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**TAX POLICY AS A REGULATION
 INSTRUMENT OF RENEWAL OF THE
 DEBTOR'S SOLVENCY**

**ПОДАТКОВА ПОЛІТИКА ЯК ІНСТРУМЕНТ
 РЕГУЛЮВАННЯ ВІДНОВЛЕННЯ
 ПЛАТОСПРОМОЖНОСТІ БОРЖНИКА**

Urgency of the research. The urgent direction in the system of measures of crisis management which is regulated by the law on bankruptcy is the renewal of the debtor's solvency.

Target setting. The processes of renewal are positively influenced by social orientation and systematic nature of tax policy. Its methods include preferential tax regimes which are associated with the recognition of uncollectible payables in the process of debtor's recovery.

Actual scientific researches and issues analysis. In the scientific literature conceptual problems are determined with regard to the essence and effectiveness of taxes on income and value added taxes.

Uninvestigated parts of general matters defining. The imperfection of the legal and regulatory framework of accounting and its specificity in anti-crisis management necessitates requires its further study.

The research objective. The study includes an analysis of the effects of write-offs of uncollectible payables on taxation objects of income tax and value added tax.

The statement of basic materials. The consequences of debt write-offs which in tax inspectors' point of view entails adjusting the tax credit of value added tax-payer are ambiguous and, therefore, have a disputed nature. The temporal and contradictory order of the adopted legislation on value added tax for debtor enterprises is not systematic.

Conclusions. In order to improve the tax policy tools it is proposed to approve tax incentives on a permanent basis in bankruptcy renewal procedures.

Keywords: debtor; anti-crisis management; bankruptcy; uncollectible debt; tax

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Актуальність теми дослідження. Актуальним напрямом у системі заходів антикризового управління, що регулюється законодавством про банкрутство, є відновлення платоспроможності боржника.

Постановка проблеми. На процеси відновлення позитивно впливають соціальна спрямованість та системний характер податкової політики. До її методів входять пільгові режими оподаткування, які у процедурах санації дебітора пов'язані з визнанням безнадійної кредиторської заборгованості

Аналіз останніх досліджень і публікацій. В науковій літературі висвячені концептуальні проблеми щодо сутності та ефективності податків на прибуток та додану вартість.

Виділення недосліджених частин загальної проблеми. Недосконалість нормативно-правового забезпечення обліку та його специфіка в антикризовому управлінні зумовлює нагальну потребу в його подальшому дослідженні.

Постановка завдання. Дослідження включає аналіз впливу списання безнадійної кредиторської заборгованості на об'єкти оподаткування з податків на прибуток та додану вартість.

Виклад основного матеріалу. Наслідки операцій списання боргів, що спричиняють коригування податкового кредиту у платника податку на додану вартість за думкою податківців, є неоднозначні, і тому мають дискусійний характер. Тимчасовий та суперечливий порядок прийнятих законодавчих норм стосовно податку на додану вартість для підприємств-боржників не є системним.

Висновки. З метою удосконалення інструментарію податкової політики пропонується затвердження податкових пільг на постійній основі у відновлювальних процедурах банкрутства.

Ключові слова: дебітор-боржник; антикризове управління; банкрутство; безнадійна заборгованість; податок.

Urgency of the research. At the stages of crisis the management of the debtor is regulated by the Bankruptcy Law [1]; one of the relevant issues is the accounting and analytical aspects of payables. In the real economy sector in the conditions of pre-trial renewal and bankruptcy procedures, in particular at the stage of property disposal, the clarification of the debtor's assets and liabilities is carried out.

In the bankruptcy procedure the liquidation of the debt takes place according to a certain procedure (according to the timing of submission and the rules of adjusting the amount of requirements to the

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debtor). As a result of this, part of the debtor's debt is a subject of writing off (Art. 12-21 of the Bankruptcy Law).

In terms of liquidation procedure of bankruptcy the writing off the debtor's debt is the result of his/her property insufficiency.

Target setting. In the aspect of accounting there is a number of issues regarding writing off the debtor's debt and the questions about adjustment of the value added tax and profit tax. Due to the fact that in terms of anti-crisis management the debtor carries out his economic activity mainly in the general conditions, the problems with adjusting the tax amounts arise, which are identical to the problems of a stable operating company. In addition, it is necessary to pay attention to the latest changes in the Tax Code in relation to debtor enterprises during their financial restructuring.

Actual scientific researches and issues analysis. A number of prominent scientists devoted their researches to the issues of the essence, functions and fiscal efficiency of the value added tax (VAT). Among them there are also domestic researches such as V. Andrushchenko, M. Bondar, T. Bochulla, F. Butinets, Z. Varnalius, O. Danilov, T. Efimenko, Y. Ivanov, M. Kotsupatry, A. Krisovaty, P. Melnyk, A. Sokolovskaya, M. Shigun, as well as works devoted to separate theoretical and practical problems of VAT (authors K. Bezverkhogo, S. Shevchenko). Proceedings on issues of income tax are widely represented in scientific literature. The fundamental contribution to the reform of the domestic economy which has a direct impact on the methodological principles of accounting and according to which the object of taxation of corporate profit tax is determined by the rules and accounting data belongs to prominent scientists L. Lovinsky and T. Efimenko. Accounting and analytical problems in the conditions of bankruptcy, in particular in the liquidation procedure, are considered in the works of F. Butinets, O. Galenko, O. Gluschuk, one of the recent works is the work of O. Kravtsova concerning the taxation of value added tax in the conditions of the liquidation procedure.

Uninvestigated parts of general matters defining. Basing on the priorities of bankruptcy law, which are primarily to restore the solvency of the company in order to repay its debts to creditors we consider it to be necessary to pay attention to accounting issues not only in the liquidation procedure but also at the stages of crisis management - in pre-trial and judicial renewal. The latest changes in the Tax Code about value added tax and income tax of the debtor are needed to be considered in detail.

The statement of the basic materials.

Part I. Tax policy regarding the formation of the taxation object of income tax.

Tax policy is an activity of the state in the field of taxes and is one of the components of economic and financial policy which is directed to fulfill the priority tasks of social development and strategic goals of economic growth. With the help of a certain tax policy it is possible to regulate socio-economic processes which in the anti-crisis management are aimed at saving the jobs and socially important goods of a company that has suffered significant financial difficulties.

Among the methods of tax regulation provided by the legislation in the legal sphere of bankruptcy some instruments are applied such as a moratorium on repayment of debts, including tax debts, the classification of debts and penalties that are paid in a certain order, delay in payment of taxes, in particular, the restructuring of tax debts. Such instruments of tax regulation in accordance with the rules of the Bankruptcy Law are of systemic nature. Bylaws or other legislation on specific issues related to the activities of debtors should be the sole basis, a complex in achieving the objective of crisis management. Let's consider the issue of tax regulation of writing off payables in detail.

Writing-off of the debt, in accordance with the Tax Code of Ukraine, may occur if such indebtedness is considered hopeless, the features of which are set in fourth paragraph 14.1.11. Art. 14 [2]. Recent changes have been made with the adoption of the number of laws which require a separate study. It should be noted that among the features of hopelessness the only one sign (in the Fiscal Service Letters) is used while determining the uncollectible payables is the delay in its repayment for more than three years [3]. In addition, it should be mentioned that the category of uncollectible payables, in contrast to the receivables, is absent in the regulatory accounting documents. However, in the

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Tax Code in paragraphs 14.1.11 it is not stated that the features of hopelessness are related exclusively to receivables, therefore, we assume the possibility of their use also for payables which is important in the conditions of debtor's crisis management.

The writing-off of uncollectible debts affects the taxation object of income tax in the following way. In order to determine the object of taxation of income tax, due to reformatory innovations in accounting, it is envisaged to use the accounting data on income, expenses and financial results before tax (paragraph 44.2 of Article 44, Tax Code). The taxation object of income tax is determined by adjusting (increasing or decreasing) the financial result before tax, as determined in the financial statements of the enterprise in accordance with national (or international) accounting standards, for the differences that arise in accordance with the Tax Code (Art. 134). The adjustment of the financial result before tax by the amount of the write-off of uncollectible payables is not provided by the Tax Code. Thus, the emergence of uncollectible payables is not included in the list of tax differences in the formation of the income tax. However, at its write-off there is an increase in the financial result before taxation which is stipulated by several norms of the Accounting Standards:

- in accordance with the provisions of the National Accounting Standards 15 "Income" (p. 15) and 11 "Liabilities" (p. 5) the income is recognized as the amount of previously recognized non-repayable obligation, the amount of which is included in income of the reported period [4];
- such income is defined as other operating income,
- thus, it is taken into account in determining the financial result before taxation and, therefore, influences the taxation object of income tax.

Part II. Tax policy on value added tax in writing off uncollectible debts.

According to different forms of payments enterprise can gain tax liabilities or tax credit. It depends on obligations either on goods form or on monetary form.

Thus, in the case of write-off of trade payables, a number of unresolved issues arise one of which is related to the adjustment of the tax credit. A symmetrical issue is the adjustment of a tax liability when writing off uncollectible debts.

The problems in the corrections of taxes is an alternative interpretations of certain rules of the tax code. The views of tax inspectors and tax experts concerning taxpayers are often different in approaches of choosing a possible option. In detail, the issue of adjusting the tax credit and tax liability in cases of write-offs of the debt identified as uncollectible is set out in the following table 1.

In the first and fourth types of adjustments to the tax liability and tax credit arising from the write-off of uncollectible payables and receivables respectively in cash discussions do not generally arise. Considering writing off payables to the seller (the first case in the table) when the goods are not delivered to the buyer upon receipt of the advance, the seller has no legal basis for adjusting the amount of tax liabilities with VAT. If the buyer has transferred the advance, but has not received the goods (the fourth case in the table), then such a buyer, in connection with non-use of goods or services within the economic activity loses the right to accrue tax credit and should increase tax liabilities on the date of cancellation of accounts receivable.

The most controversial issue is the adjustment of the tax credit (case 2), when the money for the supplier are not listed. The main argument of the tax authorities (official bodies of the State Fiscal Service) is that goods (works, services) after the expiration of the limitation period become free of charge. The reason for this opinion is in the Lists of the Fiscal Service of Ukraine which have been drawn up for taxpayers for several years, the last in March 2016. However, there is no direct rule for adjusting the tax credit in the Code. Thus, Article 192 of the Tax Code, which contains a list of grounds for correction, does not contain the basis for the write-off of uncollectible payables. There are court decisions in the favor of taxpayers [5]. It is interesting that in case of writing-off uncollectible receivables (case 3 in the table), in a practically symmetric previous situation, the official opinion of the fiscal services is changing to the opposite: the seller has no legal basis for adjusting the amount of tax liabilities on value added tax at writing-offs receivables based on pp. 14.1.191 and Art. 186 of Tax Code [2]. Some authors believe that this approach relates to the double standards of the tax service [5].

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Table 1

**Comparative analysis of adjustment of credit and VAT liabilities
in terms of uncollectible debts**

<i>Type of debt</i>	<i>The regulation of the Tax Code of Ukraine and the situation arising from payment or supply</i>	<i>Justification of opinion on adjustments</i>
The monetary accounts payable which is the base the tax liability is calculated	Art. 185 P. 187.1 of the Tax Code of Ukraine Advance payment received by the seller, but the goods are not supplied	<i>Writing-off accounts payable</i> Tax inspector's point of view Taking into account that the seller did not return the money previously received from the buyer as a pre-payment for the goods (services) if during the limitation period there is no actual delivery of the goods (services) the seller has no legal basis for adjusting the amount of tax liability with VAT when writing off payables.
Commodity payables for which there is a tax credit	Art. 198 P. 198.3 and P. 198.2 of the Tax Code Tax credit arises in cases when goods (works, services) are used in taxable transactions within the taxpayer's economic activity. Payment for the goods are not distributed to the seller (supplier)	<i>Writing-off accounts payable</i> Tax inspector's point of view Goods (work, services), after the expiration of the limitation period gain the status of received for free. Another point of view. However, there is no direct rule for adjusting the tax credit in the Code. There are court decisions in favor of taxpayers
Commodity receivables, on which there is a tax liability	Art. 185 and P. 187.1 of the Tax Code In the supply of goods under the general rule, a tax liability was charged Money for goods are not transferred by the buyer	<i>Write off receivables</i> Tax inspector's point of view <i>Given that the buyer did not return previously supplied goods/services to the seller and during the limitation period there was no payment for such goods/services, then, regardless whether the procedure of pre-trial settlement of doubtful receivables was conducted or not, the seller has no legal basis to adjust the amount of tax liabilities on value added tax at the write-off of accounts receivable.</i> P. 14.1.191 and Art. 186 of Tax Code
Cash receivables that arise Tax credit	Cash receivables arise when the buyer paid for the goods, but did not receive them. 198.3 and 198.5 of the Tax Code The buyer transferred the advance but the goods were not received.	<i>Writing off the receivables</i> <i>If the buyer at the date of transfer of the previous (advance) payment for the goods / services formed a tax credit, but during the limitation period such goods/services were not received from the supplier, then such a buyer due to non-use of goods/services within the economic activity loses the right to accrue tax credit and should increase tax liabilities at the date of writing off receivables where the tax base is determined on the basis of the cost of acquiring such goods / services.</i>

Adjustment of a tax credit influences the reduction of assets of the company - debtor and complicates its financial position. Repeatedly in the scientific literature arises the issue about the need for tax incentives for the enterprise in the context of crisis management which makes it possible to restore its solvency. At present there is a temporal order (from 1.01.2017 to 1.01.2020) of exemption from payment of value-added tax of the debtor's operations of the supply of goods for the purpose of its debts repayment to creditors in accordance with the restructuring plan. That is, "the taxpayer - debtor does

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not apply the provisions of Section V of the Tax Code about the calculation of tax liabilities or adjustments of previously recognized tax liabilities and/or a dedicated tax credit according to such supply" (Section XX Transitional Provisions, part 2, Art. 46). The preferential arrangement for the debtor is valid if there is a restructuring plan in accordance with the Bankruptcy Law or the Law of Ukraine "On Financial Restructuring" [6], incidentally, the latter is temporary.

Significant contradictions in the decisions of the debtor's pre-judicial renewal are caused by such factors as duplication of the main provisions of the newly created Law "On Financial Restructuring" of the Law "On Bankruptcy"; the use of a supposedly "flexible" order through participation in pre-trial renewal of only a part of creditors, in contrast to the participation of all creditors, making a decision without a commercial court. Such processes in the context of temporary exemptions of value added tax provide an opportunity to conclude about incomplete and local-in-time nature of tax policy vis-a-vis the debtor company.

Taking into account the drawbacks mentioned above we propose: to use the signs of hopelessness provided by Tax Code for the recognition of uncollectible payables; to expand the list of features taking into account the features of the procedures of writing off payables in the context of debtor's crisis management in accordance with the rules of bankruptcy law; to introduce a preferential tax treatment (Art. 197 of Tax Code) for debtors in procedures regulated by the bankruptcy law on a permanent basis.

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