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WAYS TOWARDS ADVANCED AUTOMATIC MEASURES TO PREVENT VAT EVASION

Abstract. This paper intends to bring a view on possible measures, which the Cabinet of Ministers and Finance Department of Ukraine are authorized to implement. These measures concern introducing new criteria for evaluating the level of risks, sufficient for stopping a registration of tax invoices/adjustment calculations, depending on a kind of the stated goods' issue. Both the criteria and implementation of those are based on the information, received from an automated VAT payers' inventory accounting system, necessary for creation as a component of VAT electronic administration system. The paper brings a view on measures, intended to automate a process of reviewing tax payers' written explanations by the SFS committee, established in accord to FDU's order # 566 on 13.06.2017. In addition, some automatic measures to prevent realizing the "twisting" operations have been proposed in the paper. It was noted that the procedure for stopping the registration of risky tax invoices was introduced as a means of automatically preventing such a widespread VAT avoidance scheme as a "twist" for all goods, and not just for fuel. In this article, under the risky tax billing/adjustment calculations, it is proposed to understand such tax invoices/adjustments calculations that satisfy the approved criteria of the Ministry of Finance

to assess the degree of risk sufficient to stop their registration. It is noted that the principle of indiscretion has already been established in Ukraine. It is established prematurely, since it is not yet backed up by effective automatic measures to prevent VAT deviations. The real implementation of this principle is one of the key points in improving the investment climate and implementing economic reforms in Ukraine. It will sharply increase the level of freedom of doing business in Ukraine, will open the way for an automatic VAT refund procedure and deprive enterprises of unreasonable checks that are carried out in connection with the detection of tax breaches by their counterparties (and, more often, counteragents of their counterparties).

Keywords: stoppage of tax invoice registration, electronic governance.

НАПРЯМИ УДОСКОНАЛЕННЯ АВТОМАТИЧНИХ ЗАХОДІВ ПОПЕРЕДЖЕННЯ УХИЛЕНЬ ВІД СПЛАТИ ПДВ

Анотація. Викладені можливі заходи, на встановлення яких уповноважений Кабінет Міністрів та Міністерство Фінансів України. Ці заходи стосуються впровадження нових критеріїв оцінки ступеня ризиків, достатніх для зупинення реєстрації податкових накладних/розрахунків коригування залежно від виду походження товарів, вказаних в них. Критерії та їх запровадження засновані на інформації, отримуваній із автоматизованої системи обліку товарних запасів платників ПДВ, яку необхідно створити як складову системи електронного адміністрування ПДВ. У статті викладені заходи, спрямовані на автоматизацію процедури розгляду письмових пояснень платників податку комісією ДФС, створеною згідно з наказом МФУ від 13.06.2017 р. за № 566. Крім того, в статті запропоновано автоматичні заходи попередження здійснення операцій “скрутки”. Відзначено, що процедура зупинки реєстрації ризикованих податкових накладних була запроваджена як засіб автоматичного попередження такої розповсюдженої схеми ухилення від сплати ПДВ, як “скрутка”, для всіх товарів, а не тільки для пального. В цій статті під ризикованими податковими накладними/розрахунками коригування запропоновано розуміти такі податкові накладні/розрахунки коригування, які задовольняють затвердженим Мінфіном критеріям оцінки ступеня ризиків достатніх для зупинення їх реєстрації. Зауважено, що принцип беззаперечності вже встановлений в Україні. Він встановлений передчасно, оскільки ще не підкріплений ефективними автоматичними заходами попередження ухилень від сплати ПДВ. Реальне запровадження цього принципу є одним із ключових моментів покращення інвестиційного клімату та здійснення економічних реформ в Україні. Воно різко підвищить рівень свободи ведення бізнесу в Україні, відкриє шлях до встановлення автоматичної процедури повернення ПДВ та позбавить підприємства від необґрунтованих перевірок, які здійснюються у зв’язку з виявленням податкових порушень їх контрагентів (а частіше, контрагентів їх контрагентів).

Ключові слова: зупинка реєстрації податкових накладних, електронне врядування.

ПУТИ СОВЕРШЕНСТВОВАНИЯ АВТОМАТИЧЕСКИХ МЕТОДОВ ПРЕДУПРЕЖДЕНИЯ УКЛОНЕНИЙ ОТ УПЛАТЫ НДС

Аннотация. Изложены возможные меры, на установление которых уполномочены Кабинет Министров и Министерство финансов Украины. Эти меры касаются внедрения новых критериев оценки степени рисков, достаточных для останковки регистрации налоговых накладных/расчетов корректировки в зависимости от вида происхождения товаров, указанных в них. Критерии и их внедрение основаны на информации, получаемой из автоматизированной системы учета товарных запасов плательщиков НДС, которую необходимо создать как составную часть системы электронного администрирования НДС. В статье изложены меры, направленные на автоматизацию процедуры рассмотрения письменных объяснений налогоплательщиков комиссией ДФС, созданной согласно приказу МФУ от 13.06.2017 № 566. Кроме того, в статье предложены автоматические меры предупреждения осуществления операций “скрутки”. Отмечено, что процедура останковки регистрации рискованных налоговых накладных была введена как средство автоматического предупреждения такой распространенной схемы уклонения от уплаты НДС, как “скрутка”, для всех товаров, а не только для горючего. В этой статье под рискованными налоговыми накладными/расчетами корректировки предложено понимать такие налоговые накладные/расчеты корректировки, которые удовлетворяют утвержденным Минфином критериям оценки степени рисков достаточных для останковки их регистрации. Акцентировано, что принцип бесприкословности уже установлен в Украине. Он установлен преждевременно, поскольку еще не подкреплен эффективными автоматическими мерами предупреждения уклонений от уплаты НДС. Реальное внедрение этого принципа является одним из ключевых моментов улучшения инвестиционного климата и осуществления экономических реформ в Украине, что резко повысит уровень свободы ведения бизнеса в Украине, откроет путь к установлению автоматической процедуры возврата НДС и избавит предприятия от необоснованных проверок, осуществляемых в связи с выявлением налоговых нарушений их контрагентов (а чаще, контрагентов их контрагентов).

Ключевые слова: останковка регистрации налоговых накладных, электронное государственное управление.

Target setting. One of the key mechanisms for distorting the economic proportions in Ukraine is the violation of the national legislation in terms of VAT. From 01.07.2017, as one of the methods of combating tax offenses, the procedure for automatic monitoring of tax invoices and the stopping of their

registration was introduced. The first months of such monitoring showed its imperfection. At present, an attempt is being made to improve the monitoring mechanism by various authorities: the Verkhovna Rada is preparing amendments to the laws regulating the monitoring of tax bills, the Cabinet of Mi-

nisters and the Ministry of Finance are preparing amendments to the monitoring procedure. All these attempts relate to the legal aspects of this case. Therefore, now there is a need for a scientific analysis of the procedure for monitoring tax invoices in terms of information and economic aspects.

Analysis of recent research and publications. Problems of automation of tax control were investigated by many authors. First of all, note the monograph M. I. Melnik and I. V. Leschukh [1], where the current state of the problems of tax control automation in Ukraine is most fully considered and numerous bibliographies on this topic are provided. All these publications are devoted to problems of automatic detection of business entities that violate tax legislation.

The purpose of the article is to study, define and justify the ways of improving such a mechanism for monitoring tax bills, which will help to make tax breaches either economically unprofitable or impossible. The final result of such research should be the development of automatic mechanisms for preventing tax offenses, which will replace the mechanisms for their automatic detection.

The statement of basic materials. From 2015, Ukraine has chosen to set the automatic prevention of evasion from payment of VAT in addressing the issue of evasion from payment of VAT. The end result of such reforms should be the rejection of the principle of joint responsibility of the buyer and seller for the evasion of payment of VAT and the real introduction of the principle of indisputability of the tax credit. Note, that the principle of indisputability has

already been established in Ukraine [2, p. 3 cl. 201.10 art. 201]. According to the author, it is set precociously, since it is not backed up by effective automatic measures to prevent evasion from payment of VAT.

The real implementation of this principle is one of the key points in improving the investment climate and implementing economic reforms in Ukraine. It will sharply increase the level of easiness of doing business in Ukraine, will open the way for an automatic VAT refund procedure and deprive enterprises from unreasonable checks that are carried out in connection with the detection of tax breaches by their counterparties (and, more often, counterparties of their counterparties).

The history of setting up automatic measures to prevent evasion from payment of VAT has not yet been completed, and so far, it consists of three important steps, that set the direction of development in this matter.

The first step was taken on 01.07.2015 [3, cl. 48]. An electronic system for administering VAT was introduced, which made it impossible to register fictitious tax invoices (fake bills refer to such invoices, for which the corresponding tax obligations are not paid to the budget). Note, that in the EU, so far, non-payment of VAT by taxpayers (output tax) is widespread. In particular, such non-payment is the basis of the “carousel” scheme.

After this first step, there was an exhaustive list of possible offenses. All of them are based on the purchase of documents for a product, that is not actually available (it was sold for cash, in violation of the rules of using payment

transaction registrars, without reflecting in the seller's accounting) and use of the tax credit accrued for these or other purposes. Here is a list of such goals.

1. For the simultaneous sale of documents for virtually absent other product (this type of offense is called "twist" (goods)[5]);

2. For fictitious (unreal) delivery of services;

3. To reduce own tax liabilities;

4. To receive a budget reimbursement (an analogue of the Carousel scheme circulated in the EU countries).

The second important step was taken on March 1, 2016 [6, p. 58, section I]. An electronic fuel injection administration system was introduced, which, in addition to administering the excise tax, made it impossible to "twist" operations with fuel. This system is based on inventory accounting of fuels, which the registered payer of the excise tax on fuel received from another registered payer (or imported into the customs territory of Ukraine) and has not yet been written off from the balance sheet. This system has led to the fact that the operation of fuel twisting will result in the automatic occurrence of excise tax obligations (the impossibility of realizing any quantity of fuel of unknown origin without additional excise duty obligations).

The third important step was taken on 01.07.2017 [7–9]. The procedure for stopping the registration of risky tax invoices (hereinafter – stopping procedure) was established. This procedure has been introduced as a means of automatically preventing of such a widespread scheme of evasion from payment of VAT as "twist" for all goods, and not just for fuel. Unlike the first two suc-

cessful steps, this step was unsuccessful, as it has a number of significant drawbacks listed below:

1. The stopping procedure does not prevent the fictitious supply of services and other major VAT evasion transactions, that are carried out by purchasing a fictitious tax credit (purchasing documents for goods with a VAT charge without a real purchase of goods);

2. The system of electronic administration of VAT is configured in such a way that, in addition to the "twist" operations, it considers doubts as to the fairly large volume of operations of law-abiding VAT payers (for example, it considers as "twist" the sale by the producer finished goods, since the producer sells not the product, that he has purchased (raw materials); the same applies to operations for obtaining a prepayment for one commodity with the simultaneous implementation of a prepayment for another commodity which the system also considers as "twist");

3. The system of electronic administration of VAT is configured in such a way, that it captures all the twist operations, but only stops the violation in large volumes.

The first lack leads to the fact, that the principle of indisputability of the received tax credit began actively using by violators of tax legislation, carrying out fake supplies of services, since according to this principle it is impossible to bring the perpetrator of counterparty to justice.

The second lack leads to the fact that, in addition to automatic stopping of registration of doubtful tax invoices, it is necessary to establish a separate

procedure for registration of suspended tax invoices (or refusals to register them), which should not be carried out automatically (with the participation of a large number of employees of the SFS). At the present time, especially the lack of the number of SFS employees who must implement the procedure for registration of suspended tax invoices, led to the appearance of the Draft Law № 7115 dated 15.09.17. The draft Law abolishes the automatic stop of the procedure and the principle of indisputability of the received tax credit (p. 571.7 of the Draft Law).

The third lack has led to the perpetrators learning quickly to avoid stopping the registration of tax invoices (offending firms simply reduced their monthly volumes and, at the same time, offenders increased the number of firms).

The presence of the above mentioned lacks led to The Verkhovna Rada of Ukraine having amended the Tax Code of Ukraine 06.12.2017 in which the article 201.16 was recited in new version under which the stoppage of tax invoice registration should be performed in the course and on the grounds developed by Cabinet of Ministers of Ukraine [10]. Thus, the problem of creating automated measures of prevention has become contemporary most important.

In the paper [11], the author proposed the introduction of the new electronic system for administering VAT, with the help of which in the automatic mode, will be warned almost all of the above schemes of evasion from VAT. The proposed system is based on the same principle as the system of electronic administration of fuel sales — on

the automatic accounting of inventories of goods, received by the taxpayer from another VAT payer or imported to the customs territory of Ukraine and have not yet written off from the balance sheet (hereinafter — automatic inventory accounting)

The main advantage of the proposed new system of measures for preventing of evasion from payment of VAT is that it can be based on the same software as the current system of monitoring of tax invoices, used in the procedure for stopping their registration. The introduction of the new system of measures requires changes to the legislation regarding the obligations and rules for tax payer of VAT (in detail [11], it is described in detail, that these changes consist of 20 measures and are implemented in three stages).

In this article, measures are taken at the first stage of the implementation of such a system, which are somewhat different from the similar measures outlined in the paper [11]. The main cancellation of the measures outlined in the article is that their implementation is possible within the competence of the Cabinet of Ministers and the Ministry of Finance of Ukraine and does not require changes to the Tax Code of Ukraine.

1. Proposals for changing the form of tax invoices/calculations of correction and the order of their filling in the first stage of the formation of an automated accounting system for inventories of VAT payers.

In this part, the ways of creating the automatic accounting system for inventories of VAT payers will be considered. The solution of this task is possible. It was shown in the paper [11]. Note, that

such accounting system is based on the system of electronic administration of **fuel sales** (SEA of FS).

As already noted in the introductory part, the procedure for stopping the registration of risky tax invoices (hereinafter referred to as the stopping procedure) was introduced as a means of automatically preventing such a widespread scheme of evasion from payment of VAT as a “twist” for all goods, and not just for fuel. In this article, under the risky tax invoices/ calculations of correction (hereinafter – TI/CC) considered such TI/ CC, which satisfy the criteria approved by the Ministry of Finance to *assess the degree of risk sufficient to stop their registration (hereinafter – Criteria)*. Operation of “twist” of goods schematically outlined in the paper [11].

In the language of demand and supply, the scheme of “twist” can be described as follows. In Firm F3, there is a need to implement with a minimum tax burden of goods of unknown origin, which it acquired in the shadow market for cash, without reflecting it in accounting. At Firms F1, in turn, there is a need for a write-off from the balance of the officially acquired product, which it actually has already realized for cash and which is actually no longer on the balance sheet. The firm F2 satisfy the needs of both firms, having provided documents for the desired product to the Firm F3 and acquiring documents on the actual absence in the balance sheet of the company F1 goods. Thus, the needs of both firms are satisfied. In this case, each of the three firms will have to pay VAT to the budget only from a certain minimum percentage of turnover.

According to the author, the software for monitoring of the TI/CC is not the basis for the shortcomings of the stopping procedure. It has information that is analyzed during monitoring – the system should analyze somewhat different data set, presented in the TI/CC of VAT payers. The main reason is that the SEA of VAT does not distinguish, whether the VAT payer has received the goods, or he has only paid a prepayment of goods/services.

In this article, it will be proposed, that the stopping procedure will be based on the automatic accounting of VAT payers’ inventories. Under this accounting, have in mind, that the accounting of quantity (volume) of goods of the certain nomenclature (according to the first four digits of the code of the Ukrainian Foreign Ministry) and the certain unit of measurement.

In order to keep such records, the SFS bodies, according to the author, require additional information from the payers, the main thing – information about:

1. Had the VAT payer received the goods, or he only paid the prepayment of goods/services;
2. Are the commodity stocks used as a raw material for work, services, or other goods (including on tolling terms)?

According to the author, such accounting should be the basis for the development of new Criteria. The possibility of conducting such accounting was proved in the paper [11]. The possibility of gradual formation of such accounting was also proved. It is worth emphasizing, that creating conditions for obtaining information of the first

type is enough only at the expense of the normative acts of the Cabinet of Ministers and the Ministry of Finance of Ukraine. That is, the introduction of such accounting at the first stage is possible due to actions of only the Cabinet of Ministers and the Ministry of Finance. However, in order to create the conditions for obtaining information of the second type, changes will be necessary to the Tax Code of Ukraine, which imposes the creation of such conditions for the next stages of the formation of the necessary accounting system.

Let's formulate measures that, in our opinion, should be taken by the Cabinet of Ministers and the Ministry of Finance of Ukraine (in the framework of the powers granted to it, according to p. 201.2 art. 201 TCU) regarding the modification of the form and procedure for filling the TI/CC in the first stage of the formation of the automated system for accounting for inventories of VAT payers.

1. To supplement Section B of the form of the TI, approved by the order of the Ministry of Finance of 31.12.2015 № 1307, by the graph 3.4 with the conventional name "the type of goods, depending on the reasons for its acquisition". If the tax liability arises in connection with the receipt of the advance payment for the goods, this graph is not filled. Subsequently, this article will show that all goods that are in the customs territory of Ukraine on the balance of VAT payers, by their origin, can be classified into the 13 types. Thus, when shipping the goods, in this graph it is needed to put the corresponding code from 1 to 13, depending on the type of shipped goods. The line, in which the graph 3.4 is not filled, hereinafter

will be called as an "advance row". The row, in which the code is the type of the shipped product, hereinafter will be called as a "shipping row".

2. Similarly, add section B of the forms of the CC (Annex 2 to the form of the TI) by the graph 4.4 with the same conditional name.

3. For the case when the seller ships the goods after receiving a prepayment, to introduce mandatory compilation of the CC to TI, which was made in connection with the receipt of prepayment. In the revised row, the volumes of supply of goods that should have been put in the future are reduced (graph 13 of section B of the CC)¹. At the same time, one or several shipping rows are created in the CC, in which the volumes of supply of the good(s) that are already shipped (graph 13 of section B of the CC) are increasing. Note that in this way, when adjusting the one advance row of the TI, in the corresponding CC can be contained from two to 14 rows under the one number (one row is advanced, and the other – shipping). In the overwhelming majority, in the CC, there will be one advance and one shipping rows.

Measures 1–3 are the key proposition of our work.

The purpose of these changes is to make the information on the shipment of goods subject to VAT paid to the electronic database of the VAT administration system. The information about the type of goods shipped is necessary for the implementation of the new Criteria for monitoring of the TI/CC, drawn up in connection with

¹ This can be done either by changing the quantity of the product or its price.

the shipment of goods to be offered in the following sections of the article. According to the author, the monitoring of the TI/CC, made in connection with the receipt of prepayment is not necessary.

In addition, it is proposed to enable for VAT payers electronically inform the system of changes in the quantitative indicators of goods contained in them on the balance due to the change in their unit of measurement.

As a result of these measures, the SEA of VAT will allow the VAT payer to automatically record stockpiles of goods that they have either received from other VAT payers or imported into the customs territory of Ukraine, and have not yet been shipped to another country (hereinafter – automatic inventory accounting).

Note, that the Cabinet of Ministers and the Ministry of Finance does not have the authority to introduce special sanctions for failure by VAT payers the mentioned above measures. Moreover, the introduction of these measures will significantly increase the workload for accounting by VAT payers. But despite the possibility of non-fulfillment of the above-mentioned measures, the VAT payers will be interested in their implementation, since it will be further shown that the new criteria for detecting of the risky TI/CC in the work below will be such, that the recipient of the goods will be forced to inform the SEA of VAT on the fact, that the goods available in its stocks were indeed received from other VAT payers. The seller of the goods, in turn, will be interested in the correct indication of the code of the type of the shipped goods to reduce the risk of stopping his TI/CC.

2. Measures for the ranking of the shipped goods, depending on the grounds of their origin.

Simultaneously with the changes to the form of the TI/CC, it is proposed to enter the registration of producers of goods in the SFS bodies. Within the framework of these proposals, voluntary registration of manufacturers of goods is foreseen under a special application (for each type of goods according to the UKT ZED code, including the nomenclature of wastes that arise on a permanent basis as a result of their activities), which, in the first order, specifies the table of data of the VAT payer, according to the annex to the Order of the Ministry of Finance from 13.06.2017 № 567, as well as other data, the full list of which is indicated in the work [11, p. 29]. In addition, it is proposed that such producers should be able to provide information in electronic form about shipped goods made from customer's raw materials to the SFS authorities. This document will indicate the nomenclature, the unit of measurement and the quantity (volume) of the shipped goods according to the rules for indicating similar information in the tax invoices. After the introduction of such measures, all goods that are in the customs territory of Ukraine on the balance of VAT payers, on the basis of their origin can be classified as follows:

1. produced directly by the taxpayer, which is registered by the manufacturer of this nomenclature of goods;
2. made by the registered producer of this nomenclature of goods from the customer's raw materials of the VAT payer (who is the first owner of the goods), provided that the manufacturer informed the SEA of VAT about this;

3. waste of economic activity of the taxpayer, which is registered by the producer of the goods (services);

4. produced directly by the taxpayer, which is not registered by the manufacturer of this product;

5. made from the customer's raw materials of the VAT payer (who is the first owner of the goods) by the person who is either not registered with the manufacturer of this nomenclature of goods or did not inform the SEA of VAT on the shipment of such goods;

6. waste of economic activity of the taxpayer, which is not registered by the producer of the goods (services);

7. received from other VAT payers after ____ 20__². (subject to registration by such TI/CC payers, which specify the fact of shipment of the goods, or the availability of other documents, which, according to p. 201.11 p. 201, is the basis for calculating tax amounts, related to a tax credit without obtaining a tax invoice);

8. received from other VAT payers after ____ 20__² without registration by them of the TI/CC, in which the fact of the shipment of goods (in the presence of documents, confirming the acquisition of these goods)³;

9. acquiring by the person before the moment of its registration by the VAT payer (if there are documents, confirming the acquisition of these goods);

10. Acquiring by the tax payer before ____ 20__² (if there are docu-

ments, confirming the acquisition of these goods);

11. Receiving from the non-payers of VAT after ____ 20__² (if there are documents, confirming the acquisition of these goods);

12. imported by the taxpayer to the customs territory of Ukraine after ____ 20__²;

13. all other goods for which there are no documents, confirming their acquisition from other persons⁴.

Such a list of types of goods, depending on their origin, is exhaustive. *In the first stage of the formation of the automatic inventory accounting system, the SEA of VAT will only account the goods of types 2, 7 and 12.*

All goods, in their turn, in terms of the risk of possibility of conducting the "twists" operation, can be classified for products with no risk (1); goods with low (2), goods with middle (3) and goods with high-risk degree (4). Combining both classifications it comes that in the degree of risk, the types of goods are groups of types of goods on the basis of acquisition. In such case:

1. Category 1 belongs to goods of types 2, 7 and 12, since, after introducing of accounting of the inventory of payers in the system, it will identify all facts of shipment of goods to volumes larger than the available stocks of these goods on the balance of the payer;

2. The second group includes goods of types 1 and 3, since the purchase of fictitious goods as raw materials for further fictitious production of finished products is widespread among manufacturers;

² The date from which the changes to the legislation proposed in this article come into force must be set.

³ Including, in the case of receiving goods without the consent of its owner when charging them.

⁴ Including finds, treasures, goods acquired by prescription.

3. Group 3 includes products of types 9 and 10;

4. The fourth group includes goods of types 4, 5, 8, 11 and 13;

Products of the 6th type can be both moderate and highly risky. Everything depends on the grounds for acquiring liquidated goods (from which waste is generated).

3. New criteria for assigning the TI/CC to the category of risky and automat-ing their verification, depending on the type of origin of the shipped goods.

In this article, under the procedure for checking risky TI/CC is the procedure for registration or refusal to register the suspended TI/CC, which is carried out by the commission of the SFS, established in accordance with the order of the Ministry of Finance from 13.06.2017, № 566. The main proposal of this part of the article is establishment of the new Criteria for the TI/CC, depending on the type of shipped goods. In addition, suggestions are made for the automation of checking of the stopped TI/CC. Also, the identification of signs, that TI/CC is not monitored depending on the types of shipped goods.

At first, let's consider establishment of the Criteria for the TI/CC, drawn up as a result of shipment of goods of the type 12. It is proposed that all TI/CC of this type will be a subject to monitoring, including those TI/CC, which according to the current edition of the Order of the Ministry of Finance dated 13.06.17 № 567 (p. 5), are exempted from monitoring. It is suggested to consider as risky that TI/CC, in which the quantity of shipped goods does not correspond to the quantity of

goods, that are accounted in the SEA of VAT (the goods shipped more than they were imported into the customs territory of Ukraine). For a charitable VAT payer there are two possible reasons for assigning such TI/CC to a risky one:

1. Error in filling the TI/CC, especially in section 3.4 of Section B of the TI (graph 4.4 of the Section B of the CC);

2. Information on the import of goods, for some technical reasons, is not available in the SEA of VAT.

It is suggested to configure the software, with which the TI/CC are composed, so that it has the opportunity to receive information on the availability of goods of the type 12 (and types 2, 7) that are accounted in the SEA of VAT. Within the framework of the proposal, it is envisaged to indicate to the VAT payer that he may have made a mistake in assigning the shipped goods to the type 12 and informing him before registration of the TI/CC about possible threats to stop the registration of this TI/CC.

It is suggested that the procedure for stopping and checking the stopped TI/CC will be adjusted in such way, so that the VAT payer, upon receipt of such information, was interested not to register the problem TI/CC, or either to correct his own error, or to eliminate the reason that information on the import of the goods is not present in the SEA of VAT. *This principle will apply to the stopping procedure and checking of stopped TI/CC, drawn out due to the shipment of goods of all other types.*

If the VAT payer registers a problem TI/CC (which automatically falls under the risk rating criterion), the SEA of VAT stops the registration of this

TI/CC, and in electronic form sends to the taxpayer the amount of goods in this nomenclature, which is accounted for in the SEA of VAT as a commodity of type 12, from indicating the details of customs declarations, according to which this product was imported. Also, the system sends the details of the TI/CC, according to which the goods of this nomenclature have been shipped. The system provides the taxpayer with an offer to verify the correctness of filling the TI/CC and informs him, that he has the right not to apply for verification, and to register a new TI/CC without errors. In case of receiving from the payer the application for verification, the system asks the payer to provide:

1. All documents concerning the origin of the goods, which are indicated in the stopped TI/CC;

2. Documents sufficient to verify the real availability of inventories, recorded in the SEA of VAT. The requirement for such documents is a universal measure for the detection of the “twist” operations with goods of all other types. This is explained by the fact that at the entities, conducting the operation of the “twist”, the availability of inventories is not real, but fictitious. That means, they only have documents on the specified goods.

Note, that the stopping procedure, established by the legislation at the present time, does not focus on checking the actual availability of inventories.

If the taxpayer will provide all the documents correctly, but his only mistake will be the incorrect filling of the type of shipped goods in graph 3.4 of Section B of the TI (graph 4.4 of Section B of the CC), the commission itself either decides to register the TI/CC or

has the right to refuse the registration of such TI/CC, due to the fact, that the provided documents are not sufficient for the classification of the goods to the type 12 and thus are not sufficient for the decision of the Commission to register such TI/CC, in accordance with the Resolution of the Cabinet of Ministers of Ukraine dated 29.03.2017 № 190. Note, that in the vast majority of cases the information provided by the taxpayer is the basis for carrying out unscheduled inspections of its activities.

The establishment of the Criteria for TI/CC, drawn up as a result of shipment of the goods of the type 2 and 7, and the procedure for their verification, is proposed to be similar to the goods of the type 12, since the excess of volumes of the shipped goods of these types correspond to the volumes, that are accounted in the SEA of VAT, as well as in the previous case, is only possible as a result of incorrectly filling in graph 3.4 (4.4) of the TI (CC) or a technical error in the SEA of VAT. It is proposed that all the TI/ CC with products of this type should be monitored.

Let's consider now the establishment of the Criteria for goods of the types 1 and 3. For manufacturers of goods, reasons for stopping the registration of the TI/CC are:

1. The product does not belong to the nomenclature, the production of which it has registered;

2. The product does not meet the special criteria, set for manufacturers of this nomenclature. Consideration of such special criteria goes beyond the scope of research of this article.

In the case where the reason for stopping the registration is the first one, it is

suggested to set the procedure of stopping and checking the stopped TI/CC, also in the same way as for goods of the type 12.

The range of the TI/CC made in connection with the shipment of goods of the type 1, which are subject to monitoring, is proposed to be narrowed as follows: to exclude from monitoring the TI/CC, compiled by those enterprises, the volume of deliveries of which are equal, or less than 2.5 million UAH per month.

For goods of the type 11 (the most common type of goods used in the “twist” operations) is proposed to reduce significantly, the range of the TI/CC, which are not monitored. The peculiarity of goods of the type 11 is that all the TI/CC (with such goods) are considered as risky. Gron’s paper (2016) proves, that operation of buying by the VAT payer of goods from the non-payer of VAT with a view to their subsequent resale is possible from a legal, but questionable from an economic point of view. First of all, it is proposed to apply a stopping procedure for all operations on the shipment of goods of this type, the volume of which exceeds the amount of 85 thousand UAH per month. In addition, it is suggested that the payer to fill out the application with the conventional name for each such TI/CC: “Information on the acquisition of the shipped goods” (hereinafter, Annex 3). Such application is needed to automate the procedure for checking the stopped TI/CC. It should contain the codes of the EDRPOU for suppliers of goods and the details of the documents, *confirming the actual acquisition of these goods*. Also, for automation, it is proposed

that, at stoppage, such documents be submitted in electronic form of scan copies, and the only reason for refusal to register was untimely submission of scan copies of the documents, or submission of those, that do not confirm the actual receipt of goods. The discrepancy of the submitted documents with the legislation should be the sole basis for appointment of the unscheduled inspection or initiation of the criminal case. Note, that as for all stopped TI/CC, in the case of goods of the type 11, the actual availability of inventories is subject to inspection.

For goods of the type 9, 10 the range of the TI/CC, which are subject to monitoring, it is proposed not to expand (leave the volume of deliveries up to 500 thousand UAH per month). It is proposed to oblige taxpayer to fill in the Annex 3 to each registered TI/CC. At the stoppage of registration, VAT payers must provide scan copies of documents, the details of which were specified in Annexes 3. The procedure for denial of registration or authorization for registration is the same as for the type of the goods 11.

For products of the types 4, 5, 8, 13 (high risk), it is also proposed to expand the scope of the TI/CC which are the subject to monitoring, similar to the measures for the type of goods 11. But since in transactions with goods of the types 4, 5, 13, the payers are not able to fill in the Annex 3, they submit all documents, confirming the grounds for acquiring these goods and the reality of available inventories.

Proposals for determining the criteria for transactions with goods of the type 6 are similar to proposals for goods of the type 11, given that the risk

of such TI/CC depends on the reason for acquisition of the products, that are being eliminated (there will be 13 such possible grounds). Therefore, the details of such Criteria go beyond the scope of this article.

4. Proposals for registration of the risky TI/CC without stopping.

As described in the previous sections of the article, we draw a conclusion that a rather broad range of the TI/CC falls within the category of risky ones. This part of the article proposes measures that will not allow stopping of the risky TI/CC, if the taxpayer has a sufficient monetary amount on his electronic account in the SEA of VAT (or paid to the budget).

Within this part of the article, it is proposed that the VAT payer, in addition to information about the amount $\Sigma_{\text{накл}}$ for which he has the right to register the TI/CC, was still able to obtain information about his right to register the risky TI/CC and already registered risky TI/CC. The basis of these proposals is the VAT administration model, which consists in the fact, that the VAT payer has the right to register the risky TI/CC if the inequality is fulfilled:

$$\Sigma_{\text{рах}} + \Sigma_{\text{спл}} - \Sigma_{\text{відшкод}} \geq \Sigma k_i S_i, \quad (1)$$

where $\Sigma_{\text{рах}}$ – amount which is on the electronic account of the taxpayer in the SEA of VAT; $\Sigma_{\text{спл}}$ – the amount of tax paid to the budget since the entry into force of the proposed changes in this article to the law; $\Sigma_{\text{відшкод}}$ – the total amount of tax, declared by the payer to the budget reimbursement (including received budget reimbursement), taking into account the adjustments and results of inspections, carried out in accordance with the Tax Code of

Ukraine; S_i – total tax on registered risky TI/CC, made up in connection with shipment of goods of the i -th type; k_i – coefficient of risk of possibility of carrying out the “twist” operation with the product of i -th type ($0 \leq k_i \leq 1$).

The risk factors are set by the Cabinet of Ministers, according to the economic situation. First, it is suggested that all the k_i be equal to one.

The measures proposed in this part are completely automatic, do not require the intervention of DFS employees in the course of work and will make use of the tax credit, accrued when receiving documents for the goods for the “twist” operation, economically unprofitable. This system of measures cannot be warned only a separate case of the “twists” operation, but namely:

- An enterprise that performs the “twist” operation receives a prepayment from the client by registering the appropriate TI/CC and does not register the TI/CC, drawn up in connection with shipment of this product;

- Acquired product from offender, the client uses as a raw material for manufacturing of other products (services).

Impossibility of warning is explained by the fact, that the transfer of goods of unknown origin does not fit into the system, and the Ministry of Finance does not have the authority to impose separate sanctions for the fact, that the registration of the TI/CC with the shipping rows did not take place.

Conclusions and perspectives of further research. Thus, the article shows that when receiving additional information from taxpayers, the system of electronic monitoring of TI/CC can be transformed from an automatic search system for offenders who carry

out a “twist” operation in the system of automatic prevention of such an operation. Further research should relate to the development of automatic warning systems for all other tax offenses.

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