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COMPARATIVE LEGAL ANALYSIS OF TAX SYSTEMS UNDER THE LEGISLATION OF UKRAINE AND FOREIGN COUNTRIES

The article deals with the comparative legal analysis of tax systems under the legislation of Ukraine and certain foreign countries, in particular, the Republic of Azerbaijan, the Republic of Moldova and the Republic of Tajikistan.

The author focuses on the importance and feasibility of the scientific study of the experience of foreign countries in the field of legal regulation of their tax systems.

The author notes that the results of the analysis of tax systems of the above states will contribute to the improvement of domestic tax legislation. The above is due to the current unstable socio-economic state in the state. The need for a scientific search for new aspects of improving the domestic tax system is relevant today.

Keywords: tax system, tax regime, tax, tax collection, tax code.

Introduction. The urgency of the comparative legal analysis of the tax systems of Ukraine and certain foreign countries (the Republic of Azerbaijan, the Republic of Moldova, the Republic of Tajikistan) is due to the current realities of the unstable socio-economic situation in Ukraine.

The main source of revenue for the state budget of Ukraine today is tax revenue, which determines the quality of life of Ukrainian society.

However, the main problems of the current development of the national tax system of Ukraine are its ineffective structure, the implementation of fiscal policy and legislative instability.

Aim of the research. The purpose of the article is to conduct a comparative legal analysis of tax systems of Ukraine and certain foreign countries (the Republic of Azerbaijan, the Republic of Moldova, the Republic of Tajikistan).

Recent publications analysis on the issue. The research of the problems of improvement of the domestic tax system was carried out by the following Ukrainian scientists: L.K. Voronova, M.I. Karlin, L.M. Kasianenko, M.P. Kucheryavenko, S.I. Lekar, A.M. Sokolovska, L.L. Tarangul.

Presenting the main material. The tax system in Azerbaijan is determined by the Tax Code of the Azerbaijan Republic.

Article 4 “The tax system of Azerbaijan Republic” of this Code says: “The taxes levied in the Republic of Azerbaijan pursuant to this Code shall be as follows: state taxes; taxes of autonomy republic; local (municipal) taxes. State taxes are those taxes that are stipulated by this Code and are obligatory for payment on the entire territory of Azerbaijan Republic.

The taxes of Autonomy Republic are those taxes that are stipulated by the laws of Nakhichevan Autonomy Republic in accordance with this Code and obligatory for payment in the Nakhichevan Autonomy Republic.

Local (municipal) taxes are those taxes stipulated by this Code and applicable legislation, applied by the resolution of municipalities and obligatory for payment on the territory of municipalities. Other obligatory payments applied by municipalities shall be stipulated by the appropriate legislation.

Local (municipal) taxes rates shall be established within limits stipulated by tax legislation. In accordance with the tax legislation municipalities shall be entitled to make decisions on complete or partial tax release or decrease of tax levels for certain categories of taxes paid by taxpayers in their areas.

In accordance with this Code special tax regime can be applied on the territory of Azerbaijan Republic. The special tax regime stipulates the special procedure for tax calculation and payment for the specified period of time. It is not allowed to levy taxes that are not stipulated by this code.”

The article 13.2.51. of the Tax Code of the Azerbaijan Republic states that enterprise with special tax regime – taxpayer, operating under the agreements or laws on production sharing, approved by the legislation, main export pipeline and other such agreements and laws, including the law of oil and gas, oil and gas activities for export and special economic zones, which are governed by special rules of calculation and payment of taxes in a period in taxation and tax control, as well as diplomatic and similar

representations of foreign countries on the territory of the Republic of Azerbaijan, consular and other official representations.

Following are state taxes: tax on the income of physical persons; tax on the profit of legal entities (with the exception of entities and enterprises that are the property of municipalities); value-added tax; excise tax; property tax levied from legal persons; land use tax levied from legal persons; road taxes; mineral royalty tax; simplified tax. The Tax Code of the Azerbaijan Republic establishes maximum rates for all state taxes.

State tax rates introduced on yearly basis shall not exceed the rates established by this Code and those shall be reconsidered annually during the approval of state budget legislation of the Republic of Azerbaijan.

The taxes of autonomy republic are the state taxes levied in the Nakhichevan Autonomy Republic, listed in article 6.1. of the Tax Code of the Azerbaijan Republic.

Following are the local (municipal) taxes: Land tax of physical persons in the cases stipulated in Articles 206.1.1 and 206.3 of the Tax Code of the Azerbaijan Republic; property tax levied from natural persons; mineral royalty tax on construction materials of local importance; profit tax of enterprises and organizations that are the property of municipalities.

Procedures for calculation and payment of local taxes, roles, and responsibilities of taxpayers and tax authorities of local municipalities, forms and methods of tax control, liability for violation of tax legislation, complaint procedures for actions (non-actions) of municipal tax authorities and their officers are determined under relevant legislation.

The tax definition is given in Article 11 of the Tax Code of the Azerbaijan Republic: "Tax – a compulsory, individual and non-refundable payment made to the state or local budget in the form of collection of monetary means from taxpayers with the purpose of providing the financial basis to the state and municipal activities."¹

The tax system of the Republic of Moldova represents all taxes and fees, as well as the principles, forms and methods for their imposition, modification, and cancellation, stipulated in the Tax Code of the Republic of Moldova and all the provisions for securing their collection (Article 2. Tax system of the Republic of Moldova).

Article 6 of the Tax Code of the Republic of Moldova reveals a question about taxes and fees and their types.

The tax is a compulsory payment with a gratuitous title, which is not related to the performance of some specific and determined actions by the authorized body or the official thereof, for or in relation to the taxpayer who made this payment.

The fee is a compulsory payment with gratuitous title, which is not a tax. Other payments made within the limits of relations regulated by the non-tax legislation shall not be treated as compulsory payments, named taxes and fees. In the Republic of Moldova general state and local taxes, and fees shall be collected.

The system of general state taxes and fees shall include: a) income tax; b) value-added tax; c) excise duties; d) private tax; e) customs duty; f) road taxes; g) property tax; h) single tax from residents of information technology parks.

The system of local taxes and fees shall include: a) real estate tax; a¹) private tax; b) fees on natural resources; c) fee for area development; d) fee for organization of auctions and lotteries on the territory of administrative-territorial unit; e) fee for placement of advertisements; f) fee for use of local symbol; g) fee for commercial units and/or social service provision; h) market fee; i) accommodation fee; j) resort fee; k) fee for provision of passenger road transport services on municipal, city and village (commune) routes; l) parking fee; m) fee charged to dog owners; p) parking lot fee; r) waste disposal fee; s) fee for advertising devices.

Article 367 of the Tax Code of the Republic of Moldova reveals a question about standard taxation regime and a special taxation regime. The standard taxation regime is the general taxation system provided for by this Code, other normative acts adopted in accordance with it, and subject to application in the generally established order.

¹ *The Tax Code of the Republic of Azerbaijan, 2000* (The National Assembly of Azerbaijan). *Official site of the Ministry of Taxes of the Republic of Azerbaijan*. <<http://www.taxes.gov.az/modul.php?name=qanun&cat=3>> (2018, July, 02).

A special taxation regime is the taxation system provided for in this chapter, as well as legislation on information technology parks¹.

The tax system of the Republic of Tajikistan includes a summation of tax relations provided by the Tax Code of the Republic of Tajikistan, with the application of measures ensuring payment of taxes, as well as the organizational structure of the tax authorities and the form of their organization, their rights and obligations, forms and methods of tax control and responsibility for the violation of tax legislation (Article 4 of the Tax Code of the Republic of Tajikistan).

The Republic of Tajikistan shall have established national and local taxes (Article 6 of the Tax Code of the Republic of Tajikistan). In nature and the order provided by this Code, taxpayers shall use special and (or) preferential tax regimes. National taxes include: the personal income tax; the corporate profit tax; the value-added tax; the excise taxes; the social tax; the taxes on natural resources; the road users tax; the cotton fiber and primary aluminum sales tax.

Local taxes established by this Code and brought in force by legislative acts of local authorities in cities and districts shall include: the tax on vehicles; the immovable taxes.

Section XVI of the Tax Code of the Republic of Tajikistan shall establish special tax regimes according to which certain categories of taxpayers have to pay under the simplified procedure some national and local taxes referred to in part 2 and 3 of this article.

Special tax regimes include: tax regime for individuals carrying out an entrepreneurial activity on the basis of a patent or certificate; simplified tax regime for subjects of small entrepreneurship; simplified tax regime for producers of agricultural products (unified tax); special tax regime for subjects of the gambling business.

Section XVII of this Code shall foresee preferential tax regimes which provide additional tax concessions by investing in priority sectors of the economy. State duties, customs duties, and other customs charges, other compulsory payments to the budget set by relevant legislation of the Republic of Tajikistan shall be paid in the amount and in the manner specified by relevant legislation and the Tax Code of the Republic of Tajikistan.

Administrative procedures on tax control over tax calculation and payment shall be implemented by authorized state bodies and tax authorities in the order provided by this Code and relevant legislation.

Proceeds from national taxes shall be distributed between the republican budget and local budgets in accordance with the budget legislation of the Republic of Tajikistan. Local tax payments shall be applied to respective local budgets. Tax authorities shall provide collection of taxes specified in the special part of this Code unless otherwise provided by the Tax Code of the Republic of Tajikistan.

Article 7 of the Tax Code of the Republic of Tajikistan defines the tax: "A tax shall be a mandatory payment to the budget provided by this Code, made in a certain amount, having compulsory non-refundable and irreversible character. Taxes shall be calculated in monetary terms and shall be paid in the national currency of the Republic of Tajikistan unless otherwise established by this Code."

Other main terms used in this Code, are given in article 17 of the Tax Code of the Republic of Tajikistan: "Elements of taxation – information, which shall be reflected in the legislative act establishing taxes, including taxpayer, object of taxation, tax base, tax rate, tax period, tax calculation procedure, procedure and deadline for tax payment, tax concessions, if they are established. Special tax regime is the special procedure of taxation established for certain categories of taxpayers which provides for a simplified method of calculation and payment of certain taxes, submission of tax reporting. Preferential tax regime is the special taxation procedure established by this Code that provides additional advantages for ensuring the implementation of state policy. General system of taxation is the calculation and payment of state and local taxes, stipulated by the present Code, apart from special and preferential tax regimes."²

According to the Tax Code of Ukraine, the aggregate of national and local taxes and fees collected in accordance with the procedure established by this Code constitutes the tax system of Ukraine.

¹ *The Tax Code of the Republic of Moldova, 1997* (The Parliament of the Republic of Moldova). *Official site of the State Tax Service of the Republic of Moldova*. <http://www.fisc.md/CodFiscal/CodulfiscalInterm_ru.aspx> (2018, July, 02).

² *The Tax Code of the Republic of Tajikistan, 2018* (Majlisi Oli of Republic of Tajikistan) *Official site of the Tax Committee under the Government of the Republic of Tajikistan* <http://andoz.tj/ru/uploads/tax_code_RT_01.01.2018.pdf> (2018, July, 02).

The tax is a mandatory, unconditional payment to an appropriate budget that is collected from taxpayers in accordance with this Code.

The fee (charge, contribution) is a mandatory payment to the relevant budget, which is collected from the payers of the tax, with the condition of obtaining them a special benefit, including as a result of the commission of such persons by the state authorities, local self-government bodies, other authorized bodies and persons legally meaningful actions (article 6 of the Tax Code of Ukraine).

According to Article 1 of the Tax Code of Ukraine, the Code regulates relations that arise in the sphere of imposition of taxes and fees, in particular, determining the exhaustive list of taxes and fees that are imposed in Ukraine and the procedure for their administration; the payers of taxes and fees, their rights and obligations; the competence of the controlling bodies; the authority and obligations of their officials during tax controlling; and the liability for the violation of the tax legislation.

Ukraine has national and local taxes and fees. National taxes include taxes and fees that are established by the Tax Code of Ukraine and are mandatory for payment throughout the territory of Ukraine, except in cases provided for by this Code.

Local taxes and fees that are established in accordance with the list and within the limits of the rates determined by the Tax Code of Ukraine, decisions of the village, settlement, city councils and councils of the united territorial communities, established in accordance with the law and the prospective plan for the formation of community territories, within their authority and are obliged to pay in the territory of the respective territorial communities (article 8 of the Tax Code of Ukraine).

National taxes include: corporate profit tax; personal income tax; VAT; excise tax; ecological tax; rent payment; duties. The relations related to the establishment and collection of duties are regulated by the customs legislation unless otherwise provided by the Tax Code of Ukraine.

Admission of state taxes and fees to state and local budgets is carried out in accordance with the Budget Code of Ukraine. The establishment of national taxes and fees not provided for by the Tax Code of Ukraine is prohibited (article 9 of the Tax Code of Ukraine).

Local taxes include: property tax; single tax. Local fees include: parking fee for vehicles; tourist tax. Local councils are required to establish a single tax and property tax (in terms of transport tax and land fee).

Local councils within the limits of the powers specified in the Tax Code of Ukraine resolve issues in accordance with the requirements of this Code for the establishment of property tax (in relation to the tax on immovable property other than land) and the establishment of a charge for parking vehicles, tourist fees.

The establishment of local taxes and fees not provided for in the Tax Code of Ukraine is prohibited. The inclusion of local taxes and fees to corresponding local budgets is carried out in accordance with the Budget Code of Ukraine (article 10 of the Tax Code of Ukraine).

Special tax regimes shall be established and applied in cases and in accordance with the procedure specified exclusively by the Tax Code of Ukraine.

Special tax regime – a system of measures that determines the special tax treatment of certain categories of economic entities.

A special tax regime may provide for a special procedure for the determination of elements of tax and fees, exemption from payment of individual taxes and fees.

Special regimes do not recognize tax regimes that are not defined as such by the Tax Code of Ukraine (article 11).

Article 30 of the Tax Code of Ukraine states that a tax relief is exemption of a taxpayer from the obligation to accrue and pay a tax or a fee, or payment of a tax or fee in a reduced amount, as provided for by the tax and customs legislation.

The grounds for providing tax reliefs are the specifics of a certain group of tax payers, the type of their business activity, the taxable item or the nature and public importance of the expenses borne by the tax payer¹.

Conclusion. The results of the comparative legal analysis of tax systems under the legislation of Ukraine and foreign countries testify to the following.

The Tax Code of the Republic of Azerbaijan does not regulate the definition of the tax system and the general tax regime.

¹ *Податковий кодекс України, 2010* (Верховна Рада України). *Офіційний сайт Верховної Ради України*. <<http://zakon1.rada.gov.ua/laws/show/2755-17>> (2018, липень, 2).

The Tax Code of the Republic of Moldova regulates the definition of the tax system, the standard tax regime and the special tax regime.

The Tax Code of the Republic of Tajikistan establishes the definition of the tax system, the general tax regime, the special tax regime and preferential tax regime.

The Tax Code of Ukraine provides the definition of the tax system and special tax regime. The Tax Code of Ukraine does not define the concept of a general tax regime.

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