



THE DEVELOPMENT OF CONTROL AUTHORITIES' SYSTEM OF RESPONSE ON TAX RISKS

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- ▣ *The article is devoted to finding flaws in the working out tax risks by the State Tax Service of Ukraine, recommendations for improving approaches to tax risks management, the algorithm to select methods of their working out.*
- ▣ *Tax risk, tax risk management system, tax control.*

РОЗВИТОК СИСТЕМИ РЕАГУВАННЯ КОНТРОЛЮЮЧИХ ОРГАНІВ НА ПОДАТКОВІ РИЗИКИ

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- ▣ *Стаття присвячена виявленню недоліків у відпрацюванні податкових ризиків Державною податковою службою України, розробці рекомендацій щодо вдосконалення підходів до управління податковими ризиками, алгоритму обрання способу їх відпрацювання.*
- ▣ *Податковий ризик, система управління податковими ризиками, податковий контроль.*

РАЗВИТИЕ СИСТЕМЫ РЕАГИРОВАНИЯ КОНТРОЛИРУЮЩИХ ОРГАНОВ НА НАЛОГОВЫЕ РИСКИ

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- ▣ *Статья посвящена выявлению недостатков в отработке налоговых рисков Государственной налоговой службой Украины, разработке рекомендаций по изменению подходов к управлению налоговыми рисками, алгоритму выбора способа их отработки.*
- ▣ *Налоговый риск, система управления рисками, налоговый контроль.*

Actuality of theme

In order to increase the effectiveness of the tax authorities regarding tax administration the most developed countries from the late twentieth century for organization of tax audits use taxpayers' selection criteria for the inspection. Dissemination of information and computer technologies has allowed identifying tax risks and implementing risk-based approaches in activity of the fiscal authorities. At the same time producing a significant amount of tax risks of relatively large number of entities in the present conditions requires the creation of tax risk management system in order to avoid uncertainty, conflict, and action of destabilizing factors in the work of the tax authorities.

The term "fiscal risk" means the theoretical possibility that the as a result of some actions of the taxpayer some payments to the budget may not be received in full or in time. [11] In the guidelines of the State Tax Service of Ukraine (*hereinafter* – STS of Ukraine) there is the following definition: "Tax risk is likely possibility of tax laws violation, resulting in the possible budget losses" [12].

To identify risky subjects in practice the indicators of risk are used, which are certain criteria (attributes)

that indicate the presence or possibility of a negative turn of events.

Indicators by a cause of their origin are divided into the following groups:

- indicators of random risks;
- indicators of tax optimization;
- indicators of tax evasion.

Analysis of recent research and publications

Issues of risk management and tax risks research take a significant place in the works of both domestic and foreign scholars. So, the founders of the theory of risk management may be considered J. Tetens, D. Bernoulli and F. Galton, contemporary scientists exploring the techniques and tools of risk management, as T. Burton, M. Shennire and many others. The pool of the domestic and Russian scientists exploring the issues of development of methodological and organizational principles of risk science in taxation includes A. Krysovatyi [4], A. Desyatniuk [5], L. Goncharenko [6], O. Hordeeva [7], and A. Dolhyi [8].

The development of mechanisms to minimize risks in the professional activities of tax authorities is

studied in the works of K. Schwabii and N. Nowicka, who offered ways to identify tax risks for tax audits organization. [9] However, their works does not fully reflect the practical aspects of tax risk management systems' functioning. Thus, the priority results of further research should be the means to achieve an effective interaction between the elements of the tax system and control instruments on working out tax risks.

The purpose of this article is to provide practical recommendations for improving the activity on working out tax risks undertaken by units of STS of Ukraine and move to tax risk management system.

The main material

The procedure for forming lists (templates) of risk indicators, their adoption and use is determined by the main body of STS of Ukraine. Risk indicators are defined by relevant departments of STS of Ukraine in the process of tax administration and are updated constantly.

One of the modern methods of control used by STS of Ukraine is the monitoring of fiscal risks from the basic budget taxes [1], where the tax risk refers to the probability of violation of tax laws. The method consists in analyzing the tax reporting and other informational resources in order to identify indicators of tax risks. Every month, several dozen tax risks and indicators in the context of the taxpayer shall be determined at the central level of STS of Ukraine and sent for operational working out by

the regional tax authorities. [2] The greatest amount of risk determined by the VAT, corporate income tax and the tax on personal income (see Table 1.).

The disadvantages of this approach include the lack of tax risk management system, which would allow to rank the risks according to their priorities and ways of working out. In addition, risk-oriented system underlies the plan for tax payments, which are further used to estimate the efficiency of the units and their leaders. Given that each "ministerial" risk is a worthwhile value that automatically becomes a reserve of broadening the tax base, individual tax inspectorate is obliged to provide promptly working out the proved risk-reserves, even in a formal way, in order to avoid excessive targets and plans.

As shown in the Table 1, a number of risks are generic and can be caused by the specificity of the taxpayer, seasonality and other aspects of its business. Accordingly, the most complete tool of influence on them, which is able to eliminate, reduce, accept or redirect the tax risk, is a careful check by the controlling body. Some risks, such as the formation of tax credit by agricultural entities-VAT payers on a common system of taxation relate to most of the agricultural sector. For such risks as the declaration of expenditure on the income level, the excess payable over accounts receivable, and others, the organization of unscheduled inspections does not have sufficient legal grounds. In addition, many risks don't have matching schemes designed to respond to them by authorities of revenue and duties of Ukraine.

THE MAIN RISK INDICATORS BASED ON THE DATA OF TAX RETURNS

Table 1

TAX	RISK INDICATOR
VAT	Understatement of tax credit
VAT	Understatement of tax liability
VAT	Formation of the tax credit to third parties at the expense of no-products operations (break)
VAT	Discordance between the rates of supply growth and the growth rate of accrual of VAT
VAT	Improper formation of the tax credit by agricultural enterprises-VAT payers, by taxpayers being on the common system of taxation
Income tax, personal income tax	Declaring spending on level of income
Income tax	Excess payable over accounts
Income tax	Exports at prices below world
Income tax	Violation of the declaring losses order
Personal income tax	The discrepancy between the stated amounts of an individual entrepreneur's income and payoff in his favor
Personal income tax	Excess volumes of imports over the amount of income received

Thus, the tax authorities' grassroots have to work out and test massively, haphazardly and unproductively a large number of businesses, including such that both have some tax risks in several tax periods in a row. Responsiveness to such risks without prior evaluation and analysis in the absence of a systematic approach, developed tools and recommendations on their working out leads to the formation of an excessive burden on the staff of administration and control departments, to the unnecessary correspondence with taxpayers, to a significant amount of ineffective unscheduled inspections and verifications, and to poor quality of materials of these checks, which revealed violations of the tax laws.

Risk-oriented approaches to organization of tax audits are also common to most countries of Organization for Economic Co-operation and Development (OECD), made possible by the development of information technology. A few years ago, risk management applied by OECD countries mainly in the form of risk analysis, oriented to the best selection of firms to inspections. A more modern concept of the tax administration's development of developed countries provides a rapid response to risk in order to influence the behavior of taxpayers [3, p. 557–558].

Features of the functioning of the national tax system, current legislation and the rapid development of information technologies require the introduction of new approaches in building effective relationships with taxpayers, which basically provide an unbiased and constructive dialogue on possible violations.

In risk management it's agreed to provide several key steps:

- identification of risk and probability assessment of its implementation and effects scale, determination of the maximum possible loss;
- the choice of methods and tools for managing the risks identified;
- the development of risk strategies to reduce probability of risk and minimization of potential negative consequences;
- implementation of risk strategies;
- assessment of progress and correcting the risk strategy. [10].

A key step in the risk management is considered a stage of selection methods and tools for risk management. Exactly shortcomings at this stage should describe the working out the risky businesses by STS of Ukraine, which leads to the dispersion and lack of systematic efforts of tax authorities, resulting in: the need to implement control measures for a large number of taxpayers in the short term, an excessive correspondence with taxpayers and within STS of Ukraine, inefficient time-spending by employees of

administrative and control units, a formal approach to working out tax risks, low efficiency of the control and low quality of documenting the violations detected.

For tax authorities, having serviced on a large number of taxpayers, the problem of shortage of inspectors' working time fund is not new and is particularly acute for requirements of operational risk working out, that are established at the Ministry of Revenue and Duties of Ukraine. In Table 2 there's described the basic communication activities for remote processing of tax risks.

Thus, the tax authorities may exercise as remote working out the tax risks, as by organizing and conducting inspections. However, the only document expressing the position of the tax authority of grassroots level on working out the tax risk, and being acceptable to a higher authority is the act or certificate of the verification. That is, there are no special working papers to show tax risk assessment and the results of their working out as in selected groups of taxpayers that are checked and in general. This leads to the fact that the tax authorities of grassroots level have from month to month to check and produce a significant amount of data of these checks on the tax risks that are identified on results of the tax reports monitoring at the level of STS of Ukraine.

The system of response to tax risks should move towards providing their identification and improving efficiency of their analysis. You also need to find an alternative to tax audits at least for taxpayers with low and moderate degree of the tax risk.

Modern risk management paradigm provides a continuous and integrated process of tax risk management [10]. However, in large systems, and limited resources to respond to each risk or risk indicators by various kinds of inspections are unreasonable and ineffective measure.

However, the units of STS of Ukraine should ensure the quality and efficiency of detecting violations of tax laws in accordance to the rule that the shorter the period from the date of the offense to its detection the more likely redress and prevention of further loss budget.

This principle can be neglected if the amount of a possible violation is insignificant to the payer. In domestic practice, the requirement to respond only to more significant risks is not performed. Thus, the number of taxpayers who only in December 2013 have been brought by STS of Ukraine to the working out were more than 50,000 [2], which exceeded the amount of tax audits planned for the year more than 2 times.

To eliminate deficiencies of the tax risks respond system that were mentioned upper we propose to introduce a system of risk selection criteria to working out, including: priority, commitment and a way to

COMMUNICATION MEASURES FOR WORKING OUT TAX RISKS

Table 2

COMMUNICATION MEASURE	FAVORABLE DEVELOPMENT SCENARIOS	NEGATIVE MANIFESTATIONS AND CONSEQUENCES
A phone call; telephoned invitation for an interview	Payer is appropriate given the arguments and take measures to eliminate the risk based on the results of the visit or talk to the tax office	<ul style="list-style-type: none"> • Ignoring the proposals of the tax authority; • deterioration in relation to tax authorities or their officials as a result of carelessness or inadmissibility (according to payer) risk; • loss of time on working out risk
Letter of request	Providing explanations and documents in full	<ul style="list-style-type: none"> • Invalid request or misunderstanding of the essence of the request by a payer; • provision of incomplete information and documents; • impossibility of presenting the request; • lack of response in legally defined term; • loss of time for delivery of the request and the working out the risk
Tax audit	A reconciliation of audit's data and payment of assessed taxes and penalties on results of the audit	<ul style="list-style-type: none"> • Contradictory reasons for inspection (some risks); • the need for inspections and preparing the materials of these checks, even in the absence of violations; • waste of time to organize inspection (registration of orders and referrals); • a large number of inconclusive inspections for the risks are caused by the specific of activities; • poor quality audits; • the need to support the coordination of these checks' materials and strengthen the evidence base

Source: composed by the author.

take control measures based on economic feasibility, fiscal behavior of the taxpayer, and the probability of finding a violation. For taxpayers of a moderate risk or a small amount of risk it is necessary to provide a method of remote working out tax risks. A sample of the algorithm to select the type of control measure for working out the tax risk is shown in Fig. 1.

As shown in Fig. 1, working out taxpayers with a slight degree of tax risk, a large number of employees, high levels of capitalization and liquidity and considering some other aspects should be performed in the remote mode. However, an effective organization of this scenario requires improving of quality and intensity of data exchange with taxpayers.

Thus, one way of tax control in accordance with Art. 62 of the Tax Code of Ukraine [11] is an information and analytical support of the tax authorities. Among the sources of information and analytical support is data received from taxpayers on request of the tax authority. Information and analytical support is defined as the set of measures on the collection, processing and use of information need by the tax authorities to perform their functions and tasks. Mainly the working out tax risks, set at the STS of Ukraine level, requires sending a request to the taxpayers. However, the lack of single approach, consistency and recommendations in sending requests on a specific risk distorts the essence of the questions that are asked to taxpayers, and consequently leads to discreditation of the Tax Service and to repeated correspondence with taxpayers, and unnecessary appeals to the courts.

Therefore, the process of correspondence and sharing of information with taxpayers in the context of working out tax risks and the approach of working out tax risks it's necessary to bring in a more qualitative level that we believe can be achieved through:

- fixing in the tax legislation the possibility to implement the correspondence with taxpayers by electronic means. The implementation of such a function may be achieved by providing an e-mail with the status of one of the official tax addresses of taxpayers reporting in electronic form. It will implement an automatic forming and directing inquiries to the taxpayers of the risk set at the STS of Ukraine;
- fixing the possibility of compiling analytical reports without the need to invite the taxpayer and to issue orders and directions for inspections in case of receiving from taxpayers the copies the analysis of which does not detect violations of tax laws;
- determination by law the notion of controlled operation (risk) with corresponding introduction of the reporting form for reporting of such transactions and the obligation of the taxpayer to provide explanation and documentary evidence on the request of the tax authority and responsibility for their failure;
- keeping a register of controlled types of operations (risks) by adopting a single legal act that will facilitate increasing the transparency of bodies of STS of Ukraine and applying the same approach to all groups of taxpayers;
- creating the automated workplaces for working out tax risks that are brought to the bodies of STS of

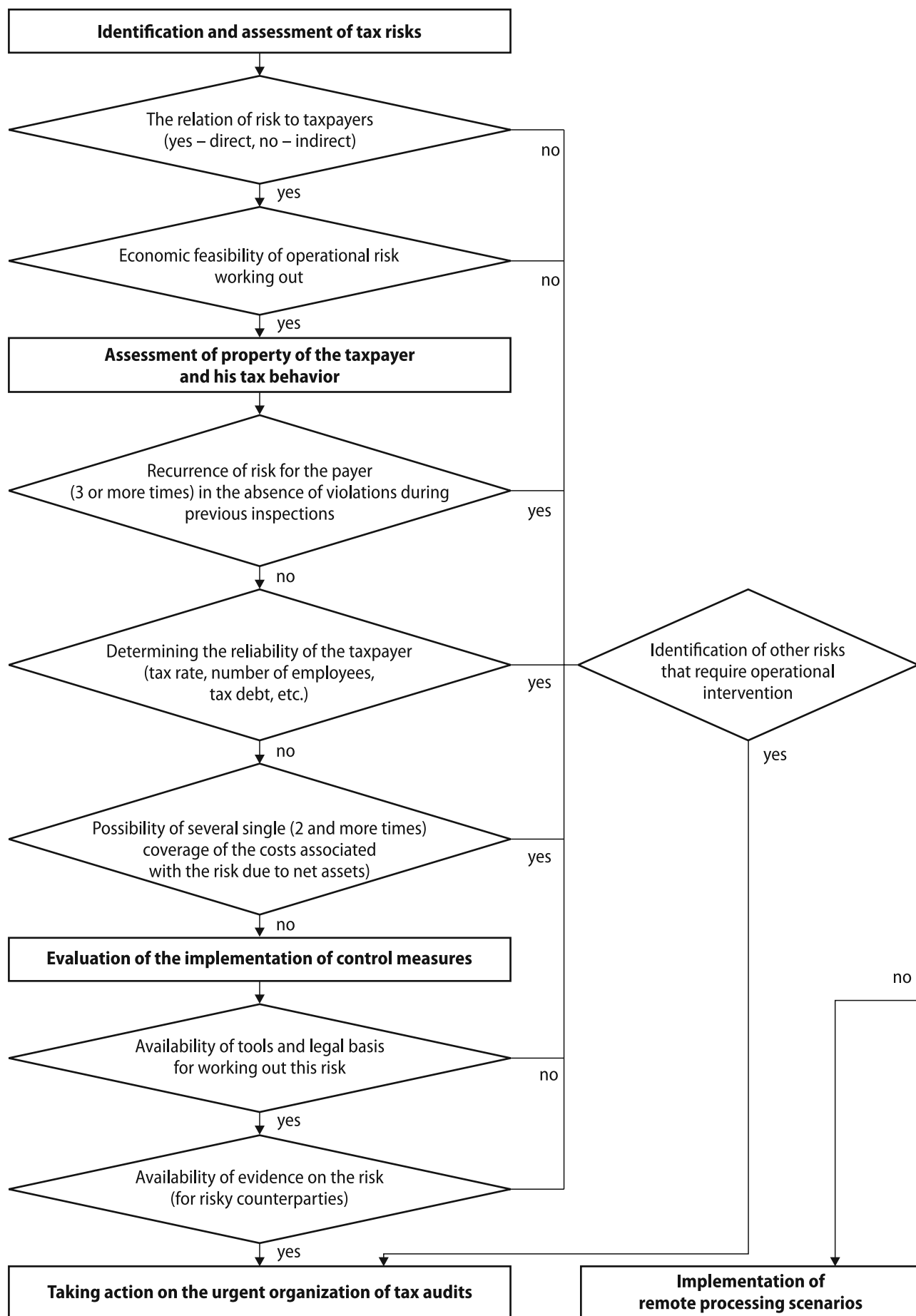


Figure 1. Algorithm to select the form of control measure on working a tax risk out

Source: composed by the author.

Ukraine of grassroots level. With this product it should be performed the algorithm of working out a risk, the control of correspondence exchange, some before-checking procedures in automated mode, and the further monitoring of tax risks;

- developing the standards, methods and algorithms for processing tax risks in order to use objective and a common approach to the preparation and implementation of these checks' data;
- creating and permanent filling a base of tax law violation types specifying examples, guidelines and methods for their determination, fixing and formation of the evidence base. The use of internal reserves of the development of control and inspection work's tools by identifying and disseminating best practices of regional tax authorities.

Conclusions

Currently the STS of Ukraine monitors tax risks based on key indexes of financial performance of

businesses and on analysis of existing information resources. However, we can see low levels of the analysis and assessment of tax risks, alternative ways of interaction with taxpayers that are not fully used; there are systemic flaws in the organization and carrying out tax audits. The implementation of the proposed algorithm for control measure form's selection to work out the tax risks and proposals for the development of tax risk management system of the STS of Ukraine should enhance the efficiency of the tax authorities' activity in this regard.

The development of remote methods of working out tax risks and the transition to tax risk management system is the condition of the evolutionary development of the national tax administration system that will allow the Ministry of Revenue and Duties of Ukraine to combine systematic, planned character and predictability of the subordinated inspections' work with the need of instant response to the threat of the shadow economy.

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