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Methods For Improvement of VAT Legal Regulations in Ukraine in the Context of Its European Integration

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The main methods for improving the value added tax (VAT) legal regulations in Ukraine are explored in the context of the integration processes in the European Union and Ukraine's participation therein. Experiences of European countries and the proposed provisions regarding the priority ways to improve the current legislation regulating VAT in the country, are argued on the basis of an analysis of the main legal acts of international and national law. Methods for solving problems regarding VAT administration are proposed. Drawbacks in the electronic procedure of VAT registration by a payer are highlighted.

Keywords: adaptation, integration, value added tax, the European Union, administration

Pursuant to Article 51 of the Partnership and Cooperation Agreement between the European Communities and their Member States, and Ukraine of 14 June 1994, our state should take the necessary measures required to approximate Ukraine's existing and future legislation to that of the EU. This

Agreement contains provisions defining the main goals regarding the political and economic cooperation of the parties. It is considered to be the basic document for implementing the strategy of integration into the EU aimed at Ukraine's accession to the European political (including a Common Foreign and



Security Policy), information, economic and legal areas [1].

Amongst a number of scientific publications that have recently appeared in the economic sphere one should emphasize the works of A. Berlach. He highlights incentives for the economic growth of Ukraine and considers the rate of the value added tax (VAT) to be of high priority among them [Berlach, 2009: 95]. The researcher G. Vronska traces the main stages of the development of the value added tax as a legal institution in Ukraine and in the world as a whole [Vronska, 2012: 46]. The joint works of D. Hetmantsev, V. Forsiuk, and N. Boiko have enabled the author to explore the procedure of the administration of indirect taxes, including the value added tax [Hetmantsev, 2014: 323–329]. The publication of the State Department for Adaptation of Legislation of the Ministry of Justice of Ukraine contains a comparative legal study of the fiscal policy of Ukraine and EU Member States [10]. However, this issue is not sufficiently developed in scientific literature, as there is no comprehensive research based on the comparative legal exploration of the legislative regulation of VAT collection in Ukraine and EU countries.

Today, our state has created its own tax system which is not a result of copying the experiences of other countries. The process of implementation of the provisions of the EU and international tax law into the national law of Ukraine was surfaced due to the adoption of a number of recent legal acts. Tax rules were codified within a single legal act, and a system of supervisory authorities having modern organizational structure was created.

Parallels can be drawn between EU Member States' and Ukrainian fiscal policy in the area of tax administration. Firstly, a priority for tax authorities in EU countries is the work concerning unscrupulous taxpayers. They include registered taxpayers who do not file or have stopped filing tax returns and paying taxes. In addition, European tax authorities search for and register those people conducting economic activities and receiving incomes but have failed to be registered by the supervisory authority [9]. Unfortunately, Ukrainian legislation stipulates that the staff of the supervisory authorities can only deal with taxpayers to be duly registered in state registries and a certain supervisory authority.

Secondly, a lot of EU countries follow the principle of taxpayer registration according to which they can obtain administrative services in the tax service itself but not in one of its subdivisions. Such an approach is appropriate for both taxpayers and supervisory authorities. It presupposes that taxpayer service centres can deliver administrative services in any tax authoritative body without reference to taxpayer location which allows for improving the quality of the maintenance of business entities and saving time for both parties of tax relations. Currently, administrative services in Ukraine are provided at the location / place of residence of the payer.

On 16 January 2014, a new Regulation on Registration of the Value Added Tax Payers was adopted. In accordance with its rules, the procedure for VAT registration by a payer was simplified [4], so an application for voluntary registration of the value added tax payer can be filed to the state registrar. The state registrar shall send the scanned electronic copy

of the application form 1-VAT to the supervisory authorities, and add the information from the registration card for state registration of the legal entity or individual entrepreneur under the Law of Ukraine 'On State Registration of Legal Entities and Individual Entrepreneurs' [3].

Having analyzed this rule we can conclude the following: if one files an application for voluntary registration of the VAT payer together with registration documents to the state registrar, a legal entity or an individual entrepreneur can be registered only by the 10th day of the current month. In compliance with the Tax Code of Ukraine, the application for registration shall be submitted at least 20 calendar days before the beginning of the tax period. Such persons are then considered to be taxpayers and have the right to a tax credit and the issue of tax invoices [2].

These conditions result in a number of technical challenges including the procedure for electronic transmission of information to the supervisory authorities. According to the technical parameters of the Unified State Register of Legal Entities and Individual Entrepreneurs database, the state registrar of legal entities shall primarily scan and send information to the supervisory authorities, and only after that the automatic system assigns an identification code to the legal entity. It therefore follows that the supervisory authority is sent an application which does not meet the requirements of the Methodological Recommendations for Completion of a Registration Form of the Value Added Tax Payer according to 1-VAT Form by Business Entities.

One should also keep in mind that, in line with the Law of Ukraine 'On State Registration of Legal Entities and Individual Entrepreneurs', the state registrar shall be entitled to consider documents submitted for registration within three working days [3].

The above-mentioned innovation is theoretical in nature and cannot be put into practice due to the absence of a detailed legal mechanism foreseen by the law; the procedure for application of these standards; and technical inconsistencies.

Thirdly, in most EU countries, VAT administration is not burdened with a procedure for filling in a cumbersome set of tax forms and annexes thereto. Tax reporting forms are written so that the payer can unambiguously interpret their contents while entering the information. For instance, in the Netherlands and Belgium the VAT return consists of one page [9]. It should also be mentioned that the national tax reporting forms are cumbersome and ambiguous in terms of completion.

In Ukraine, VAT tax returns shall be filed every month, while, for example, in Great Britain they are filed on a quarterly basis. Sweden, Denmark, and the United Kingdom apply the most effective, transparent and simple tax payment model, i.e. a Single Account System [9]. It ensures that all taxes and duties shall be paid to a single account. As a result, taxpayers save time and naturally evaluate this system as one of the best mechanisms, since it meets the principle under which 'the state is for the people but the people are not for the state'. When payments of all the required charges are made to a single account, it is impossible to overpay some taxes and underpay others. This innovation enables the supervisory authorities to observe the real situation regarding the payments and budgets of taxpayers.


VAT is considered to be one of the most corrupted taxes. In the Ukrainian context, this tax is not administered in a transparent way. It is also worth noting that an important reason for the corruption of the Ukrainian VAT is the low level of legal awareness and legal culture both on the part of businessmen and the supervisory authorities. Often, one can observe situations when company management is able to 'optimize' huge amounts of taxes (and even prove its innocence in court) or the supervisory authority manages to refuse refunding VAT to the entrepreneurs. The imperfections, as well as frequent and sometimes haphazard and systemless changes of the law have resulted in the fact that many taxpayers avoid paying taxes by all possible means.

The VAT rate at 20 per cent is exacting for domestic businesses, which also leads to attempts of evading VAT payments, the registration of so-called 'ephemeral' companies, and the implementation of all sorts of corrupt schemes. In our opinion, a reduction in the basic VAT rate to 15 per cent would expand the taxation base and, consequently, encourage entrepreneurs to work transparently. We consider that while establishing the most effective percentage tax rate it is appropriate to use relevant international practices (e.g., the Laffer Curve).

Summarizing the study, it should be noted that the main way to harmonize Ukrainian and European legal regulations is the adaptation of national legislation to the EU legal system [Muraviov, 2013: 13-15]. Within this framework, we consider that it is necessary to increase the number of and improve the curriculums that are compulsory for specialists working in the field of harmonization of the law and drawing up the draft regulations. This would improve the quality of draft legislation. The effective mechanism of assessment and verification of legal acts with regard to their compliance with *acquis communautaire* would allow Ukraine to come to the European level of tax administration.

Thus, the VAT drawbacks are primarily connected with the adoption of laws governing this tax. In particular, these laws contain regulations contributing to abuses in taxation and even encouraging them. The VAT administration system is imperfect and cumbersome. We also have low legal culture and awareness of all parties to tax relations. The elimination of these deficiencies, which can be done within a fairly short period, gives the opportunity to convert VAT into a more technologically advanced and suitable tax to be used in Ukraine. We believe that in order to increase the efficiency and transparency of the VAT administration system it is appropriate to amend the legislation as follows:

1. To reduce the basic value added tax rate.
2. To improve administration procedures by applying the principle according to which 'rendering of the administrative services to the taxpayer takes place in the tax service itself, and not in one of its subdivisions'.
3. To transform the procedure of registration of the value added tax payers, including the elimination of regulatory shortcomings and technical imperfections.
4. To introduce the usage of a Single Account System for paying taxes and duties or other charges

on the basis of the EU Member States experiences in the relevant sphere. 

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