Ukrainian and foreign experience in tax collection practices has revealed and the theory of shifting of the taxes had proved scientifically that burden of any tax is possible to shift into another person. Therefore it is'nt quite justified to use the principle of shifting of the taxes as base dividing the taxes into direct and indirect.

VAT in system of indirect taxation appeared only in the late 60s of the 20th century. The first country in changing of structure of consumption taxes was France in 1954; it replaced sales tax to a VAT. The need in employing such index as an added value as an object of taxation European countries was stipulated by creating of common market. Particularly Treaty of Rome 1957 establishing the European Economic Community (EEC) has envisaged the development and the implementation steps which were aimed on harmonization of indirect taxation systems of Member States, and the presence of the current VAT system has become a requisite for entry into the EEC. Since 1982 was defined it legal status of mandatory tax for all EU members. Currently VAT employs as one of the main sources of state budget revenues in the 33 of the 34 OECD countries. In the early 1990s, about 80 countries, virtually almost all industrialized countries used VAT as an effective tool of fiscal policy through high fiscal performance and innovative tax standards.

In some countries VAT has another name: consumer tax in Japan, a tax on goods and services in Canada and New Zealand. In fact, VAT exists in one or other forms in almost all developed countries. However, not all theoretical questions of construction of this tax are completely resolved. The main problem on which is focused currently attention of experts for improving the system of administration of VAT in EU lies how in optimization scopes of VAT rates, and in that gradually in taxation of services that are the basis of VAT will be introduced new approaches and principles of taxation.

Analysis of recent research and publications. Contemporary scientific literature has quite significant achievements in the study of theoretical and methodological problems of taxation of VAT in EU and has received adequate coverage in numerous publications such famous foreign scientists as F.B. Larren, John D. Sachs, K. Mocanu [1], J. Stiglitz, L. Bettendorf [2], M. Friedman and R. Bord [2]. The special role in fundamental integrated research in the field of tax reforming EU and identification key trends of tax policy of the member countries should attribute to paraph of such influential European institutions: Centre for Social and Economic Research under the auspices of European Commission [2], Organization for Economic Cooperation and Development, Eurostat [3].

VAT is referred to the most complex taxes not accidentally. In the methodology of the tax can be identified two major problems, one of which causes many disagreements about the mechanism of its calculation, while the other has a direct impact on economic growth and the social sphere. These problems should be attributed particularly to methodological because their decision may have an effect on the totality of economic relations not only at the level of economic entities and individuals but also at the macro level.

The first tax classification was built on the base of criteria of shifting taxes. English philosopher J. Locke believed that any tax was taken from any man, but eventually was imposed on landlord. Directly from landlords were collected land taxes, so these were direct taxes.

All other taxes were imposed on the ground indirectly, so they form a group of indirect taxes. Physiocrats (F. Quesnay, J. Turgot and B. Mirabeau) confirmed and deepened that division basing on the fact that income solely of landowner was really the net income from which were paid all taxes.

The representatives of the classical school (W. Petty, A. Smith et al.) considered that incomes may be obtained not only from the ground, but also from capital and labor. Adam Smith identified the indirect taxes as taxes which are imposing on the expenses. W. Petty is known as the founder of the theory of labor value substantiated in the "Treatise on Taxes and Fees" the benefits of indirect taxation.

Thus, representatives of the classical political economists believed that in dividing of taxes on direct and indirect distinction may be found in the possibility or impossibility of the shift the tax burden on the end user.

Those taxes which are imposed directly on the payer and may not be passed by the inclusion in prices of goods can be considered as direct, and rest taxes are indirect. The representatives of this trend are A. Wagner, L. Beaulieu et al.

The concept of taxation system was introduced 1924 by the Russian economist N.D.Kondratiev in developing by him guidelines of agriculture's taxation and the principles of building the unified agricultural tax. He wrote that the basic provisions taxation concern solving two problems: 1. Establishment of the common tax rate. 2. Definition of the system and of the principles on which taxation is based. In other words, the taxation system has to determine how many taxes should be collected and how to collect that amount.

The solution of the first question depends on the needs of the state budget, and in fact serves as objective assessment of the system. As for the second question, N.D. Kondratiev introduced the concept of taxation systems, and he directed the main focus on the formation of the principles of its construction in relation to a single agricultural tax, but didn't gave definition of this concept.

Theoretical and methodological base of that study was formed on basis of critical analysis of fundamental works on the theory of taxation and tax theory, the theory of management, theory of public finances, public sector economics, and behavioral economics. Beside those special methods of analysis of subject area of research as methods of international comparative studies, retrospection, and grouping were used to analyze current practices of tax administration. Research methodology is also based on the inductive method as a way of obtaining conclusions based on analysis of existing statistical material.

Formulation of the goals of the article. The purpose of this article is to investigate the experience and practices of the VAT administration in Europe and evaluate the whole system of VAT administration in Ukraine.

Presentation of the main research material. Value Added Tax (VAT) has a special niche in the tax system of European countries. VAT is significantly effective not only in terms of importance to public finances but also in view on the existing tendencies the increase scope of globalization, international trade and deepen economic integration different countries. VAT is one of the most controversial taxes in Ukraine. This is tied mainly to the imperfect mechanism of its operation and system administration of the tax. At the present stage of its development Ukraine strives to harmonize VAT in accordance with European legislation. VAT is the main indirect tax in the states members EU. It is important taking into account modern trends of VAT within EU in this context. In addition, the presence of VAT in the tax system of the state is a requisite for accession to EU because the proceeds from VAT are one of the main sources of forming EU budget.

Obviously that the main function of VAT is fiscal. Indeed, the actual proportions of the tax in total tax revenue of the State Budget of Ukraine 35%, the average value of VAT share in GDP about 8% [4].

As VAT is an indirect tax that affects on the specific of its administration and the amount of tax liabilities is included in the cost of goods (works, services) and is paid by the consumer when purchasing, but amount of tax liabilities to the state pays the seller. The economic essence of VAT is such that VAT is a tax of consumption and because of the chain effect, eventually, tax liabilities are translated to the final consumer of goods, works or services [5].

So far failed to form an optimal mechanism of this tax, which may at the high fiscal efficiency provide the most positive regulatory influence on economic processes in the domestic economy, namely, contribution to economic development, promotion to a more equitable distribution of the taxations burden among consumers. According to some economists, VAT doesn't enhance financial stability of taxpayers and doesn't make a foreground of development of international economic relations, because the amount of tax is calculated by indirect deducting tax credit from the amount of tax liabilities.

An additional factor is the frequent changes in tax legislation that don't allow taxpayers to properly plan their activities in the long term. European standards of business governance, government management, conditions and quality of life without a doubt can be considered the best in the world because they are spent for decades and are implemented in law and in practice of all countries EU members.

It is clear that changes must take place in our country in connection with the signing of association agreement Ukraine and the EU concerning the taxation's sphere. Both parties EU and Ukraine had took the responsibilities to cooperate in the field of taxation with an objective to approximate the structure of the tax legislation to improving management of the tax area with an accent of further improving relations between economic agents, trade, encouraging investment and ensuring fair competition [6]. In these circumstances, the study of international experience of administrating VAT, identifying key trends and changes in this area should be fleshed out in practice the EU.

Obviously VAT and its administration is a problem not only in Ukraine but also in EU. There is a significant tax break of VAT in EU much of which was formed by the transactions with fictitious companies, ie formation of useless transactions and artificial tax credit, lowering the tax base by concealment the taxable transactions [7]. The main difference may be only in the scale of the phenomenon, but the economic nature is similar. The global financial and economic crisis has led to increasing of budgets deficits, and has forced a number of countries new EU members to increase the rates of some taxes. VAT rates were mainly revised upward (in Estonia, Lithuania, Latvia, Czech Republic and Hungary) and excises on liquor and tobacco products (in Estonia and Latvia). Lithuania also has increased the rate of corporate income tax, while the Czech Republic has lowered it. The further reductions in some countries (Latvia, Lithuania) have suffered the rates of tax on personal income during the crisis.

According to the latest official data from the European Commission, the increase in the tax burden on VAT in the EU occurs within 5 years [8]. This means that VAT is not only canceled but also is considered in these countries as the main tax instrument.

According to Art. 193 of the Tax Code of Ukraine [9], the base tax rate is 20%, the same rate in the UK, Bulgaria, Serbia, Estonia, in Poland and Romania - 23%. In Germany, the VAT rate is 14%, Iceland - 24.5%, in Spain - 12%, Italy - 12%, Portugal - 16% [10]. It should be noted that, despite the abuses and numerous privileges, a comparison of VAT revenues between Ukraine and the EU shows that the effectiveness of these tax revenues is quite high in Ukraine. Particularly, revenues from VAT are on average 10% per year, while revenues from VAT in the EU are 7.1% of GDP [11].

Since 2009, the standard rates of VAT had an upward trend in most EU member states. Indicator of the average level of VAT in EU increased by two percentage points from 19.5% in 2008 to 21.5% in 2014. During this period in 20 Member States was recorded an upward trend of standard rates of VAT. In 2014 the standard VAT rate increased in France, Italy and Cyprus [12].

Today, the European Commission emphasizes the need to review the VAT system in order to improve its coordination with the internal market and increase fiscal capacity by increasing efficiency and strength, as well as by reducing the cost of supporting it. In that context the reforming of VAT system can play a key role in supporting the strategy "Europe 2020" and ensuring growth through own potential, to providing new impulses for domestic market and supporting the budgetary consolidation in EU member states. Any such changes require a single VAT system that can adapt to changes in the economic and technological environment and is stable enough to withstand the frauds, which have become widely spread in recent years.

Among the main reasons for reforming the VAT system, the EU Commission primarily identifies the following:

- the excessive complexity of the current VAT system, which entails creating administrative barriers for business;
- improve the functioning of EU internal market;
- increasing tax revenue and improving endurance of VAT system from fraud;
- technological changes and the evolution of the economic environment that is caused slow development of the VAT system in the context of rapid changes of business models, improvement of new technologies, the growing role of services and globalization [13].

Procedure of taxation of public institutions creates differences in VAT regime for similar kinds of activities, depending on the legal status of service providers. If government agencies are exempted or are outside the scope of VAT, they try to limit outsourcing in order to avoid paying VAT which they can not deduct. VAT in such circumstances becomes a factor that affects investment flows. One of the solutions to this problem is that the EU Commission considers the inclusion of all economic activities of state institutions in the scope of VAT activities and the introduction of a register of those activities that are excluded from the scope of VAT taxation. An alternative option can be the determination of conditions under which public institutions can not be regarded how such, which are outside the field of VAT activity.

Exemption from taxation is contrary to the basic principles of VAT as a tax with a broad base, therefore prolonged use of appropriate exemptions has to be reviewed. Reducing amount the relevant exemptions will allow to expand the tax base, improve the efficiency of VAT, its neutrality and is a real alternative to raising rates this tax. Particular attention is paid to those proposed exemption which EU Member States continue to apply because they used them since January 1, 1978 or at the time of accession. As example in this case may be services of passengers transportation depending on the used vehicle. Also continues discussion on the feasibility of preserving exemptions for mail services and in the financial sector and the insurance industry.

Generally, according to EU's rules the input VAT is deducted from the amount of tax liabilities of VAT payer. In cases where this scheme provides the right to the taxpayer for compensation, the tax departments use different approaches to prevent abuse. And besides such risk should not be used as ground for improper deferring of the realisation right on the deduction. The growing importance of cross-border services as a result of globalization, deregulation and development the technology of communications has direct implications for VAT. In this regard, active work is led within the OECD to prevent double taxation or allowance of appropriate services. However, apart from the problem of providing adequate legal bases of taxation in the country of consumption, there are problems related to correct application the rules of VAT in such cases, such as service provision by scheme B2C via electronic means in which the reimbursement of VAT pretty depends on the voluntary agreement with the rules of EU the providers of such services of non-member countries. In this connection raises the necessity of estimation the expediency of such situation because of its impact on the neutrality of VAT, the impact on the competitiveness of European suppliers and revenue to the budget in the long run.

For the purpose of simplification of filing electronic reports in accordance with Art. 213, 250, 263 of Council Directive 2006/112 / EU from 28 November 2006 a number of measures was proposed in the scope of researches of the Program better regulation, committed according the order of EU Commission [14]. The automation system for reporting VAT has become one such arrangement. In EU member states by results of the research was determined that automation of reporting may have a

significant impact on the level of administrative costs, while by authors of the study was analyzed the best examples of such initiatives and was made the calculation of reduction of the costs in the event of the introduction of automated systems for reporting VAT by their certain types taking into account national specifics.

Belgian experience is the most promising because it is one of the best examples of how to reduce the level of administrative costs in the process of the filing and processing of tax returns and checking the correctness of their filling.

An electronic format for reporting data according to researchers only about beginning, modification or termination of activity of VAT payer, compared with paper, will allow to reduce administrative costs, respectively on 34, 28 and 21 percents [15]. Thus the introduction of electronic filing of reports on VAT provides: 1) the integration of appropriate mechanisms of submitting reporting in the ordinary economic activity of the taxpayer by ensuring their compatibility with used accounting software by taxpayer; 2) harmonizing the approaches of EU Member States to the systems of filing accounting VAT; 3) simplification the whole system of filing accounting VAT, and not just its individual elements through full use of possibilities of XBRL and XBRL Global Ledger taxonomy as standards of reporting.

Stakeholders point out that differences in VAT rates are leading to additional costs on providing conformity to regulatory requirements. Estimated decrease of 50% of the differences in the structure of VAT rates between EU Member States will lead to the increasing of intra European trade on 9.8% and to the growth of real GDP on 1.1%, but such estimates may be inflated. In addition, using of reduced rates is not always the most rational tool for achieving the goals, especially in the part of ensuring of the redistribution in favour of poor households or increasing consumption of goods that are socially significant. The actual problem gradually becomes providing equal and equitable tax regime for products available in traditional or electronic format.

It is clear that using of existing reduced rates is transformed into significant subsidies. Their gauge differs markedly within EU Member States. For example, among the 9 Member States (Belgium, Great Britain, Greece, Italy, Spain, France, Germany, Poland, and Hungary) such subsidies are in range from 8.2 to 53.3% revenues from VAT in these countries. Cancel of reduced rates can theoretically lead to lower standard rate to a level between 1.9 and 7.5 percentage points [16].

Reduced VAT rate is a benefit for certain types of taxable goods and services. For example, in France defined minimum set of food (about 36 titles), from which VAT is charged with a reduced rate to 2.2%. In Germany exemption is provided for food, books, magazines, newspapers and prosthetics (reduced rate 7%, at the level of the standard - 16%). In Spain it is food, cultural and sporting events, hotel and transport services subject to VAT at 7% and for food essentials bread, milk, eggs, grains, fruits, vegetables, medicines, books, newspapers, public housing the tax reduced to 4%. In order to stimulate employment in EU is allowed applying of reduced VAT rates for services that require large volumes of work. The measures taken have helped to reduce unemployment in some European countries. Ukraine also has a mechanism of reducing tax rates within VAT. According to the claim. Art. 193 TC Ukraine, the rate of 7% is envisaged on operations to supply the customs territory of Ukraine and import into Ukraine of medicines for providing public policy in health care [17]. Along with reduced sometimes are applied higher rates of tax.

For example, in France luxury goods, tobacco and alcohol are taxed at 25% and in Austria on vehicles at a rate of 32%. In Ukraine, in contrast to EU such a procedure is not provided, although it seems the prospects of its application can be examined at the level of the Ukrainian government.

The application of the standard rate is being a basic principle and therefore EU Member States are responsible for maximum limitation of using these rates in cases of them inefficiency. Current economic and financial context which requires a clear fiscal consolidation of national budgets is another reason for limiting the use of reduced VAT rates within scopes of reasonable and necessary. Thus, EU Commission insists that the review of VAT rates should be based on consideration of the following major provisions:

1) abolition of the reduced rates, which are the obstacle to the proper functioning of EU internal market;

2) cancellation of reduced rates for goods and services, consumption of which are not supported in scope another of policies EU. Especially it is true for products and services that are harmful to the environment, health and welfare;

3) similar goods and services should be subject of the same VAT rate herewith should be taken into account advances in technology to ensure equality of electronic and traditional products.

As for the tax benefits, they so are available also in European countries, but there they have are predominantly social orientation and provided to end users, what corresponds to the nature of VAT as a tax on consumption.

The system of benefits for this tax in Ukraine is aimed primarily at manufacturers.

Conclusion. Reforming the tax system in Ukraine for its adaptation to market conditions has began with the introduction of VAT. However, still has not created an optimal mechanism of this tax which would provide positive regulatory influence on economic processes at a high fiscal efficiency, and also would stimulate economic development, would promote more equitable distribution of the tax burden among producers and consumers and therefore arises acutely a question of forming economically and socially effective system of VAT administration in our country.

On the one hand VAT in Ukraine is a fiscally significant, on the other it is characterized by a low fiscal efficiency through significant revenue losses due to application of benefits when paying tax, especially because of existence of the functional disadvantages of administration system, particularly in the section of monitoring and prevention of tax offenses of reimbursement tax. This allows considering the tax as an objective phenomenon and proving the expediency of its preservation in the national tax system, which is especially important in the context of European integration processes of Ukraine.

EU experience is interesting for considering in the context of the theme of our research because of there are manifested most clearly all the advantages and disadvantages of VAT. Despite the shortcomings which are connected with the traits of EU (markets structure, the extremely high mobility of factors of production, the need for harmonization of tax systems in different countries) the question of the abolition of VAT is not ascending.

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