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IMPROVING INHERITANCE TAXATION AS AN ELEMENT OF REAL ESTATE TAXATION: THE UK EXPERIENCE

- A** The aim of the article is substantiation of proposals for implementation of foreign experience of inheritance taxation as an element of real estate taxation in Ukraine. The inheritance taxation in many countries is part of the real estate taxation. The application of mechanisms of inheritance taxation provides an opportunity to prevent tax evasion and reduce risks increasing the scale of the shadow economy. The results of the study foreign experience have shown that the most developed is a system of inheritance taxation in the UK. Proposals of inheritance taxation in Ukraine were developed on the basis of the practice of the UK. Tax on inheritance in the form of real estate is defined as an element of real estate taxation, implementation of which will contribute to increase its fiscal efficiency.
- B** Real estate tax, inheritance tax, tax rate, tax exemption.

УДОСКОНАЛЕННЯ ОПОДАТКУВАННЯ СПАДЩИНИ ЯК ЕЛЕМЕНТ ОПОДАТКУВАННЯ НЕРУХОМОСТІ: ДОСВІД ВЕЛИКОЇ БРИТАНІЇ

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- A** Метою статті є обґрунтування пропозицій щодо імплементації зарубіжного досвіду оподаткування спадщини як елемента оподаткування нерухомого майна в Україні. Оподаткування спадщини в багатьох країнах світу є елементом оподаткування нерухомого майна. Застосування механізмів оподаткування спадщини дає можливість попередити ухилення від сплати податків та зменшити ризики зростання масштабів тіньової економіки. Результати вивчення зарубіжного досвіду показали, що найбільш розвиненою є система оподаткування спадщини у Великій Британії. На основі практики Великої Британії розроблено пропозиції щодо оподаткування спадщини в Україні. Податок на спадщину у вигляді нерухомого майна визначено як елемент оподаткування нерухомості, імплементація якого сприятиме збільшенню його фіскальної ефективності.
- B** Податок на нерухоме майно, податок на спадщину, ставка податку, податкове виключення.

УСОВЕРШЕНСТВОВАНИЕ НАЛОГООБЛОЖЕНИЯ НАСЛЕДСТВА КАК ЭЛЕМЕНТ НАЛОГООБЛОЖЕНИЯ НЕДВИЖИМОСТИ: ОПЫТ ВЕЛИКОБРИТАНИИ

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- A** Целью статьи является обоснование предложений относительно имплементации зарубежного опыта налогообложения наследства как элемента налогообложения недвижимого имущества. Налогообложение наследства во многих странах является элементом налогообложения недвижимого имущества. Использование механизмов налогообложения наследства дает возможность предупредить уклонение от уплаты налогов и уменьшить риски роста теневой экономики. Результаты изучения зарубежного опыта показали, что наиболее развитой является система налогообложения наследства в Великобритании. На основании практики Великобритании разработаны предложения относительно налогообложения наследства в Украине. Налог на наследство в виде недвижимого имущества определен как элемент налогообложения недвижимости, имплементация которого будет способствовать росту его фискальной эффективности.
- B** Налог на недвижимое имущество, налог на наследство, ставка налога, налоговое исключение.

Introduction

Taxation of heritage is one of the problematic issues. Problems related not so much to the level of the tax burden, much to the psychological barrier of paying this tax. An analogue of this tax was missing in the Soviet Union time because there were no private property rights. However, in terms of the further development of the real estate market inheritance taxation should have the necessary fiscal effect. The mechanism for collecting of the tax on immovable property shall warn the possibilities of tax evasion through the completing of a donation agreements or sale between relatives.

Suggestions for improvement of the taxation of real estate developed in the writings of few Ukrainian scientists. Mainly they are based on foreign experience. O. Zima and I. Yershova offer take into account foreign experience in estate tax, but the specific mechanisms for the implementation of such an experience in the practice of Ukraine in their article is missing [1]. I. Kolomiets and A. Pelehatyy have developed proposals for improving the administration of the real estate tax. However, their proposals regarding changes to the size of the tax rates, but the mechanism of tax administration were not mentioned [2]. A. Terentyev explores foreign tax argument; however the land tax mainly

in the context of optimization of land tax rates [3]. E. Abliazova thoroughly examines the international experience of estate tax, however, proposals are theoretical in nature [4]. Western researchers, including F. Schneider, are working on proposals to improve the taxation of real estate in the context of reducing the level of shadow economy and tax evasion [5]. T. Hemelgarn, J. Nikodim, E. Zangari examined the role of property tax in the development of financial crises [6]. S. Valenduk explores the impact of the taxation of real estate on the dynamics of the population's savings and the inheritance taxation role in these processes [7]. Boadway, R., E. Chamberlain, and C. Emmerson explore the role of real estate taxation in the optimization of heritage taxation [8]. Piketty, T., and E. Saez explore the theory of optimal taxation of heritage and its place in the taxation of real property [9]. That is the modern directions of researches of western scientists gravitate to the regulatory effects of taxation of real property and minimizing risks from its evasion. In Ukraine, the problems of regulating effects of taxation of real estate are not relevant, since tax rises recently and the fiscal effect from it is negligible. Therefore, in my opinion, in terms of the implementation in practice of Ukraine's valuable is the international experience of estate tax aimed at reducing tax evasion and shadow economy. *The aim of the article* is substantiation of proposals for implementation of foreign experience of inheritance taxation as an element of real estate taxation in Ukraine.

Empirical studies

Taxes on inheritance, as individual taxes that are not part of the personal income tax, are levied in many countries of the world. Tax calculating depends on the composition of the tax system which includes or not capital gain tax. Most of the countries that apply capital gain tax, have a progressive scale of inheritance taxation. EU countries have different types of inheritance taxation relevant to real estate transfers. For example, in Austria a real estate transfer tax is levied on real estate assets and the transfer of property to the successor. The non-paid transfer of real estate (by gift or heritage) is subject to a real estate transfer tax of 2% (between close relatives) or 3.5% (between non-relatives). The most important exemption is regarding transfers of real estate used in a business upon the donation of such business: an allowance of €365,000 is granted when the donor is no longer capable to work or is 55 years of age or older [10]. In case of transfer of Belgian real estate by donation or decease, no real estate transfer duty is levied above the gift or inheritance tax due. In the Czech Republic this tax was repealed in 2013. The Swedish unified inheritance and gift tax legislation was abolished in 2004. Hence,

gifts transferred after 31 December 2004 and acquisitions of property in relation to deaths occurring after 17 December 2004 are inheritance/gift tax free. Malta real estate transfer legacy is taxed at a rate of 12%, while the number of exclusions reduced to a minimum. In France, the inheritance tax for transferring property is charged at 5.09% of fair value of the object of taxation. In Germany, this tax collected as a tax on real estate at a rate of 4 to 5% depending on the region.

Danish inheritance tax is based on the taxation of the estate left by the deceased. The basis for the calculation of inheritance tax is the total net value of assets that are passed on to heirs of the deceased. The Danish inheritance tax consists of an estate tax of 15% imposed on the net value exceeding DKK268,900 of the estate of the deceased together with an additional tax of 25% on the estate passed on to persons other than certain close relatives. The maximum tax burden is 36.25%, as the 15% estate tax is deducted before the 25% additional tax is calculated. Inheritance tax is levied when a person dies. Taxation can be deferred if the surviving spouse chooses to retain undivided possession of the estate. In this case, the estate is taxed after the estate is transferred to the heirs of the first deceased spouse. The estate must be transferred to the heirs after the first deceased spouse if the surviving spouse dies or if the surviving spouse, who retained undivided possession of the estate, chooses to get married again [10].

It should be noted, that immobile property (real estate) in OECD countries are taxed by different taxes: taxes on property, taxes on immovable property, taxes on net wealth, inheritance estate taxes. The International Monetary Fund research showed that inheritance estate taxes create the most stable government revenue because of small degree of tax evasion [11]. Therefore, the introduction of such a tax in Ukraine will increase fiscal efficiency of the tax system.

Analysis of foreign experience showed that the inheritance taxation most clearly established is in the UK. Perhaps this is due to the fact that this tax went through a long evolution. Inheritance tax is a modified form of capital transfer tax and was introduced in 1986. The main reforms introduced by inheritance tax were:

1. A restriction in the accumulation period from person's lifetime to seven years.
2. The division of lifetime transfers into two categories: chargeable lifetime transfers (CLT); and potentially exempt lifetime transfers (PET).

A CLT is liable to IHT when made at the lifetime rate (i.e. half the rate applying on death) and to additional tax (i.e. tax at the higher death rate less the lifetime tax already paid) if the transferor (i.e. donor) dies within the next seven years. When a taxpayer makes a PET no lifetime tax charge applies and a charge, at

the higher death rate, only applies if the transferor dies within seven years of the date of the gift. It should be noted, that inheritance tax is a personal tax, and it does not apply to companies.

The measure of the transfer of value is the amount by which the transferor's estate is reduced by the gift called the "diminution" value. Usually diminution in value equals the open market values of the asset transferred. For Ukraine, the definition of market value is problematic, because the united database on the prices of the agreements of purchase and sale of immovable property is not exist. I suggest creating a single database value of signed agreements that will reduce the risks of misunderstandings in the calculation of inheritance tax.

An important element of the taxation of inheritance is to determine the tax rate. The first £325000 of chargeable transfers of value made in a person's lifetime attracts a 0% rate of inheritance tax. The value in excess of this nil rate band is then taxed at the lifetime 20% or death rate 40%. In Ukraine, the rate of taxation, should be left the same. It is necessary to prove the value of the property, the first transmission of which will be taxed at the rate of 0%. In our view, the cost limit of the first transfer shall be the market value of the minimum square footage of economy class housing depending on the region.

A husband and wife (or civil partners) are separated persons for inheritance tax purposes. Separate

computation must be completed for each spouse, with each spouse separately entitled to inheritance tax exemptions and the use of the nil rate bands. Transfers of assets between spouses or civil partners made in their lifetimes or on death are entirely exempt from inheritance taxation. The most important implications of these exemptions are:

- the first spouse to die can leave the whole of his estate to the surviving spouse free of inheritance tax:
- one spouse can transfer property in his lifetime to the other spouse without the process incurring an inheritance tax liability.

It should be noted that the implementation of the Ukrainian legislation are subject to the tax rules of inheritance in the case of the death of transferor. The following amounts are deductible from the total value of the estate tax purposes:

- reasonable funeral expenses;
- debts incurred for full consideration before death including: unpaid tax bills and unpaid household bills.

The following amounts are not deductible from the value of the estate for tax purposes:

- gambling debts;
- promises for no consideration made by the deceased before death;
- the costs of administering the state.

The tax computation pro-forma is presented in table 1.

TAX COMPUTATION PRO-FORMA OF INHERITANCE TAX FOR REAL ESTATE TRANSFER

Table 1

NUMBERS	INDICATORS	AMOUNT OF MONEY
1	Market value of real estate	
2	Debts due at death	()
3	Spouse exemption	()
4	Taxable value (r.1 – r. 2 – r. 3)	
5	Tax paid during lifetime	()
6	Tax on estate ((r. 4 – r. 5)×20%)	

Source: created by author

It should be noted that the inheritance tax can be used in the UK as a tool for tax planning. Most inheritance tax planning techniques relate to the use of family trusts. There are however a number of mainly common sense issues which should be considered where appropriate:

1. Making the maximum use of available exemptions, particularly the annual exemption and the possibility of gifts out of income.

2. Making gifts as early as possible. This will increase the likelihood of surviving for seven years,

or at least increasing taper relief. This will also fix the value of transfers at the earlier stage, so will be of particular benefit for assets expected to appreciate.

3. Gifts into trust, as chargeable lifetime transfers, can be made up to the nil rate band without any immediate charge arising. This can be repeated on a seven-year cycle as the accumulation period expires.

4. Making lifetime or testatory gifts to grandchildren can result in a single occasion of charge rather two, if the assets are likely to be passed on again from children to grandchildren.

The application of the tax planning tools significantly depends on the relationship that developed between members of the family. Even if tax planning inheritance tax and has a place, its negative impact on tax revenues is negligible.

Also the relative simplicity of administration tax on inheritance of real estate objects should be noted. For inheritance tax a relevant person is required to disclose information relevant to transfers of value and tax service determines the amount of tax due.

A relevant person for inheritance taxation is either the transferor or transferee of a lifetime transfer or the personal representatives of a deceased person. Personal representatives are either:

- the executor of the person's will;
- the administrators of person's estate who died intestate (i.e. without a valid will and having not an executor).

Unless a specific exception applies, inheritance tax is payable within six month of end of month of transfer or death.

Conclusions

The introduced mechanism of inheritance tax on real estate is one of the ways to order the real estate taxation in Ukraine. The proposed mechanism to reduce the taxable value on the personal allowances and a reasonable burial expenses and repayment of debts will promote rapid adaptation of this tax in the community. Fiscal and regulatory effect of the new tax would be greater than the cost of its administration, since the administration of inheritance tax is relatively easy and straightforward. Implementation of the British model of inheritance taxation in the form of real property will warn the negative effects of tax planning. This is because the calculation of the tax liability on the other objects of heritage (securities, deposits, antiques, etc.) is separated from the settlement of tax liabilities through the objects of real estate. Measures of tax planning can be used only in the case of transfer of the property during the lifetime of transferor or in the case of transfer of the property to the grandchildren. However, the possibility of such a tax optimization will help reduce fraudulent real estate schemes and legalization of agreements with it.

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