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LEGAL IMPLEMENTATION OF EXPERT INVESTIGATION OF THE ENTERPRISE INCOME TAX BASIS

Formulation of the problem.

The ways of increasing the efficiency of enterprises operating in Ukraine and improving the mechanism of taxation of the income obtained as a result of economic activity of the enterprise. Enterprise income tax in Ukraine is paid since 1990, its mechanism is still being developed and the problems of income taxation are very acute.

One of the main tasks of the income in economics of the market relations is stimulating business development. Business develops exclusively due to getting profit. This indicates economic growth in the country. Income is one of the kinds of enterprise financial resources. Thus scientific substantiation of the distribution of profits of enterprises at the state level is important and objectively necessary.

Thus, the efficiency of operation, motivation of enterprises and other factors that attract as much money as possible to the budget are an important source of income necessary for stable and sustainable functioning of the state.

The purpose of the article is the clarification of legal issues in the domestic realities regarding the expediency of introducing the institute of expertise.

The results of the analysis of scientific publications.

The issue of using special knowledge and implementation of forensic economic examination of expertise of accounting for enterprise income tax was studied by F.F. Butynets, V.P. Bondar, Z.B. Zhyvko, S.V. Yevdokymenko, M.D. Korinko, N.M. Maliuga, N.M. Ostapiuk, N.I. Petrenko, V.V. Fedchyshyna, A.P. Cherednichenko, et al. Their scientific achievements are still relevant, but need clarification and additional attention.

The main material. Income tax is a direct tax which has a fiscal importance and wide possibilities for regulating business activity. The following processes can be regulated with the help of income tax

- choice of legal form of business organization;
- distribution of profits (for consumption or accumulation);
- choice of investment financing methods (self-financing or borrowing);
- distribution of labor and material resources between separate areas of economic activity;
- distribution and redistribution of GDP;
- regulation of economic growth at the macro level.



Enterprise income tax is one of the types of direct taxation – income tax, and taxes the income of legal entities, in contrast to income tax levied on individuals.

Income tax has a significant fiscal importance in Ukraine, that distinguishes it from similar taxes in economically developed countries. This is primarily due to the proportions in the distribution of GDP, which have developed historically: in the centrally planned economy, the bulk of budget revenues were revenues from state-owned enterprises and rather insignificant part comprised population taxes since the consumption fund was artificially restrained and the accumulation fund was increased. In the current conditions, the ratio between the consumption fund and accumulation is gradually leveling off, that results in gradual reducing of the budget value of enterprise income tax and increase in personal income tax.

The main advantage of income taxation is the direct dependence of taxes on the amount of income (profit). No other taxes, including direct taxes, have such a dependence on the final results of business entities and citizens as income taxes. This must be kept in mind when determining income tax rates. Thus, the size of the income tax rate should be set at a level at which income taxation would not hinder production and not hinder its development. Otherwise, income tax loses its role as a regulatory tool.

Taking into account the functions of enterprise income and the need to use income taxation as a tool to regulate the development of manufacturing, it is obvious that the fiscal function of corporate income tax should be given secondary importance. This function should be performed to a greater extent by other taxes, in particular the personal income tax.

Income tax should be considered based on the provisions of the Tax Code of Ukraine [1]. According to which

the payers of the enterprise income tax are:

1.1 taxpayers – residents are: business entities – legal entities engaged in economic activities both in Ukraine and abroad, except for legal entities specified in paragraphs 133.4 and 133.5 of Article 133 of the Tax Code of Ukraine;

1.2 manager of the real estate fund, which carries out activities in accordance with the Law of Ukraine “On financial and credit mechanisms and property management in housing construction and real estate transactions” on transactions and results of trust management activities carried out by such manager through the fund.

1. Taxpayers – non-residents:

2.1 legal entities formed in any organizational and legal form and receiving income from a source of origin from Ukraine, except for institutions and organizations that have diplomatic privileges or immunity in accordance with international treaties of Ukraine;

2.2 permanent representations of non-residents who receive income from a source of origin from Ukraine or perform agency (representative) and other functions in relation to such non-residents or their founders;

2.3 Prior to the commencement of its economic activity, the permanent establishment shall be registered with the controlling body at its location in accordance with the procedure established by the central body of executive power, which ensures the formation and implementation of the state financial policy. A permanent establishment which has commenced business before registration with the supervisory authority is deemed to be tax-evaded and the profits derived from are deemed to be hidden from taxation.

Income taxpayers – producers of agricultural products who have chosen the annual tax (reporting) period in accordance with subparagraph 137.4.1 of paragraph 137.4 of Article 137 of the Tax Code of Ukraine,

the pre-tax financial result for the tax (reporting) period is calculated by reducing the pre-tax financial result reporting year for pre-tax financial result for the first half of that year and increase for pre-tax financial result for the first half of the current reporting year, determined in accordance with national accounting regulations (standards) or international financial reporting standards.

The Law of Ukraine "On the State Budget of Ukraine for 2019" provided for income from corporate income tax in the amount of UAH 95,520.0 million.

Number of payers submitting the calculation of the part of income (profit) payable to the state budget by state unitary enterprises and their associations – 211 large enterprises, 6019 medium-sized ones, 435 small and 129 micro-enterprises, a total of 6793 enterprises.

Article 136 of the Tax Code of Ukraine stipulates that the basic tax rate is 18% – for any activity, except (Article 141 of the TCU):

1) insurance activity, income (not profit) from which is taxed at a rate of 0/3%;

2) payment of income to non-residents and persons equated to them with the source of such income from Ukraine – at the rate of 0/4/6/12/15% at the expense of the non-resident;

3) non-residents insurance payments (insurance fees – premiums, premiums) – in the amount of 0/12%, and insurance payments (insurance indemnity – in the event of an insured event) are taxed at a rate of 0/4/12% (in both cases for own account);

4) bookmaking activities – income is taxed at a rate of 10/18%;

5) activities for the issuance and conduct of lotteries – income is taxed at a rate of 30%.

Income tax rate from April 1 to December 31, 2011 – 23 percent; from January 1, 2012 to December 31, 2012 – 21 percent; from January 1,

2013 to December 31, 2013 – 19 percent; from January 1, 2014 to December 31, 2018 – 18 percent; from January 1, 2019 to December 31, 2019 – 26 percent; from January 1, 2020 to December 31, 2020 inclusive – 28 percent; from January 1, 2021, the tax rate specified in paragraph 136.6 of Article 136 of the TCU is applied – 30 percent.

The financial result of the enterprise, which is in the form of profit or loss, reflects the effectiveness of its operating, financial, investment activities and is the main criterion of the strategy of the entity. Profit is the amount by which income exceeds the related expenses. Losses – the excess of the amount of costs over the amount of income for which these costs are incurred [2].

Regarding the main elements of the system of accounting and analytical support include: – in the system of financial accounting (accounting reflection of the formation of profit and loss, profit distribution, the formation of financial statements); – in the system of tax accounting (features of accounting of income and expenses of the enterprise for the purpose of calculation and payment of income tax, the order of accounting for losses of reporting periods, the formation of tax reporting); – in the system of economic analysis (methods of analysis of the formation and use of profits, dividend policy of the enterprise, including for tax purposes [3, p. 100].

V.V. Fedchyshyna, analyzing the accounting support of the expert on the analysis of the base of value added tax, refers to him accounting documentation. The above conclusion of the researcher remains true for the expert study of the income tax base [4, p. 12].

The final financial result obtained at the end of the reporting period is debited to account 44 "Retained earnings (uncovered losses)". Credit 441 reflects the availability and movement of retained earnings received in



the reporting period, debit 442 reflects the uncovered losses of the reporting period. Thus, on account 44 “Retained earnings (uncovered losses)” are formed financial results from all activities of the small business entity for the reporting period. The company can independently develop additional sub-accounts and analytical accounts, in accordance with the specifics of activities, specific needs, management and control tasks [5, p. 35].

The taxpayer has the right to choose and use either of the following two methods: the accrual method or the cash method of tax accounting.

It is mandatory to inform the tax authority about the method of accounting chosen by the payer.

In accordance with the Chart of Accounts for accounting assets; capital, liabilities and business operations of enterprises and organizations № 291 dated 30.11.99, with the relevant changes in 2016, income tax is recorded in the active account code 98 “Income tax”.

The debit of this account is accounted for according to the accounting amount of income tax on ordinary activities of the enterprise (accrued amount of income tax), on credit – write-off to reduce the financial results of the enterprise in correspondence with the debit of account code 79 “Financial results” [6].

NP (S) A 1 discloses only the following interpretations of categories: “Profits – the amount by which revenues exceed the associated costs”; “Loss – the excess of the amount of costs over the amount of income for which these costs were incurred” and “other total income – income and expenses that are not included in the financial results of the enterprise” [7].

The essence and contradictions of the financial result for entrepreneurs and accountants are distinctly revealed during the formation and reflection of it in accounting. Comparing the regulations on the reflection in the account-

ing and reporting of financial results, there is a discrepancy between the criteria for their classification. Dikan L.V. and Voronina O.O. studying different scientific approaches to the definition of “financial result” came to the need to take into account changes in the active parts of the formation of financial results (income and expenses) and their combination with the structural elements of income, expenses and equity, based on the elements of the accounting policy of the enterprise, which generally covers all areas of its activities (operational, financial, investment) and determines the further development [8, p. 73].

The method of determining the financial result, in accordance with the principles of accounting, is a variable value. Therefore, the definition and reflection of the financial results of the business entity is carried out for the needs of users of financial statements, but in reality the user receives information with significant deviations. The objectivity of the process of formation of financial results using the methods of accounting policy is necessary to ensure a close relationship between the owner (manager) of the enterprise, the chief accountant and the financial director (if any) [9, p. 358].

Regarding the definition of terms, it is provided that the statement of financial performance (statement of comprehensive income) includes: statement of income, expenses, financial results and total income [10].

Conclusions. The main advantage of income tax is that it puts the level of taxation in direct dependence on the source of its payment – income.

Thus, it can play an extremely important role in the implementation of the principle of fairness and in the regulation of financial and economic activities of economic entities. That is, the regulatory possibilities of income tax come from its object of taxation – profit. Profit for the company is a multifaceted category that affects all aspects of business. The very essence of entre-



preneurship provides the main purpose of economic activity to make a profit. Due to the profit the company has the opportunity to invest in expanding the range of its economic activities, i. e. to acquire new means of labor, fixed assets, in large quantities of raw materials, to finance activities to create innovative technologies and others.

Profits can be directed to the formation of a reserve fund, investment activities, the creation of additional social guarantees for employees, to pay part of the profits to business owners. However, in this way the net profit is redistributed, i. e. the profit after taxation.

Therefore, the consequence of income taxation will already be the scale and scope of the described distribution.

Thus, we came to the conclusion that debt receivables are identical to the concept of "funds in accounts" and are defined as tangible resources that are not paid by counterparties, or cash that is withdrawn from the circulation of funds. Accounts payable are the amount that the debtor must pay for the value received from the supplier, services rendered, work performed, accrued wages, settlements with the budget and extra-budgetary funds, etc.

The classic corporate income tax in the Ukrainian reality and whether it is fair, including given the distribution of the tax burden, the level of revenues to the state budget and the many problems associated with its administration, as well as consider the prospects of this tax in an economic downturn and unprofitable enterprises in Ukraine, conducting a forensic examination to study the corporate income tax base, which aims to avoid putting money in the shadows and further manipulation to avoid paying taxes by enterprises.

The current model of income taxation in Ukraine corresponds to the models of most European

Union countries, the administration mechanism remains imperfect, the tax burden is shifted to a small number of taxpayers, which can be concluded. The burden on a law-abiding taxpayer is unfair and creates additional barriers to doing business.

Despite the current tendency to reduce the fiscal role of corporate income tax in Ukraine, it still remains budget-generating, second only to the income tax and personal income tax revenues.

It was found that the nominal increase in tax revenues is due to the de-shadowing of relations, the disclosure of fraudulent schemes by involving experts who investigate the tax base of enterprises and contribute to the investigation of illegal acts resulting from actions – founders and other representatives of the enterprise. engages in money laundering or other illegal acts that cause damage to the state through illegal actions and manipulation of cash and funds in bank accounts.

It is established that no significant structural changes in the revenues of this tax are observed, although there is a tendency to increase the share of private enterprises and enterprises of state and communal ownership. At the same time, almost a quarter of this tax revenue was provided by only the seven largest taxpayers, including state-owned enterprises, which indicates the urgent need to analyze the entire business sector and pay special attention to conscientious performance of tax duties by entrepreneurs.

Key words: income tax, special knowledge, tax period, financial report.

Лисеюк А. М., Половко А. Є. ПРАВОВЕ ЗАБЕЗПЕЧЕННЯ ЕКСПЕРТНОГО ДОСЛІДЖЕННЯ БАЗИ ОПОДАТКУВАННЯ ПОДАТКУ НА ПРИБУТОК ПІДПРИЄМСТВ

Мета статті – розглянути класичний податок на прибуток



підприємств в українських реаліях і чи є він справедливим, в тому числі з огляду на розподіл податкового навантаження, рівень надходжень до державного бюджету та численні проблеми, пов'язані з його адмініструванням, а також розглянути перспективи цього податку в умовах економічного падіння та збитковості підприємств в Україні, здійснення судової експертизи щодо дослідження бази оподаткування податку на прибуток підприємств, метою якого є уникнення виведення грошових коштів у тінь та подальших маніпуляцій для уникнення сплати податків підприємствами.

Наявна в Україні модель оподаткування прибутку відповідає моделям більшості країн Європейського Союзу, механізм адміністрування залишається недосконалим, податкове навантаження зміщене на невелику кількість платників податків, про що можна зробити висновки. Навантаження, що припадає на законслухняного платника податків, є несправедливим та створює додаткові перепони у підприємницькій діяльності.

Попри тенденцію до зниження фіскальної ролі податку на прибуток підприємств в Україні, він досі залишається бюджетоутворюючим, поступаючи надходженнями лише податку на прибуток та податку на доходи фізичних осіб.

Виявлено, що номінальне зростання надходжень податку зумовлене детінізацією відносин, тобто розкриттям схем-махінацій шляхом залучення експертів, що досліджують базу оподаткування підприємств та сприяють розслідуванню протиправних діянь, які настають унаслідок здійснення дій – засновників та інших осіб-представників, що належать до підприємства,

котре займається відмивання чи іншим протиправним діянням, що завдає державі збитків шляхом протиправних дій та маніпуляцій із готівковими коштами та коштами, що перебувають на банкових рахунках.

Встановлено, що суттєвих структурних змін у надходженнях цього податку не спостерігається, хоча наявна тенденція до зростання частки приватних підприємств та підприємств державної й комунальної форм власності. При цьому майже чверть надходжень цього податку забезпечили лише сім найбільших платників податків, серед яких є державні підприємства, що вказує на потребу в аналізі усієї підприємницької сфери та залучення особливої уваги до добросовісного виконання своїх обов'язків у частині сплати податків підприємцями.

Ключові слова: податок на прибуток, спеціальні знання, податковий період, фінансовий звіт.

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