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ЕКОНОМІЧНІ ВИТРАТИ НА ЗМІНУ ОРГАНІЗАЦІЙНО-ПРАВОВИХ ФОРМ ГОСПОДАРЮВАННЯ ЧЕРЕЗ РЕКОДИФІКАЦІЮ ЦИВІЛЬНОГО КОДЕКСУ УКРАЇНИ ТА СКАСУВАННЯ ГОСПОДАРСЬКОГО КОДЕКСУ УКРАЇНИ: ДО ОБГОВОРЕННЯ

Актуальність. Сьогодні у науковому середовище активно обговорюється законодавча пропозиція щодо скасування Господарського Кодексу України та закріплення у рекодифікованому Цивільному Кодексі України видів організаційно-правових форм господарювання на основі корпоративних прав.

Мета та завдання. Метою статті є розроблення методичного підходу до визначення економічних витрат на приведення юридичними особами своїх організаційно-правових форм та установчих документів у відповідність до вимог рекодифікованого Цивільного Кодексу України через скасування Господарського Кодексу України.

Результати. Встановлено кількість юридичних осіб, які зареєстровані в Україні, що мають змінити організаційно-правову форму господарювання та види економічних витрат: обов'язкові, високоймовірні, малоймовірні. До обов'язкових витрати слід віднести витрати юридичних осіб на: державну реєстрацію змін в установчих документів, адміністративний сбір, оплату нотаріальних послуг, друкарські витрати. Окрім того, у багатьох юридичних осіб можуть виникнути витрати пов'язані з: оплатою юридичних послуг третіх осіб з державної реєстрації змін в установчих документах, виготовленням нових печаток і штампів, оплатою додаткових обов'язків у співробітників компанії через оформленням необхідних документів, проведенням загальних зборів засновників, транспортними затратами на відвідування органів державної реєстрації, оплатою поліграфічних послуг тощо. На деяких підприємствах витрати можуть збільшитися на вартість послуг щодо: переформлення ліцензій, переукладання договорів з контрагентами, переоформлення договорів оренди землі й нерухомості, а також на суму втрати від простою підприємства, пов'язаного з реорганізацією.

Висновки. За результатами розрахунку витрат на зміну юридичними особами своїх організаційно - правових форм та установчих документів у відповідності до вимог рекодифікованого Цивільного Кодексу України встановлено, що кожна юридична особа витратить майже три тисячі гривень, а максимальна сума витрат залежить від виду економічної діяльності та організаційно-правової форми господарювання, а для розрахунку реального обсягу витрат потрібно провести ґрунтовні аналітичні дослідження.

Ключові слова: економічні втрати, організаційно-правова форма господарювання, юридична особа.

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ECONOMIC COSTS ON THE CHANGE OF ORGANIZATIONAL AND LEGAL FORMS OF ECONOMIC DECREASE BY RECORDING OF THE CIVIL CODE OF UKRAINE AND CANCELLATION OF THE ECONOMIC CODE OF UKRAINE: TO DISCUSSION

Topicality. Today, the scientific environment discusses a legislative proposal to abolish the Economic Code of Ukraine and enshrined in the recodified Civil Code of Ukraine types of organizational and legal forms of management based on corporate rights.

Aim and tasks The purpose of the article is to develop a methodological approach to determining the economic costs of bringing legal entities to their organizational and legal forms and constituent documents in accordance with the requirements of the recodified Civil Code of Ukraine through the abolition of the Economic Code of Ukraine.

Research results. The number of legal entities that are registered in Ukraine has been determined, which should change the legal form of economic activity and types of economic expenses: obligatory, highly probable, and unlikely. Compulsory expenses include expenses of legal entities for state registration of changes in constituent documents, administrative fee, payment of notary services, printing expenses. In addition, many legal entities may incur expenses related to: payment of legal services of third parties on state registration of changes in the constituent documents, production of new seals and stamps, payment of additional duties for the employees of the company. It is through registration of necessary documents, holding general meetings founders, transportation expenses for visiting state registration bodies, payment for printing services, etc. For some businesses, the costs may be increased by the cost of services such as: re-licensing, re-contracting with counterparties, re-issuing leases of land and real estate, as well as the amount of downtime associated with a reorganization.

Conclusion. According to the results of the costs calculation for the change by the legal entities of their organizational and legal forms and constituent documents in accordance with the requirements of the recodified Civil Code of Ukraine. It is established that each legal entity will spend almost three thousand UAH, and the maximum amount of expenses depends on the type of economic activity and the legal form of management, and thorough an analytical research is needed to calculate the real cost.

Keywords: economic losses, organizational and legal form of management, legal entity.

Problem statement and its connection with important scientific and practical tasks. The modern socio-economic and political transformations occurring in Ukrainian society lead to the emergence of complex and contradictory processes, which cover almost all spheres of its life. Existing realities also touched on legal regulation, which were reflected in the draft amendments to the regulatory framework of Ukraine. It is undeniable that changes in society must also be accompanied by an appropriate (adequate to existing reality) adjustment to its legal and regulatory framework. This is especially true of the legal regulation of entrepreneurial activity, which can be considered a catalyst for the socio-economic development of the country. Therefore, an effective legal regulation of entrepreneurial activity is a priority of the state, which provides favorable conditions for its implementation in the interests of Ukrainian society and requires constant analysis by the scientists and practitioners. At the end of 2019, a draft law "Amendments to Certain Legislative Acts of Ukraine on Improving the Civil Law" No. 2635 was registered in the Verkhovna Rada of Ukraine, which envisages, inter alia, the repeal of the Economic Code of Ukraine [1]. These events formed the basis for active discussion among scholars - representatives of the legal communities of Ukraine.

Analysis of recent publications on the problem. There are two Ukrainian law schools that have a diametrically opposite point of view regarding the recoding of the Economic Code of Ukraine. The position of domestic experts in civil law - the abolition of the Commercial Code. Their approach is based on the fact there is no need for the existence of the Economic Code of Ukraine in its current form, since it is not up-to-date, cement the Soviet principles of regulation and management of business entities, and largely duplicate the provisions of other legislative acts. In many questions, contradict the provisions of the Civil Code Ukraine, which will have negative consequences for regulatory regulation of economic activity [2; 3, C. 27-41].

In support of the existence of the Economic Code of Ukraine, the scientists of the economic and legal direction, a scientific legal community, which brings together like-minded people who support the achievements and fundamental scientific development of the staff of the Institute of Economic and Legal Research of the NAS of Ukraine named after V.K. Mamutov. Among the positives of the Economic Code of Ukraine are reflected in it the experience of the world leading countries in the separate codification of economic (economic) legislation, the fundamental nature of the code for the completely economic system and jurisdiction of economic courts. Its market and anti-corruption character, consolidation of the diversity of economic entities, enterprises when regulating economic activity. About 7 thousand regulatory acts and decisions of courts are referred to the Economic Code of Ukraine. The Code is among the 20 most popular laws on the Verkhovna Rada of Ukraine website with over 2000 views a day [4].

Allocation of previously unsolved parts of the general problem. The Economic Code of Ukraine serves as the pivotal basis of the economic legislation of Ukraine and establishes fundamental categories such as: economic activity, business entity, enterprise, entrepreneur, business activity, non-commercial economic activity, means of economy state regulation, specificity of economic contract law, administrative and economic sanctions, operational and economic sanctions, legal principles of state property turnover and functioning of state-owned enterprises, public-legal requirements for economic activity. It should be noted that the abolition of the Economic Code of Ukraine should be a well-considered decision, as well as have economic justification for their consequences. Therefore, it is appropriate to calculate the monetary costs of legal entities as a result of changing organizational and legal forms in case of cancellation of the Economic Code of Ukraine.

Formulation of research objectives (problem statement). Form a methodical approach to determining the economic costs of bringing legal entities to their organizational forms and constituent documents in compliance with the requirements of the Civil Code of Ukraine through the abolition of the Economic Code of Ukraine.

An outline of the main results and their justification. To determine the economic costs of bringing legal entities to their organizational forms and constituent documents in compliance with the requirements of the Civil Code of Ukraine through the abolition of the Economic Code of Ukraine, it is proposed to first determine the number of legal entities registered in Ukraine as of 1.02. 2020 (Table 1). This will allow to distinguish the number of legal entities whose organizational and legal forms of management will have to be changed.

Therefore, in the case of changes in the legal form of economic management of legal entities (private enterprise, state-owned enterprise, state-owned enterprise, communal enterprise, subsidiary, foreign enterprise, association, corporation, consortium and concern), the following costs are necessarily incurred:

for state registration of changes in the constituent documents of legal entities (1580 UAH):

administrative fee (10 UAH);

for payment of notarial services (≈ 1200 UAH);

printing costs.

In addition, many entities may incur costs for:

payment of legal services of third parties on state registration of changes in the constituent documents of legal entities ($\approx 2500 \text{ UAH}$);

production of new seals and stamps ($\approx 500 \text{ UAH}$);

payment of additional duties for the company employees by completing the necessary documents (depends on the size of the company);

to hold a general meeting of the founders (depends on the size of the enterprise);

transportation costs for visits to state registration bodies, permitting bodies;

printing services (printing of documents);

others.

For some businesses, costs can increase by:
cost of services for license transformation;
costs of contracting with counterparties;
cost of services for re-registration of land and real estate lease agreements;
losses from the downtime of the enterprise associated with the reorganization measures;
others

In particular, a considerable part of the costs will be due to the downtime of vehicles, vehicles for the period of removal and the issuance of new documents. A huge number of entities will have to stop participating in public tenders in public procurement for the period of change of permits. Some types of permits (for example, for construction activities, for re-registration of leases of land, etc.).

Number of legal entities in Ukraine

Table1

No	Organizational and legal forms of legal entities management	Total
		1344572
	including	
1.	farming	46998
2.	private enterprise	200309
3.	state company	3745
4.	state-owned enterprise	32
5.	municipal enterprise	14018
6.	subsidiary company	11641
7.	foreign enterprise	629
8.	enterprise of public association (religious organization, trade unions)	3284
9.	consumer cooperative enterprise	1163
10.	corporations	687026
	public company	1400
	private joint stock company	5356
	limited liability company	677071
	additional liability company	1512
	full partnership	1315
	limited partnership	372
11.	cooperatives	24828
	industrial	2207
	attendant	19579
	consumer	768
	agricultural production	1005
	agricultural attendant	1269
12.	public authorities, organizations (institutions, institutions)	64202
12.1	state organization (institution, institution)	59029
12.2.	municipal organization (institution, institution)	1214
12.3	private organization (institution, institution)	1498
12.4	organization (institution, organization) of public association	2461
13.	association	553
14.	corporation	79
15.	consortium	185
16.	concern	317
17.	consumer union	741
18.	other associations of legal entities	619
19.	commodity exchange	1060
20.	credit union	4387
21.	consumer society	9570
22.	non-state pension fund	74
23.	political party	15315
24.	public organization	89148

Continuation of Table 1

$N_{\underline{0}}$	Organizational and legal forms of legal entities management	Total
25.	public association	1733
26.	religious organization	26375
27.	union, unionization	28559
28.	creative union (other professional organization)	317
29.	charitable organization	19156
30.	association of co-owners of apartment building	32890
31.	body of population self-organization	1616
	Separate divisions of legal entities	54635
32.	affiliate (other separate division)	49582
33.	agency	5053

[5] - State Statistics Service of Ukraine

Additional costs may arise from the fact that the creditor may require the terminated legal entity whose performance is not secured, the termination or early fulfilment of the obligation, or the enforcement of obligation. Early execution, additional security in this case will depend on the intentions of the creditors and can significantly burden the business. Thus, Table 2 presents the cost estimates for bringing the legal entities of their organizational and legal forms and constituent documents into compliance with the requirements of the Civil Code of Ukraine through the abolition of the Economic Code of Ukraine using the proposed methodological approach.

Table 2
Calculation of expenses for the change by legal entities of their organizational and legal forms and constituent documents in accordance with the requirements of the Civil Code of Ukraine

	Cost of	Source of	Number of	Overall					
	service	information	the legal entities	the amount of					
Costs			(from Table 1)	expenses					
	Vp		Кио	$\sum R = Vpx Kuo$					
Compulsory Costs (Ro)									
for state registration of changes in the	0,75 x	[6]	281819 (п.1-9) +	452099,2					
constituent documents of the legal	2102 UAH		4955 (п.12.4.,13-18)	thsd. UAH					
entities	= 1576,5		= 286774 legal						
	UAH		entities						
administrative fee	10 UAH			2867, 7 thsd.					
				UAH					
payment for notarial services	≈ 1200			344128,8					
(certification of signatures of founders	UAH			thsd. UAH					
and their specimens)									
printing costs (paper, cartridges, etc.)	≈ 200 UAH			57354,8					
				thsd. UAH					
		$\sum Ro \approx 856450,5$ thsd. UAH							
			on OLFM (Rv)						
expenses for payment of law firms	≈2500 UAH	[7]	200309 (π.2) +	200939 legal					
services for providing complex			$629 (\pi.7) = 200939$	entities x 2500					
services for state registration of			legal entities	UAH =					
changes in constituent documents of				502345,0					
legal entities				thsd. UAH					
for work as an accountant or an	≈5000 UAH		200309 (i.2) + 3745	1096190,0					
auditor in the preparation of a transfer			(i.3) + 32 (i.4) +	thsd. UAH					
deed, distribution or liquidation			14018 (i.5) + 553 (i.13) + 79 (i.14) +						
balance.			185 (i.15) + 317						
			(i.16) = 219238						
			legal entities						

				uation of Table 2
work organization of the	≈1000 UAH		200309 (i.2) + 3745	219238,0
reorganization or liquidation			(i.3) + 32(i.4) +	thsd.UAH
commission			14018 (i.5) + 553	
COMMISSION			(i.13) + 79(i.14) +	
			185 (i.15) + 317	
			(i.16) = 219238	
			legal entities	
for the production of new seals and	≈ 500 UAH		3745 (i.3)+	18929 legal
stamps			32 (i.4) +	entities
			14018 (i.5) +	x 500 UAH =
			553 (i.13) +	9464,5 thsd.
			79 (i.14) +	UAH
to pay for additional duties for a	≈ 409 UAH	[8]	185 (i.15) +	18929 legal
company employee by completing the	– average		317 (i.16) = 18929	entities
necessary documents (depends on the	salary for 1	12264	legal entities	x 409 UAH =
size of the company)	working	UAH		7742,0 thsd.
size of the company)	day	CIHI		UAH
to hold a general meeting of the team	X UAH		281819 (i.1-9) +	286774 legal
(depends on the size of the company)	11 0111		4955 (i.12.4., 13-18)	entities x X
(depends on the size of the company)			= 286774	thsd. UAH =
			legal entities	Y thsd. UAH
transportation costs	\approx 40 UAH x -	~ 2 persons	legal childes	240 UAH x
transportation costs		s = 240 UAH		286774 legal
	101 3-4 u1p	S –240 UAN		_
				entities
				=68667,4
		. T		thsd. UAH
Others	UAH	-		$\sum In$ thsd.UAH
			$\sum Rv \approx 305111,9$ thsd	. UAH. + $\sum In$
	unlikely, depo		LFM (Rm)	
cost of licensing services (depends on	5 x 17 UAH	[9]		
the type of economic activity)	= 85 UAH			$\sum L$ thsd. UAH
				_
costs of contracting with	≈100 UAH		All legal entities have	286774 legal
counterparties (communication,			at least one contract	entities x 100
postage, etc.);				UAH= 28677,4
1 0-7				thsd. UAH
the cost of services for re-registration	ZUAH			
of land leases, real estate				∑Z UAH
losses from downtime associated with	P UAH			
the reorganization				ΣP UAH
Others	In UAH			\sum In UAH
L			$m + \sum L + \sum Z + \sum P + \sum I_P$	
			667,4 thsd. UAH	
		/ , 1111 200	, , , , , , , , , , , , , , , , , , ,	

Thus, the total cost of bringing legal entities of Ukraine their organizational - legal forms and constituent documents in compliance with the requirements of the Civil Code of Ukraine will not be lower than 856450,5 thsd. UAH. However, the real amount of these costs will be much higher and equal to the sum of all the costs $\sum R$:

$$\sum R = \sum Ro + \sum Rv + \sum Rm' \text{ or}$$

$$\sum R = \sum Ro + \sum Rv + \sum Rm + \sum L + \sum Z + \sum P + \sum In.$$
(1)
(2)

Therefore, the presented methodical approach to the calculation of expenses for bringing legal entities of their organizational and legal forms and constituent documents in accordance with the requirements of the Civil Code of Ukraine allows to state that the minimum amount of expenses of legal entities of Ukraine is

856450,5 thsd. UAH, it is highly likely that the cost will increase by another 305111.9 thsd. UAH and a thorough analytical study is needed to calculate the real cost. This is due to the fact that it is difficult to predict other costs that are difficult to calculate, such as the cost of updating signboards, the production of new letterheads and all corporate attributes of enterprises, etc. Banking institutions serving legal entities are likely to adjust their organizational and legal forms free of charge.

Thus, bringing the legal entities to their organizational forms and constituent documents in accordance with the requirements of the Civil Code of Ukraine under the conditions of abolition of the Economic Code of Ukraine implies that each legal entity will spend almost 3000 UAH. The maximum amount of expenses depends on the type of economic activity and organizational - legal form of management. However, based on the practice of management and bureaucratic apparatus in many areas of the permit system, it can be predicted that the total cost of legal entities of Ukraine will be from 2 to 3 billion UAH. Most of the expenditures will be from the state and local budgets for re-registration of economic rights of economic management and operational management, for ensuring registration of forced reorganization of subsidiaries, farms, associations, corporations, foreign enterprises.

Adequate economic competition in the country should be formed on the basis of clear rules of economic activity, when the basic legal concepts of economic activity and entrepreneurship are defined.

In case of cancellation of the Economic Code of Ukraine:

will require the development of hundreds of regulations, for example, on entrepreneurship and non-profit management, under the current legislation;

re-delineate small, medium and large enterprises in order to differentiate state economic policy; will need to develop a new approach to regulating commercial relations;

tens of thousands of businesses will spend money and time on their own reorganization instead of focusing on manufacturing, trading and other core business. In their turn, the state registration authorities and courts - to file and consider numerous lawsuits on the termination of economic entities, which failed to timely "bring the legal form and constituent documents" in accordance with the requirements of the recodified Civil Code of Ukraine.

Conclusions and perspectives of further research. Thus, bringing the legal entities to their organizational forms and constituent documents in accordance with the requirements of the recodified Civil Code of Ukraine subject to the abolition of the Economic Code of Ukraine, implies that each legal entity will spend almost 3000 UAH, and the maximum amount of expenses depends on the type of economic activity and organizational and legal form of management. To calculate the real amount of the expenditures, it is necessary to carry out thorough analytical research, since the transformation of state-owned enterprises, including state-owned enterprises, economic associations, institutions and organizations into economic companies. It will require the re-registration of all permits and registration documents for these enterprises, as well as the re-registration of property rights state-owned property with considerable state financial and organizational costs.

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