

УДК 336.22+336.221.24]-047.44

Ekaterina Bachynskay*Associate Professor of State Studies and Law Department,
ORIPA NAPA under the President of Ukraine, PhD in Public Administration***Olena Maruhschak***PhD student of State Studies and Law Department,
ORIPA NAPA under the President of Ukraine***TAXES AND LAW: A COMPARATIVE ANALYSIS**

The article is devoted to the study of the interaction of taxes and law. A comparative characteristic of the constituent taxes and law is given. The legal mechanism of taxation is analyzed, its essence. It is shown that the relationship of taxes and law enriches them, creates a qualitatively new entity and significantly affects the socio-economic development of the state and society. It is substantiated that the law has the potential, through taxes, to influence the development of the economy, taking into account the objective nature of economic laws. Based on the essence of natural law, it is proved that taxes are a measure of justice and freedom among the state and society. The interaction of taxes and law leads to the creation of a mechanism for the legal regulation of taxation, which includes: the rule of law, legal relations and acts of application of the rule of law.

Key words: Taxes; law; legal mechanism of taxation; system of taxation; rule of law.

Катерина Бачинська*доцент кафедри державознавства та права
ОРІДУ НАДУ при Президентові України, к.держ.упр.***Олена Марушак***аспірант кафедри державознавства і права
ОРІДУ НАДУ при Президентові України***ПОДАТКИ І ПРАВО: ПОРІВНЯЛЬНИЙ АНАЛІЗ**

В умовах сучасної ринкової економіки система оподаткування є одним з головних чинників розвитку суспільного виробництва, який суттєво впливає на соціальну та економічну сфери суспільства. З огляду на нестабільну економічну ситуацію і заплутане податкове законодавство, яке носить виключно фіскальний характер, для України проблема формування стабільної системи податкових надходжень стоїть досить гостро.

Метою статті здійснення аналізу складових податків і права, а також правового механізму оподаткування, його сутності.

Сучасна податкова система України має масу значних недоліків, які є системними. Правовий механізм оподаткування необхідно формувати виходячи з рішення найістотніших проблем оподаткування, серед яких: нестабільність податкового законодавства, високе податкове навантаження, складне і непрозоре адміністрування податків, відсутність довгострокової акцизної політики та багатьох інших проблем, що перешкоджають розвитку малого і середнього бізнесу. Крім того, існують організаційні складності оподаткування, такі як проходження перевірок, здача звітів, відвідування податкових органів, тощо.

Світова практика показує, що податки виконують не тільки фіскальну роль, а й стимулюють розвиток суспільного виробництва. Призначенням податкової системи є не тільки збір податків і забезпечення дохідної частини бюджету для виконання державою своїх функцій, а досягнення стратегічної мети - розвитку національної економіки. Тому

законодавство має відображати і цю сторону оподаткування. Досягти цього можливо спираючись на сучасні підходи до правового регулювання оподаткування.

Правове регулювання планування оподаткування починається з визначення державою видів податків і встановлення податкових ставок. Кожна держава має свої особливості оподаткування і багато в чому вони залежать від відносин, які складаються в соціально-економічній сфері. Разом з тим, загальна тенденція полягає в тому, щоб планувати такі податки, які можуть забезпечити наповнення державного бюджету та вирішення соціально-економічних питань суспільства.

Теоретичний аналіз порівняльної характеристики податків і права показує схожість їх елементів. Взаємозв'язок податків і права збагачує їх, створює якісно нові утворення і суттєво впливає на соціально-економічний розвиток держави та суспільства. Право має потенціал через податки впливати на розвиток економіки, з огляду на об'єктивний характер економічних законів.

Наявність подібних ознак права і податків, зовсім не означає, що ці явища тотожні. Явища ці різнопланові, що мають різну сутність, але наявність схожих ознак дає можливість говорити про їхню конвергенцію.

Виходячи із сутності природного права, можна стверджувати, що податки є мірою справедливості і свободи між державою і суспільством. Взаємодія податків і права веде до створення механізму правового регулювання оподаткування, який включає в себе: норми права, правовідносини і актів застосування норм права.

Механізм правового регулювання оподаткування є системою елементів з їхніми зв'язками між суб'єктами податкової сфери, які опосередковані правом, на противагу тому, що під механізмом правового регулювання зазвичай розглядають законодавство.

Ключові слова: податки; право; правовий механізм оподаткування; система оподаткування; норми права.

Problem statement and relevance. In the conditions of a modern market economy, the tax system is one of the main factors in the development of social production, which significantly affects the social and economic spheres of society. Taking into account the unstable economic situation and the intricate tax legislation, which is purely fiscal in nature, the problem of forming a stable system of tax revenues is quite acute for Ukraine.

Purpose and tasks of the article. The modern tax system of Ukraine has a lot of significant disadvantages that are systemic. The legal mechanism of taxation must be formed on the basis of solving the most significant taxation problems, including: instability of tax legislation, high tax burden, complex and non-transparent tax administration, lack of long-term excise policy and many other problems hampering the development of small and medium businesses. In addition, there are organizational difficulties in taxation, such as passing audits, filing reports, visiting tax authorities, etc.

World practice shows that taxes perform not only a fiscal role, but also stimulate the development of social production. The purpose of the tax system is not only to collect taxes and ensure the revenue part of the budget for the state to perform its functions, but the achievement of the strategic goal - the development of the national economy. Therefore, the legislation should reflect this aspect of taxation. It is possible to achieve this by relying on modern approaches to the legal regulation of taxation.

Legal regulation of tax planning begins with the state determining the types of taxes and setting tax rates. Each state has its own peculiarities of taxation and in many respects they depend on the relations that develop in the socio-economic sphere. At the same time, the general policy is to plan such taxes that can ensure the filling of the state budget and the solution of social and economic issues of the society.

Exposition of basic material. Taxes are a phenomenon that operates in the legal field, forming with it the phenomenon of economic and legal nature. The possibility of such interaction of

taxes and law is related to the nature of these phenomena. Being different in content, however, they have a great deal to each other. In order to understand this process, a comparative characteristic of taxes and law should be made.

The first thing to note is the complexity of the elements of law and taxes. The law has a normative character, represented by a system of generally binding norms. Also applies to taxes. The norms are generally binding for its subjects. Like law, taxes represent the stamps in which the relations between the parties are laid down and must regulate their behavior in accordance with them.

Taxes and the right are objective in nature, which is associated with the development of human society. The objective source of the first and second is the state, since they are its inherent attributes. It is the relationship of taxes of law with the state that determines not only their semantic meanings, but also the essence, content, form, functioning, and so on. Standards of behavior may exist outside the state or before it, but they will not be legal standards, if the latter is absent. The same goes for taxes. Taxes become taxes if they exist in the state structure. The objectivity of law and taxes is deeper than the state itself, since the internal forces of social development cause these phenomena through the structure of the state. Such an internal force is the desire of the process of social development to orderliness. Orderliness is the basis of development, since constant chaos is aimed at destruction, and in its absolute form it does not exist in nature. Law and taxes streamline social relations, fixing them in certain rules of behavior.

Law and taxes have external forms of its manifestation. The most common manifestation for the law is the norm, and for the tax - the rate. Usually, the external manifestation of the right are its sources, i.e. the forms in which it is expressed: laws and other regulatory legal acts, judicial precedent, international legal act, regulatory legal agreement, etc. It seems that this understanding of law is somewhat narrowed, since it is a formal manifestation of it. Law, like any phenomenon, contains a triad: the essence, content and form. The form is an external manifestation of the phenomenon in reality. For law- these are public institutions that are governed by law and the legal relations they engender. For tax as a phenomenon, tax institutions and the relationships that they regulate are also a form.

In many ways, the concepts of law and taxes are similar in their characteristics. So, for example, an indicator of law is justice and an equal measure of freedom. At the same time, justice is a balance of interests of the authorities and the citizen, employer and the employee, etc., and not privileges and equalization [6, p. 248]. Thus, when it comes to justice and a measure of freedom, this means that the boundaries and content of rights and obligations are determined by the rules of the required behavior, which are recognized by the majority of the population and are compulsory for all [6, p. 248]. Concerning the taxes, it seems a contradiction to consider them a measure of justice and freedom, since taxes are fiscal in nature. But, if, as in law, justice is viewed as a compromise in society for the preservation of the social system and its development, then we can say that taxes are a measure of justice and freedom. Of course, taxes can play an extremely negative role in the development of society. Therefore, excessive taxation was one of the reasons for the 18th century French bourgeois revolution. Either positive or negative effect depends on an understanding of the phenomenon that exists, since the external side does not always correspond to the essence of the phenomenon. For example, the need for the existence of the state is obvious. But the state can contribute to the development of society, and, conversely, act as a tyrant towards its people. The same goes for taxes. The necessity of their existence is obvious. However, the tax system can either contribute to economic growth or inhibit it. Therefore, speaking of taxes, we can talk about justice, and the measure of freedom.

A sign of the law is normativity. Normativity sets the limits for the possible and proper behavior of a subject of law, defining duties, permissions and prohibitions. The same goes for taxes. Taxes also establish permits and prohibitions, define the obligations of subjects of taxation. The normativity of the law is wider than the tax; nevertheless, the presence of certain signs characteristic of different phenomena makes it possible to speak about the points of their contact.

Another sign of the law is also the general obligation for each subject of the law of the state, which enters typical social relations. By the means of the general obligation, the agreed interests of the participants of the relationship are expressed. These characteristics are peculiar to taxes. They are a measure of the relationship between the state and society. All participants of tax relations are obliged to pay taxes regardless of social status, because, like law, taxes ensure the stability of the state and public system.

The main feature of the formal certainty of law is expressed in the prescriptions of laws and other legal acts. Taxes themselves as norms of behavior of participants of tax relations require forms of their implementation, and specifically use other forms of phenomena, through which they are implemented in the socio-economic reality. The main of such form is legal one. Being realized in laws and other legal acts, tax becomes a phenomenon that is able to realize itself, turning into a tax system.

The most important characteristic of law and taxes is their state guarantee. The state creates conditions for the realization of rights and taxes, protecting them in various ways, including enforcement. Voluntary compliance of legal norms and taxes is possible if the interests of the subject coincide with the prescriptions contained in them. But when it comes to law and taxes, only the state can ensure compliance with the compromise between its participants. Since the interests of the subjects of law and taxation do not coincide, the observance of this compromise is achieved through the compulsory will of the state, which creates state institutions to maintain this compromise. The generality of this property for law and tax leads to the creation of bodies of the state regulation and protection. Thus, it can be stated that legal and tax norms are ensured by the implementation of the power will of the state.

The presence of similar signs of law and taxes does not mean that these phenomena are identical. These phenomena are diverse, having a different essence. But the presence of similar features makes it possible to talk about their convergence. The law phenomenon is wider than taxes, but the presence of certain similar signs allows taxes to enter the legal structure, turning this process into an economic and legal phenomenon. Taxes, passing through the structure of law, increase their impact on tax relations and determine the public nature of their actions. Thus, taxes are transformed into a powerful state-legal institution [7, p.13].

In reality, it is difficult to separate the economic and legal side of the tax, since they are merged into a single one. Theoretically, they can be separated, since the research of the economic and legal aspect of taxes makes it possible to understand their essence more deeply.

Of course, taxes have their own specific characteristics that deepen the influence of this phenomenon on others. So Kucheryavenko M. P. believes that the characteristics of taxes are the payment fixed by an act of the competent state body, the non-earmarked nature of the tax payment, the unconditional nature of tax, payment channeled through the budget, the obligatory nature of the tax exemption, the ultimate nature of the tax, the payment of money [5, p. 37–39]. As you can see, there is a difference between the general and the particular. Special features of a tax specify the taxation system, expanding its limited space, and provide an opportunity to explore its individual elements in the legal field, more accurately relate the objective and the subjective in applying taxes in reality. Law and taxes are phenomena of a regulatory order. Actually, the law is the managing phenomenon. It is based on the management of public life, when the elements of regulation are defined and a clear framework of interaction should be defined between them. In this case, the state acts as a managing entity. Much depends on the subjective element in building a legal system, so the law is often not accidentally called positive. But this management is specific, to a certain extent, is not direct.

The law creates a framework of relationships, while not imposing them on a specific subject. The subject decides itself what form of relationship to choose. Therefore, such management can be considered a regulation. Thus, in law, we are not talking about legal management, but about legal regulation. It can also be attributed to taxes, taking into account some other specifics of regulation. On the one hand, taxes as a managing system are more specific than law. It does not allow the

subject such a wide choice as a law. If the subject is a citizen, then it is administrating by a certain system of taxation and it does not have the opportunity to switch to some other one.

Therefore, each subject is quite clearly attached to a specific tax system. At the same time, we have the right to talk about tax regulation, since the object of taxation is not stable, i.e. dynamic. As a result of economic activity, it is constantly changing. As a consequence, creating a stable tax system is very difficult. The change in the state of the subject and the object of tax leads to a different tax collection base, which in turn affects the financial condition of the company as a whole, both in a positive and negative direction. Since the economic structure is a kind of living organism, taxation should be changed to maintain the economic balance. Consequently, law with respect to taxes cannot act as a frozen system of stable regulation. Stable legal regulation can be stable with respect to those elements of the tax system that are prone to stability themselves. Such as principles, functions, methods, forms, organizational structures, etc., that is more associated with the subjects of taxation.

Legal and tax relations are structurally similar and consist of subject, content and object. Content is a tax relationship. Legal relations, in this case, gives legal form to tax relations through subjective rights and obligations. The object of taxation is a dynamic part in the regulation for the subject and content of tax legal relations. Therefore, the law must be dynamic in order to ensure adequate regulation of the object of taxation. Consequently, the law having influenced upon taxes creates a tax regulation of two levels: the legal regulation of the subject and the content of taxes and the legal regulation of the object of taxation. This conclusion is important not only from the point of view of theory, but also of practice. Such an approach makes it possible to build an optimal system of legal regulation.

Another feature of the object of taxation is that it is closely related to economic processes and fell within the scope to objective economic rules that are not related to the will of the person, i.e. act objectively. It is impossible to manage economic rules, they act according to their own regulations. Therefore, we are faced with uncertainties that can greatly affect economic development and taxation. This can be taken into account only through the regulation of economic activity, but not economic rules. Thus, the law has the potential to establish the relationship between taxes and economic development, taking into account the objective nature of economic rules. All this gives us the right to talk about the closest connection between law and taxes, as well as their integration, which ensures the effectiveness of the taxation system.

It should be noted that not only the law affects taxes, but also vice versa. The need for taxes in legal regulation leads to the development of the law itself. First of all, there is a need for law as a flexible system. Change in taxation can not go through the destruction of the law and the creation of a new legal system. Such an approach is extremely non-pragmatic, since it leads to disruption of the economic cycle and social upheaval, right up to revolutions. The economy-tax-law relationship requires close interaction between them. The processes that occur in this triad, should cause in these relations the impulses to action and the implementation of changes that will help to balance public interests among themselves. Changes in the economy should lead to changes in taxation and, accordingly, in legal regulation. Tax changes should not impair economic development, and the law should prevent erroneous management decisions. Changes in tax regulation should not turn taxes into a factor of destabilization of the economy.

Taxes are an economic phenomenon that is associated with other elements of the economic system, which also contributes peculiarities in the legal regulation. Taxes are an element of the reproduction system and actively influence it. In this process, the law is the regulatory link of this system. The law should coordinate the link between taxes and the reproduction system. Legal regulation should not only strengthen the link between taxes and the reproduction system, but also predict the result of influence on reproduction. Its function is to block the negative effects of taxation on reproduction. Hereby, the law acquires the quality of a regulator as a way to coordinate the elements of the economic system and predict management decision-making.

The relationship of law and taxes also passes through natural law. This law dominates positive law. Natural law presupposes the existence of rights given to a person by nature, such as the right to freedom, movement, property, etc., which are at the top of the legal system. But speaking of the natural rights of man, the question of the natural duties of man has been avoided. It seems that this is not entirely true. The person is initially responsible to himself and society. One can hardly deny that a person is responsible for the state of the environment, for maintaining the vitality of society, for using property and other. In the economic sphere, it is the obligation of the subject to use it not only in his own interests, but also in the society interest. But this duty can not be realized in itself, as well as the natural rights of man. A mechanism for their implementation through the creation of public institutions is needed. One of the public institutions that implement the duty in the economic sphere, are taxes. Therefore, either natural rights or natural obligations are realized through them. Thereby, taxes are a measure of the obligation of a person to preserve the development and functioning of a community based on the results of economic activity. One of the public institutions that implement the duty in the economic sphere, are taxes.

Therefore, either natural rights or natural obligations are realized through them. Thereby, taxes are a measure of the obligation of a person to preserve the development and functioning of a community based on the results of economic activity. From this point of view, taxes are not a leverage over subjects of economic activity, but a measure of the subject's due obligation to preserve the vitality of society. Since the primary goal of taxes is to redistribute the economic wealth of society in favor of those who are objectively unable to ensure their existence in this world. Another issue is the realization of natural rights and obligations that are natural. History eloquently testifies the difficult process of their implementation. And in the modern world they are not implemented in most countries. Today we can talk about the trend of their movement, which has a long historical perspective.

The relationship of law and taxes is also seen through their relationship with the phenomenon of management, as well as manageability. Law and taxes carry the element of management, although they are not initially. Management characteristics are acquired in the process of their development and contact with other phenomena. It is usually considered that all social phenomena are divided into two layers: the basis and the superstructure. The law is recognized as a part of the superstructure, and taxes, according to their economic essence, should be attributed to the basis. However, we cannot deny the close relationship between them.

Then the question arises: how does this relationship happen? Manageability is neither a basis nor a superstructure. This is an autonomous phenomenon, the quality of which is permeability. It exists everywhere and pervades both the basis and the superstructure. Phenomena that get into this sphere receive a certain transformation and become transformed forms of development of their essence. In this regard, manageability serves as a link of communication between the basis and the superstructure, ensuring the unity of all socio-economic life.

Thus, it becomes easy to understand the mechanism of interaction of law and taxes through manageability, which, when interacting with it, acquires its new transformed form, which allows law and taxes to interact, forming a new phenomenon - the legal tax system. This is a new phenomenon that contains legal, economic and managerial characteristics. In general, we can say that we have received a new phenomenon of synthetic essence, which has the generic properties of its phenomena, at the same time creates a qualitatively new phenomenon. This phenomenon is not just universal, but unified in its essence and has a greater influence than that it is originated from. This is similar to what happens in nature, when the synthesis of the initial elements creates a qualitatively new product that can satisfy our needs, and, as applied to nature, create a new framework for the development of the surrounding world.

Taxes generate relations between its subjects, causing the compulsory implementation of tax rules towards each other. Thus, we are talking about responsibility in tax relations, which generally serves as social responsibility, which is a "dialectical relationship between an individual and society, characterized by mutual rights and obligations to comply with the prescriptions of social

norms, their implementation, entailing approval, encouragement, and in cases of irresponsible behavior that does not comply with the prescriptions of these norms, the obligation to undergo adverse repercussions and their endurance [4, p. 295]. But by itself, social accountability in tax relations does not work if it is not provided with a legal element, i.e. social responsibility becomes legal responsibility. Legal liability is the obligation to undergo measures of state compulsion for the offenses committed [4, p. 295]. And usually the responsibility is associated with the sanctions that are being applied to the subject of taxation. But the responsibility in tax relations and legal liability can be either positive or negative [6, p. 248].

Positive responsibility – this is the benefit to society and the state, which represents the behavior of the subject of law. For taxation, this can also occur when the state, for the faithful conduct of a subject, can give it benefits at the disposal of its income. For example, the provision of charitable assistance or refinancing profits in production.

For tax relations, negative liability is more characteristic, which is understood as responsibility for the past act, which is expressed in violation of legal norms [4, p.295].

Taking into account that legal liability is a taxation implementation environment, then we can talk about tax liability as a legal form of ensuring the elimination of a tax offense by undergoing conviction and adverse effects of a property nature.

Comparative characteristics of taxes and law gives reason to talk about their interaction that leads to the emergence of a mechanism for the legal regulation of taxation. Without getting involved in the discussion about the mechanism of legal regulation, since this is not the subject of this research, we note that the position of S.S. Alekseeva about the mechanism of legal regulation most clearly gives the opportunity to see its element-by-element composition, communication and interaction of elements of the mechanism of legal regulation [1].

It should be noted that the mechanism of legal regulation should generate a result that affects the scope of the regulation itself [3, p. 75].

The first element of the mechanism of legal regulation is the norm of law. It is an obligatory rule of conduct [4, p. 188], which controls (regulates) social relations. Therefore, “the norm of law generally models the desired, from the point of view of its interests, behavior of members of society in public relations of a particular objective type” [2, p. 162].

The norm of law is a kind of stamp in which social relations are formalized from the point of view of the state. The regulation of relations allows to stabilize social relations by placing each participant in the “cell” of the social organism that ensures its functioning. Working in collaboration, they form a social organism, giving it integrity and vitality. From the point of view of the state, it is important to determine the environment of this “cell”, which is the norm of law, since the viability of the whole social mechanism depends on it. Its incorrect definition leads to social distortions up to the ruination of the society itself. Therefore, from the point of view of state regulation, the norm of law should objectively reflect the existing reality, contributing to its development.

For all its reality, the norm of law is an abstract phenomenon, since this theoretical construction realizes itself through the articles of the legislation, that is, through the regulatory and legal acts that have the following advantages: clearly, precisely, unambiguously formulate the content; quickly drive to the consent of the recipients of the legal norm its content, provides favorable conditions for finding the necessary legal norm, creates the conditions for an adequate understanding by the addressee of the legal norm and its content, and allow to promptly change or eliminate the legal norm; allow the streamlining, harmonization, systematization of numerous legal norms [4, p.125]. Thereby, the normative legal acts create a dynamic basis of the mechanism of legal regulation.

The next element of the mechanism of legal regulation is the legal relationship that transfers specific life circumstances to the level of subjective rights and legal responsibilities [4, p. 188]. The law, enveloping public relations, turns it into a legal relationship, that is, subjecting it to certain rules, when participants on the part of the state are given certain rights and duties, and the

relationship between them can be built according to established rules. From this it follows that the participants acquire the competence of holder of a right and law binding character.

As an element of the mechanism of legal regulation, legal relations are aimed at their emergence, modification or termination. The mechanism of legal regulation binds its subjects through legal relations. But this is not an end in itself. The final aim is to obtain a positive result for the participants of public relations. Therefore, the effectiveness of the legal relationship is expressed through the legal consequences that it causes to the participants of social relations. But these relations are regulated and cannot be reformatted exclusively by their will. This can occur only within the limits of the rights and obligations granted to them, for otherwise the relationship will be illegitimate (ie, illegal) or even as such will not take place.

The third element of the mechanism of legal regulation, which scientists identify, is the realization of rights and obligations [2, p. 213; 4, p. 188; 6, p. 682]. However, O. F. Skakun subdivides this element, highlighting also acts of application of law in the mechanism of legal regulation. At the same time, in the first case, understanding the acts of exercising rights and obligations as the actual behavior of the subjects of legal relations, and in the second case, this is the publication of a state-authoritative act - an act of application of legal norms that ensures the emergence, change or termination of legal relations [6, p. -683]. Yu. N. Oborotov considers acts of realization of subjective rights and legal duties as law enforcement acts [4, p. 188]. Position of Yu. N. Oborotov seems more accurate. Consideration of acts of direct realization of rights and obligations as the actual behavior of subjects of legal relations is nevertheless closer to legal relations. Legal relationships arise from action, no action - there is no legal relationship. Therefore, the action should be considered in connection with the legal relationship, and perhaps also as its integral part, which is its dynamic side, unlike rights and obligations, which in the legal relationship are a static side.

Acts of direct realization of rights and obligations constitute law enforcement. Yu. N. Oborotov notes that law enforcement is the commission by an authorized subject a heterogeneous entity of law enforcement actions of a basic and auxiliary nature, which are expressed in specific legal acts, called acts of application of the law [4, p. 188]. Law enforcement acts implement the norm of law in a concrete reality. They apply the disposition or sanction of the law norm itself. As a result, it turns the law enforcement act into an act of individual legal nature.

Justification of the mechanism of legal regulation in the form of three elements: the norm of law, legal relations and acts of application of the norms of law makes it possible to characterize the mechanism of legal regulation of taxation.

The structure of the subjects of tax legal relations includes the authorities with which the subject is vested. They include: authorities to lawful use their own actions, the performance of rights from other persons and the legal rights to claim legal protection. The lawful use gives the opportunity to the state body in the field of taxation to carry out legal actions in relation to the subject of taxation in the form of the right to claim for materials on their activities and compliance with tax legislation. The performance of rights of tax laws from others means the right to demand appropriate actions from an obliged subject of taxation, i.e. actions related to tax legislation, rules for the payment of taxes, the delivery of forms of reporting (tax bills, reports, etc.), tax rates of payments and more. The legal right of requirement for a tax subject is the right to apply to state bodies for advice, support and protection in case of violation of his subjective right by the state body (fiscal service). Contravention of tax legislation leads to state coercion if the party of the legal relations does not fulfill its obligations (to impose fines, challenge the actions of officials, to take administrative and financial actions).

The tax liability structure contains the following requirements:

Implementation of certain actions, or abstaining from them, i.e. to comply with tax legislation, not to violate it, provide access to objects of taxation to control authorities, provide accounting and financial documents related to the payment of taxes.

To respond to the legitimate demands of the eligible side, i.e. to eliminate the comments of the party that carries out the inspection on issues of violation of tax laws, to comply with their instructions, to provide the conditions for the inspection.

To be legally responsible for their actions in the form of material, financial, administrative, disciplinary and criminal liability for violation of tax laws.

The subjects of legal taxation on the one hand are government bodies, on the other - taxpayers. The nature of this relationship is the most diverse. From an economic point of view, these are relations connected between the state and tax payers about the maintenance of the state and the implementation its public functions. But from the point of view of the functioning of the entire tax system, we can see that these are relations that develop between persons who possess and create material values, and those who withdraw their part in favor of the state, i.e. this relationships are not of an economic nature, because here there is no exchange of commodity values or the creation of material values, but a redistribution of these values. Such relationships are public and can be characterized as managerial. Management relations are not related to equivalence between the participants, but to the optimization of social or corporate relations, the object of which may be economic, social, organizational, political and other relations.

The subjects of the mechanism of tax relations are government bodies and tax payers. Tax payers can be in the form of legal entities and individuals. In this case, legal entities are organizational units that have property, are involved in civilian traffic and are legally responsible for their activity. For tax relations, it does not matter whether, by its characteristics, a legal entity is an organization which aim is to generate income or is it a non-profit organization. Another thing is important: whether they act as persons with taxable items or not.

As legal entities, such organizations are vested with legal status, which includes rights, obligations and guarantees. In the sphere of taxation, the rights of a legal entity are represented by law and provide an opportunity for it to carry out independently activities related to taxation (the choice of a taxation system, independent assessment and payment of taxes). The duties of a legal entity in the field of taxation are clearly defined by law. It is the obligation to pay taxes, determination of the objects of taxation, the amount of taxes, the timing of payment of taxes and so on. Guarantees act as a catalyst in the system of tax relations. Guarantees protect the interests of subjects of tax legal relations from violations by other persons. First of all, they should include norms that rely on the illegal actions of the parties. This is especially true of state bodies that, using their privileged position, often violate their authorities, most often by means of verification acts that directly or indirectly contradict the law. The guarantees are also expressed in the possibility of challenging the actions of the tax bodies on the facts of their activities with respect to the subjects of taxation.

The last element of the mechanism of legal regulation of taxation are acts of direct realization of rights and obligations. The peculiarity of these acts in the field of taxation is their individual legal nature (another name for these acts is illegal). They are characterized by the fact that it is addressed to a particular taxpayer. Such acts are issued, as a rule, by government bodies that perform tax functions. Most often, these are acts of verification of business entities, an act on installment payment of taxes or a tax credit, an act on verification the subject of taxation. Thus, acts of realization of the rights and obligations in the field of taxation contribute to the movement of tax legal relations, where the parties are obliged to perform certain actions. This provides the ability to perform duties in tax relations and compliance with legal prohibitions.

An important requirement for individual legal acts is the compliance with the legality both in the form of the act and in content. These acts, although they are legal, at the same time, by the nature of the interaction between state bodies and tax payers, are acts of state administration, and they refer to the part called regulatory. Non-compliance with the requirements of legality should lead to defects in acts of management in the field of taxation by recognizing fully or partially invalid. An act can be assessed as invalid if it directly contradicts the law and in this case should not be executed. In the sphere of taxation, such a situation happens, but it is difficult not to execute it

for the tax payer, who is under the pressure of the tax and other government bodies. Therefore, it is more acceptable to challenge such acts in court.

It should be kept in mind that the court's decision only fixes the fact of cancellation of a disputable act without any consequences, e.g. for the tax body. And if there are no consequences, then there is a direct meaning to issue such acts. It seems that the court's decision should not only repeal the contested acts, but also bring the officials to justice to various types of legal responsibility.

Thus, the mechanism of legal regulation of taxation is a system of elements with their connections between the subjects of the tax sphere, which are mediated by law, in contrast to the fact that legislation is usually considered as the mechanism of legal regulation.

Conclusions. Analysis of the relationship between taxes and law shows that they are phenomena that are interlinked, enrich each other, create a qualitatively new entity and significantly affect the socio-economic state of the state and society.

A theoretical analysis of the comparative characteristics of taxes and law shows the similarity of their elements. The interrelation of taxes and rights enriches them, creates qualitatively new formations and significantly influences the social and economic development of the state and society. The law has the potential to influence through taxes on the development of the economy, taking into account the objective nature of economic rules.

The presence of similar signs of law and taxes does not mean that these phenomena are identical. These phenomena are diverse, having a different essence, but the presence of similar features makes it possible to speak about their convergence.

Based on the essence of natural law, it can be argued that taxes are a measure of justice and freedom between the state and society. The interaction of taxes and law leads to the creation of a mechanism for the legal regulation of taxation, which includes: the norms of the law, legal relations and acts of application of the norms of law.

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References.

1. Alekseev S. (1966). Mechanism of legal regulation in a socialist state. M.: Legal Literature. [in Russian]
2. Vasiliev A. (1976). Legal categories. Methodological aspects of the development of a system of categories of the theory of law. M. Legal Literature. [in Russian].
3. Maruschak V. (2008). Planning in the conditions of a market economy. -Odessa: Palmyra. [in Ukrainian]
4. Oborotov Yu. (2011). General theoretical jurisprudence: a training course. Odessa: Phoenix. [in Russian]
5. Bech G., Dmitryk O., Kobylnik D. (2003). Tax law. K.: Yurincom Inter [in Ukrainian].
6. Skakun O.F. (2009). Theory of the state: rights. Kharkiv: Escada. [in Ukrainian].
7. Sokolovskaya A. (2004). The tax system of the state: the theory and practice of formation. K.: Knowledge-Press [in Russian].