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Податок на додану вартість: деякі особливості адміністрування в Україні

Метою статті є дослідження фіскальної функції податку на додану вартість та визначення і вирішення сучасних проблем його адміністрування в Україні. На основі аналізу наукових публікацій по темі розкрито генезис правових підстав існування податку на додану вартість та показано еволюцію його назви у термінологічній лексичі. З'ясовано динаміку пільг з податку на додану вартість. За допомогою горизонтального аналізу виконання державного бюджету доведено, що ПДВ забезпечує майже половину всіх його податкових надходжень; приблизно четверта частина цього податку відікодовується його платникам з бюджету грошовими коштами. На основі контент-аналізу податкового законодавства виявлено відсутність офіційного тлумачення понять «новостворена вартість» та «додана вартість». Доведено, що назва податку не відповідає його економічному змісту. На кожному етапі руху товару від його виробника до кінцевого споживача, фактичні витрати на оплату праці суб'єктів господарювання підлягають подвійному оподаткуванню тому, що входять до бази оподаткування єдиним соціальним внеском та до бази оподаткування податком на додану вартість. Доведено необхідність побудови науково-обґрунтованої податкової системи в Україні.

Ключові слова: додана вартість, доходи бюджету, код класифікації доходів бюджету, податок на додану вартість, подвійне оподаткування, податкова система.

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Налог на добавленную стоимость: некоторые особенности администрирования в Украине

Целью статьи является исследование фискальной функции налога на добавленную стоимость и определения и решения современных проблем его администрирования в Украине. На основе анализа научных публикаций по теме раскрыто генезис правовых оснований существования налога на добавленную стоимость и показана эволюция его названия в терминологической лексике. Рассмотрено динамику льгот по налогу на добавленную стоимость. С помощью горизонтального анализа выполнения государственного бюджета отмечено, что НДС обеспечивает почти половину всех его налоговых поступлений; приблизительно четвертая часть этого налога возмещается из бюджета денежными средствами его плательщикам. Контент-анализ налогового законодательства показал отсутствие официального толкования понятий «новопроизведенная стоимость» и «добавленная стоимость». Доказано, что название налога не отвечает его экономическому содержанию. На каждом этапе движения товара от его производителя до конечного потребителя, фактические расходы на оплату труда субъектов хозяйствования подвергаются двойному налогообложению потому, что включаются в базу налогообложения единым социальным взносом и базу налогообложения налогом на добавленную стоимость. Доказана необходимость построения научно обоснованной налоговой системы в Украине.

Ключевые слова: добавленная стоимость, доходы бюджета, код классификации доходов бюджета, налог на добавленную стоимость, двойное налогообложение, налоговая система.

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Value Added Tax: Certain Features of Its Administration in Ukraine

The purpose of the article is to study the fiscal function of the value-added tax and determine and solve modern problems of its administration in Ukraine. Based on the analysis of scientific publications on the subject, the genesis of the legal grounds for the existence of a value-added tax was disclosed and the evolution of its naming unit in terminological lexis was considered. Dynamics of value added tax refund has been determined. Horizontal analysis of state budget execution has been applied to prove that VAT provides almost half of its taxation revenues; about quarter of the tax is refunded for its payers by means of monetary assets from the budget. Content analysis of taxation legislation has made it possible to define that there is no official formulation of such concepts as “newly established value” and “added value”. It has been proved that the naming unit of the tax does not correspond to its economic growth. Each stage of goods flow from its producer to end user involves the fact that actual expenditures for labour payment of economic agents are subject to double taxation as they belong to the base of unified social taxation as well as to the base of value-added taxation. Need for the development of scientifically substantiated taxation system in Ukraine has been proved.

Keywords: added value, budget revenues, classification code of budget revenues, value added tax, double taxation, taxation system.

Introduction. In the context of the world practices, value added tax (VAT) is considered to be the ideal form of indirect taxation. Some experts qualify it as “the highest form of the universal excise genesis” [18]. The tax has been at the top Ukrainian taxation system for almost quarter of a century. Nowadays, VAT has the widest base and the highest taxation rate being counted in the total into general fund of State budget of Ukraine [7, subp. 5, point 2, art. 29]. However, “instability, contradictions, and imperfection of the legislative base of VAT use have resulted in the accumulation of problems connected with its paying into the budget, its rebating from the budget, and its administration” [9, p. 9]. Budgetary recharge in the context of modern economic conditions is of special topicality requiring the improvement of fiscal policy. In particular, administration of one of the most complicated and contradicting tax – value added tax – needs urgent changes.

Literature Review. Since the beginning of VAT and up to now, the process of VAT management is being paid constant attention by the scientists. I.P. Sydor and T.M. Vozniak studied prerequisites and outcomes of VAT implementation in Ukraine [27, pp. 11-16]. O.O. Amosha [1], D.A. Diakovskiy [15] analyzed the mechanisms of value added taxation; P.L. Kulyk considered such mechanisms in the context of Ukraine-EU integration [19, pp. 180-185]. K.K. Ullubiiyeva studied the methods of VAT calculation and their auditing support [31, pp. 338-345]. L.O. Dobryk, A.A. Litovchenko [13, pp. 23-31], O.O. Liehostaieva, N.A. Chub [20, pp. 127-130] analyzed problems of VAT administration. V.D. Volkanova [9], T.M. Paianok [22] studied the efficiency of value added tax, and M.P. Badidi analyzed the efficiency of tax control [2]. O. Malysheva [21, pp. 34-47], I.O. Yaremchuk [36, pp. 34-47] and others were engaged in the studies of international experience of VAT collection.

Value added tax is interesting for many world scientists. In particular, M. Keen, B. Lockwood [40, pp. 138–151] studied causes and consequences of the value added tax. J.A. Giesecke, T.H. Modelling [39, pp. 156-173] analyzed value-added tax in the context of multi-production and differentiated concessions. D. Pomeranz considers the efficiency of the value added tax in facilitating tax enforcement shedding light on the role of information and third-party paper trails for taxation [42, pp. 2539-2569]. J. Aizenman, Y. Jinjarak [38, pp. 391-410] evaluate the political economy and structural factors explaining the collection efficiency of the value added tax where the collection efficiency is determined by the probability of audit and by the penalty on underpaying, and implementation lags imply that the current policy maker determines the efficiency of the tax system for the following period. A book by A. Schenk, V. Thuronyi, W. Cui [43] is still topical since it integrates legal, economic, and administrative materials about value added tax. The new edition of the book expands the coverage to include new VAT-related developments in Europe, Asia, Africa, and Australia.

Objective of the article is to study fiscal function of value added tax and current problems of its administration.

Methods of the study. Following analysis types have been applied to achieve the objective: unformalized analysis and content-analysis of both scientific publications and tax legislation; vertical analysis of tax revenues into the state budget; horizontal and comparative analysis of tax revenues from income tax as well as budget refund of the tax by means of monetary assets.

The main results of research. Theoretical grounds of value added tax were first determined by Georg Wilhelm von Siemens in his paper “Veredelte Umstanzsteuer” [44] in 1919. Thanks to French financial inspector, further deputy director of General Commissioners of Taxes, Maurice Lauré, the tax was first applied in France on the

10th of April 1954 (Fr. *Taxe sur la Valeur Ajoutée / TVA*) [45]. Later (from the 6th of January 1966) Minister of Economy and Finances of that time, Michel Debré, initiated TVA application in the context of retailing. Since the middle of the 1960s, the success of TVA in France has made other countries, including those being members of European Common Market¹, replace their available systems of turnover taxation its general system of value added tax [12; 35, art. 1]. Thus, the tax was integrated into taxation systems of the countries-members of European Economic Community. Its availability has become a compulsory condition for those countries which

would like to become EU members.

Despite the fact that “in the second half of the 20th century the tax was introduced in the developed countries to restrict excess production” [34], in 1992 “in the context of inflation as well as disbalanced economic and financial and monetary system” [27, p. 4], value added tax, having French model as the basis, became an integral part of Ukrainian taxation system.

Data in Table 1 demonstrates genesis of legal bases of the tax availability as well as evolution of its naming unit in terminological lexis.

Table 1

Genesis of legal bases of VAT availability in Ukraine

Normative legal act	Duration period	The number of revised editions (introduced changes)
On the value added tax: the Law of Ukraine # 2007-XII [24]	01.01.1992 – 06.01.1993	4
On the value added tax: the Decree of the Cabinet of Ministers of Ukraine # 14-92 [25]	06.01.1993 – 01.07.1997	13
On the value added tax: the Law of Ukraine # 168/97-BP [26]	01.07.1997 – 01.01.2011	122
Tax Code of Ukraine # 2755-VI [23]	01.01.2011 – to present	117 ² (as of 01.02.2018)

Source: generalized by the author.

Since 1992 numerous changes have being constantly introduced into the tax legislation (see Table 1). Amount of texts of the current normative and legal acts concerning VAT in conventional printed sheets has increased dramatically; moreover, the tax concept has complicated as well. Such new terminological structures as: “tax obligation”, “tax credit”, “budget refund of VAT” have appeared; range of concessional operations has expanded; volumes of tax statements has increased; e-administration of the tax has been implemented etc.

Constant improvement of legislative standards regulating VAT activities has resulted first (01.07.1997–01.01.2011) in loss and then (01.01.2011 – to present) in rather generalized interpretation of such important economic term as “value added tax”. Thus, gradually, the tax transformed from the share of a newly formed value paid to the state budget at each stage of goods production, operation performing, or service rendering into “indirect tax counted and paid according to the standards of division V” of Tax Code [23, subp. 14.1.178 art. 14]. Owing to the fact that current definition of VAT points out clearly only that the tax is indirect, experts can understand that it is the tax on consumption, a compulsory indirect imbursement paid by means of pricing mechanism; moreover, tax sum does not reduce a taxation object; on the contrary, it raises the price of goods. Consequently, de facto the tax is always and anyway laid on the end user being the one who buys goods/services for personal use [6, pp. 2-5; 34].

According to the tax naming unit, following idea is quite logical one: certain operations of payers should be the objects for VAT taxation and added value should be the subject. Instead, tax legislation first determined VAT taxation object as “sales turnovers” [24, art. 3, art. 4; 27 art. 3, art. 4], then it determined VAT taxation object as

“operations of tax payers” [23, point 185.1 art. 185; 26, art. 3]; the subjects were “taxable turnover” and “taxation base” respectively; determination of the latter usually depends on the operation type of a tax payer. T. Sliozko [28], V. Dedekaiev [11], and other scientists and experts share the opinion.

Definitions of such economic terms of “newly formed value” and “added value” have not been formulated at the legislative level so far for the whole period of VAT functioning in the context of taxation system of Ukraine.

Having analyzed the interpretations of added value in scientific, educational, and reference sources, K.K. Ullubiiieva [32] states that it is formed by means of other direct and indirect expenditures (earned incomes, deductions to social insurance, advertising costs etc.) as well as by added value (revenue, unearned income (rent payment), interests). She determines added value as the “value formed inside an enterprise as a result of effects on labour instruments (earned incomes and other related costs) and work objects (in the form of amortization) and included added value (i.e. revenue, rental payment and interest on capital)”. V. Kariev [16] emphasizes that “added value is just the sum of revenue plus the counted salary together with the reductions to social funds (UST³) included into the goods or service selling price”.

Nowadays, selling price (value) of products (goods, operations, and services) is the actual base of VAT taxation. While forming it, production enterprises add profit to the whole prime cost; in terms of the purchased goods without VAT, wholesale enterprises add supplier-and-sales premium to their value while retail enterprises

¹ Previous name of internal market in the European Union.

² Including changes concerning VAT.

³ Unified social tax.

add trade increment (mark-on). Total prime cost of the final products (operations, services) as well as supplier-and-sales and trade increments include costs for labour remuneration [counted sums of salaries (remuneration)] and payment of unified contribution for UST.

Thus, at each stage of product movement from its producer to end user, salary (reuneration) accounting experiences double taxation since actually it belongs both to UST taxation base and to VAT taxation base. Such double taxation does not affect negatively the price level but first of all contradicts the principles of the taxation systems established by the Commercial Code of Ukraine

[10] where part 2 of Article 17 says that “laws regulating taxation of economic agents would envisage ... elimination of double taxation”. On the basis of action sphere of the Tax Code of Ukraine [23] and Commercial Code of Ukraine [10] it can be stated that double taxation of actual costs of an enterprise for labour remuneration contradicts the standards of national legislation; that is why introduction of changes into the procedure of VAT calculation are under consideration.

As it has been mentioned before, legislation on value added tax is characterized by constant expansion of the range of concessional operations (see Table 2).

Table 2

Dynamics of “concessional” articles in tax legislation with VAT

Normative legal act	Availability of “concessional” articles
On the value added tax: Law of Ukraine #2007-XII [24]	Article 5. List of tax-free goods, operations, services
On the value added tax: Decree of the Cabinet of Ministers of Ukraine # 14-92 [25]	Article 5. List of tax-free goods, operations, services
On the value added tax: Law of Ukraine # 168/97- BP [26]	Article 3. Object of taxation and non-taxable operations. Article 5. Tax-free operations
Tax Code of Ukraine # 2755-VI [23]	Article 195. Zero-rate taxable objects. Article 196. Non-taxable operations. Article 197. Tax-free operations

Source: generalized by the author.

From the philological viewpoint, the operations being subject to zero-rate taxation [23, art. 195], non-taxable operations [23, art. 196], and tax-free operations [23, art. 197] have similar idea – they are the operations in terms of which a tax payer has no tax liability. In this context, revenue bodies explain (letter #1681/10/04–36–15–0116 dated 27.02.2015) that tax-free operations listed in Article 197 of the Tax Code of Ukraine “have social nature of application”, “operations determined by Article 196 do not participate in tax calculations and are not considered by the taxation base of value added tax”; standard of Article 195 “operates to supporting enterprises-producers-exporters as well as to reach positive result of foreign trade balance of the country” avoiding the issue of VAT refund. According to O. Betlii, R. Dzhuschchi, R. Kirchner [4, p. 8], “expanding of concessions...is not the movement in the right direction”, their reduction, “will most probably favour the decrease in the number of tax evasions”.

Since the very beginning of VAT functioning in Ukraine, its payers wanted to minimize their tax payments. They were also aware of the available international experience of “simple” and “carousel” fraud related to the tax. “VAT has become one of the most criminogenic taxes that provokes permanently certain shady relations, ...and the refund of budgetary debts in terms of VAT transformed into quite profitable criminal business as well as in the ground for corruptive practices of government officials” [14, pp. 248-249].

According to I. Bilous, being a first deputy of the Ministry of Inland Revenue of Ukraine⁴, “tax pits have always existed, however, recently, under the wing of

⁴ Now State Fiscal Service of Ukraine.

previous authorities of the Ministry of Revenue, the problem of VAT stealing has become a real catastrophe” [30]. “The Ministry of Inland Revenue has estimated that in 2013 shady turnover by means of tax pits was more than UAH 300 bln that resulted in UAH 50 – 70 bln of short-received tax revenues to the state budget. Moreover, average monthly amount of gimmick credits... has reached UAH 3.9 bln.” [30]. Since March 2014, new authorities of the Ministry “have declared war to the tax pits” [30]. In 2015, a system of VAT e-administration established on the central level of State Fiscal Service of Ukraine; the system has provided automatic auditing, in terms of tax payers, of following:

- amounts of taxes recorded in the issued and received tax invoices, registered in Unified Register of Tax Invoices (URTI) and their calculation corrections;
- amounts of taxes paid by payers during the process of merchandise entry to the customs territory of Ukraine;
- amounts of replenishment and balance on accounts in the system of VAT e-administration;
- tax amounts on which payers may register tax invoices in URTI.

However, tax payers are constantly developing new schemes to form troubled tax credit that allows them withdrawing monetary assets from the state revenues in a criminal way. K. Bezverkhyi and O. Yurchenko have analyzed in detail eight schemes of such kind [3]. Different methods to evade from VAT payment were studied by V.D. Volkanov [9], O.S. Chervinska, Kh.B. Demchuk, O.V. Voitkiv [33, p. 394], A. Agha, J. Haughton [37] and other scientists. O. Betlii, R. Dzhuschchi, R. Kirchner [4, pp. 3-4] believe that “one of the greatest VAT administration challenges in Ukraine deals with the loss of revenues due to ignorance of

taxation rules, i.e. corruption, and tax evasion” and identify main reasons of that being clear thanks to the international experience.

It is well-known that taxes and duties that are obligatory to be paid according to the current legislation of the country are aimed at the replenishment of the

revenue share of the state budget [23, subp. 9.3 art. 9, subp. 10.5 art. 10; 7, point 2 art. 9]; in its turn, the share is used to meet the needs of the society. VAT as a national tax [7, point 6 part 2 art. 29; 23, art. 9] has considerably important fiscal function (Table 3).

Table 3

Share of value added taxes in fiscal revenues to the State Budget of Ukraine

Year	Fiscal revenues to the State Budget of Ukraine					VAT proportion in the context of fiscal revenues to the State Budget of Ukraine, % (gr 6*/100/ gr. 2)
	total, UAH	including VAT				
		received all, UAH	from it			
			amount, UAH	proportion, % (gr. 4*100/gr. 3)	remained in the budget (net balance), UAH (gr. 3-4)	
1	2	3	4	5	6	7
2010	166872190118.95	126987741818.68	40671826068.66	32.0	86315915750.02	51.7
2011	261604990960.10	172872829213.04	42779075966.89	24.8	130093753246.15	49.7
2012	274715185064.05	184785789385.69	45958965314.83	24.9	138826824070.86	50.5
2013	262777051605.87	181716884577.26	53447576662.28	29.4	128269307914.98	48.8
2014	367511931128.37	189240509123.83	50216250269.03	26.5	139024258854.80	37.8
2015	409417539169.70	246857680651.70	68405295441.56	27.7	178452385210.14	43.6
2016	503879432763.44	329911464988.07	94405435048.77	28.6	235506029939.30	46.7
2017	627153686177.81	434041186896.27	120060592431.00	27.7	313980594465.27	50.1

Source: generalized by the author according to the data of division I “Revenues” of the statements of the execution of the State budget of Ukraine [8].

Data from Table 3 make it possible to claim the following:

1) VAT is the greatest budget-forming tax (graph 7) – it provides almost the half of the revenues of the total state budget fund;

2) 25 to 32 % of its amount in the state budget is refunded to its payers by means of monetary assets (graph 5).

While analyzing the content of Division I “Revenues” of the statements on the execution of the State budget of Ukraine, the information concerning VAT budgetary refund (code 14010200) attracts certain attention. Despite the regulations of Article 29 of the Budget Code of Ukraine [7], the Ministry of Finances of Ukraine classifies VAT budgetary refund by means of monetary assets as the revenue of budget as a part of tax revenues from the internal taxes for goods and services [17]. However, since the moment of the economic term in Ukrainian tax legislation appearance up to now [23, subp. 14.1.18 art. 14; 26, point 1.8 art. 1] VAT budgetary refund means VAT sum being subject to its return from the budget to a payer due to his/her excessive payment of the tax in the cases stipulated by the law. In other words, in fact, a share of tax revenues is paid (returned) from the budget; i.e. budgetary funds are spent (there are certain budgetary costs). Thus, both in its economic and linguistic sense, budgetary refund belong rather to budgetary costs than to budgetary revenues.

In terms of the number of operations accompanying the whole chain of VAT administration and the number

of means involved into the process, the tax rates first within the taxation system. Central bodies of executive power⁵ ensuring the formation and implementation of state financial and budgetary policy do not pay attention to the expenditures of the state and tax payers for the chain servicing.

Studies by O.Ya. Boiko [5] demonstrate that the index of costs for all taxes administration has been constantly decreasing for the recent four years. However, it is quite logical to state that it happens not at the expense of the reduction of VAT administration costs. According to “Time to comply (hours)” index in “Paying Taxes 2018” [41, p. 73] rating, Ukraine is next-to-last in Central Asia and Eastern Europe – 199 hours is spent per year for VAT administration. Neighbouring countries have much better indices: Russian Federation – 39, Belarus – 47, Moldova – 55, Turkey – 91 hours. As the experts of PwC Company, Ukraine, believe [29], annual considerable changes in VAT administration are the constraining factor of the mentioned index. They think that “even simplification of the forms required the business to have additional time spent for adaptation of new rules”, and “implementation of IE system to audit VAT can have quite limited effect, if other environmental factors remain constant”.

⁵ Ministry of Finances of Ukraine and State Fiscal Service of Ukraine.

⁶ The most recent data in Paying Taxes 2018 relates to the calendar year ended 31 December 2016.

Conclusions. Value added tax is one of the most complex taxes in terms of its interpretation and administration. Despite the fact, it provides almost 50 % of tax revenues to the state budget.

All the VAT burden lies on the shoulders of an end user at the moment of purchasing. VAT is paid by raw material producers, final product manufacturers, wholesalers and retailers. All of them include VAT into their selling prices. Each intermediate buyer has the right to deduct the amount of tax from the sum paid earlier upon purchase. Almost $\frac{1}{4}$ – $\frac{1}{3}$ of the share of tax revenues obtained from VAT is returned to its payers in the form of budgetary refund.

The administration process of such an indirect tax is being constantly improved, complicated, and increased in its price. “Constant VAT reformation by means of introducing certain changes into current legislation undermines the grounds of national entrepreneurship, provokes circumspection on the part of foreign investors, harms financial safety of the country, and often protects interests of the political parties and business structures” [27, p. 4].

There is the opinion that VAT “is used to stimulate extra costs (demand excitation) provoking demand inflation”, and its main function is the “stabilization, smooth “cooling” of the overheated economy” [11]. Ukraine is in the situation of economic crisis, under conditions of economic unrest, the east of the country experiences military actions. Despite all of these, experts of the Institute of Economic Studies and Political Consultations of German consultative group on the issues of economic reforms [4], relying upon their quantitative estimations, consider that substitution of VAT with other indirect tax will not necessarily have positive effects. Experts of the Center of Economic and Social Studies “CASE Ukraine” [6] can not imagine that “under Ukrainian conditions (with frantic social responsibilities) government officials would refuse the tax providing the third part of all the revenues”. The experts think that European choice of Ukraine – “signing the agreement on the extended and comprehensive zone of free trade with the EU”, eliminates any discussions “with VAT or without it” [4; 6].

Economic growth is impossible without the recovery of national economy, first of all, at the expense of the established internal and external relations of business entities as well as the development of scientifically substantiated tax system.

“Mechanical transfer of the methodology of taxation, VAT in particular being applied by the western countries into modern economic conditions of Ukraine is not correct” [11]. Tax voluntarism, rule-of-thumb decisions in tax practice to replenish the state treasury neglecting the objective conditions, scientifically substantiated recommendations, and not taking into consideration possible outcomes, cause damage to the national economy. Managing the economy according to the rules being dictated from the abroad as well as reporting to those dictating the rules is the crime against the Ukrainian people. While analyzing the situation in which Ukraine is living now, we can foresee that Economic Hit Men are

working successfully in it to establish the control over its abundant natural resources.

Ukraine should be free while forming its own taxation system with the consideration of its own national peculiarities, economic climate, corruption level, and domestic experience of fiscal policy. The state needs simple, stable, and coordinated tax legislation excluding double taxation, providing efficient tax system, and favouring the development of economy where everybody is at equal position.

4 Список використаних джерел

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