

PRINCIPLES OF TAXATION AND THEIR ECONOMIC AND LEGAL NATURE

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Abstract. An analysis of principles of tax relations enshrined in the current Tax Code of Ukraine is performed, highlights of their correlation with the basic economic principles of tax relations are given. It is established that legal regulation of tax relations is an important and responsible task to connect objective economic processes and the public interest, equalize the resulting disparities between individual sectors of the economy or territories of the state, achieve a fair distribution of social wealth. It is determined that the study of economic content in the principles of tax relations should take into account nature of taxation and one of the main functions of taxation, which is distributive (redistributive) function, that complements other basic tax functions, namely fiscal, incentive and regulatory. It is concluded that in the unity of legal form and economic content the principles of tax relations become not only abstract static rules, but also begin to operate directly, given the dynamics and priority of economic laws to achieve goals in taxation while strictly adhering to and implementing the rule of law and all its components.

Keywords: economic content of tax principles, functions of taxes, legal form of tax principles, principles of tax relations, public and private interests in taxation, tax relations.

Author contributions

The authors made an equal contribution to the article. Together they selected literature, analyzed it and drew common conclusions.

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INTRODUCTION

Tax relations, their legal regulation, establishment of taxes and fees as elements of national tax systems, determination of legal mechanisms of taxes and fees, their settlement and receipt of tax revenues play a decisive role in the development of any modern state. After all, it is not only the fact that more than two-thirds of the income of the main centralized monetary funds of public territorial entities is formed at the expense of taxes, from which the key functions of the state are then financed, but also the importance of the tax sovereignty of the state, the specificity of the legal content of tax relations and the special role of conscientious implementation tax payers of their tax obligation determine the overriding mission of tax and legal regulation, form an idea of taxes as an indispensable sign of the state and the sovereignty of state power, the primary source of which is the people and national sovereignty.

All these aspects are reflected in one form or another in the constitutional and branch principles of legal regulation of tax relations, the basic principles of tax legislation of Ukraine. In turn, at the basis of any tax and tax legal relations is their economic content, and originally taxes and tax principles arose as economic categories that, due to their significance for social relations, received legal registration and special protection from the state.

THEORETICAL FRAMEWORK

Many domestic and foreign scientists, both in the field of economics and law, paid attention to conducting scientific research on this issue. Among them are such prominent figures as Adam Smith, as well as modern scientists, in particular M. Kucheryavenko, I. Kucherov, L. Tarangul, etc. However, taking into account the dynamics of tax relations and the constant renewal of approaches to their legal regulation, as well as the development of economic relations in the modern world, it is necessary to highlight the relationship and the main points of the interpenetration of the economic principles of taxation and their legal design, which is a determining factor for the relevance of this research.

The purpose of the article is to carry out an analysis based on general scientific and special methods of scientific knowledge of the content of the economic principles of taxation, to establish their correlation with the main principles of domestic tax legislation, to indicate the main modern trends of the relationship between the economic content and the legal form in the institute of the principles of tax relations.

METHODOLOGY

To achieve the goal of the scientific paper and solve the tasks used general and special-scientific methods of cognition: dialectical, system-structural, formal-legal and comparative-legal

RESULTS

In the modern world, the economy and law exert an increasingly mutual influence, stimulating the development of society. Sovereign public territorial entities compete with each other not only for limited natural and other resources, but also for the possibility of directing them as soon as possible to achieve their own functions, increase public welfare, raise the standards of the quality of life of people, mutual distribution of sales markets, and as a natural consequence of this – the accelerated development of national economies, increasingly impressive volumes of monetary expression of gross domestic products. In these conditions, legal regulation is entrusted with the important and responsible task of directing these economic processes in favor of the public interest of society, equalizing emerging disproportions between individual sectors of the economy or territories, and implementing a fair distribution of public wealth. At the same time, tax relations and their legal regulation perform precisely the important role that determines the consolidation of tax liability at the highest level of legal regulation.

L. L. Tarangul detailed the means and mechanisms of the tax-legal influence on the rates of economic growth when determining the features of the use of tax instruments for stimulating the development of the national economy. The scientist noted that among the prerequisites for solving the problem of modernization of any national economy is ensuring sustainable rates of economic growth. The main steps in this direction include the creation of a new type of production with a high share of added value, the products of which are in stable and high demand on the domestic and foreign markets, the introduction of incentives for innovative renewal in the main productions, and the orientation towards new, environmentally safe technologies. It is precisely to solve such a task that a strategic approach of the state on tax-legal regulation and the implementation of a set of measures of a tax nature is needed (Tarangul, 2012). The principles of tax legislation, which establish the relationship between tax-legal regulation and the economic content of taxation, are a reflection of the outlined approach.

Other domestic scientists, in particular M. Tsvik and M. Voronina, also paid attention to the close connection between law and economics, emphasizing that the dependence between the conformity of economic relations to the chosen model of social development and their legal mediation has already become a dogma. It should be taken into account that the economy is a system of relations regarding the production, distribution, exchange and consumption of material goods (General theory of the state and law, 2002), which is reflected both in the subject of all public financial activities of the state as relations with the accumulation, distribution and spending of the main centralized and decentralized monetary funds of the public territorial entity, as well as in the property essence of tax relations,

which are the basis of the outlined movement of the main public cash funds. Therefore, we made it clear: if the economy determines and conditions the need for legal regulation and the emergence of appropriate legal forms, mechanisms and means, then the legal forms created as a result of this turn out to be a way of existence, design, development and restructuring of the economic content. And revealing the content of the economic principles of taxation and their legal expression in the system of the principles of the tax legislation of Ukraine, we should proceed precisely from such a mutually determined influence of the economy and tax-legal regulation as a separate manifestation of the interaction of law and the economy.

At the same time, it is also necessary to take into account the nature of the tax and one of the main functions of taxation, such as distribution (redistribution). It complements such basic functions of tax as fiscal, stimulating and regulatory. Regarding the distributive function, I. Kucherov emphasizes that there are absolutely every reason to consider taxes the most important component of the overall redistribution of income. The corresponding redistribution allows not only to equalize the economic and property situation of different sections of the population, but also to ensure the necessary financing of those industries that are very important and necessary for the state and society, but remain low-income or purely expendable (unprofitable) (Kucherov, 2009). The essence of the distributive function of taxes lies precisely in correcting these disparities and financing the corresponding unprofitable and problematic spheres or territories. Thus, there is a clear connection of tax and legal regulation to the correction of economic phenomena and proportions that support weak sectors of the national economy or stimulate the development of depressed areas.

The indicated common points of interaction between the economy and taxes were quite naturally reflected in the principles of taxation, their content and implementation features. In general, the term «principle» is understood as primacy, primary basis, beginning. Since ancient times, this term has denoted the foundations, the foundation of a certain system, which related to all the elements and components of the latter, defining and directing its development (General theory of the state and law, 2002). In this case, we must emphasize that both tax relations and economic relations are characterized by the dynamism of their development, therefore the property of principles to determine and direct development is very important in conditions when static legal norms no longer keep up with the natural dynamics of regulated relations.

The very first systematized expression of such foundations, which determine and direct the development of taxation relations, were formed in the XXIII century. by Adam Smith as initial economic provisions for the organization of taxation, which later received the general name «Declaration of the Taxpayer's Rights». Among the specified economic principles of taxation, we can highlight the following: 1) correspondence between the amount of taxes and the ability of payers to pay them (that is, taxes should not be too burdensome); 2) comprehensibility of taxes both for the direct payer and for the entire society (taxes should be convenient and simple to calculate, for which a perfect tax mechanism is needed, which, in turn, is built on the modern understanding of such a component of the principle of the rule of law as legal certainty); 3) the convenience of the payment procedure and term (supplements the previous principle, when the mechanism for realizing the main tax obligation of the payer, which consists in timely and full payment of tax, is developed in the most convenient way for the payer); 4) the balance and economy of the tax amount, so that the payer pays as little as possible, on the one hand, and so that the state does not spend too much money on this process; 5) fairness and equality of taxation, when under the same conditions different payers pay equal or proportionate amounts of tax) (Kucheryavenko, 2005). The formation of such economic foundations made it possible to raise taxation and its legal consolidation to a qualitatively new level.

In the time following economist scientists, taking into account the natural development of economic relations and state-building practices, expanded this list to the ten most important economic principles for building tax systems. As noted by M. Kucheryavenko, such principles include: 1) stability and predictability (in particular, it concerns the need to set taxes in advance and for a sufficiently long period, not to change the order of tax administration, to ensure the logic and sequence of changes to tax and legal regulation); 2) flexibility (in the sense of the possibility of making timely changes to tax mechanisms, adjusting rates and benefits, taking into account the current economic situation); 3)

balance (ensures consideration of current economic trends and structural balance in the national economy); 4) mobility (orients the legal mechanisms of taxes and the tax system itself to the possibility of supplementing them with updated structural elements capable of taking into account the objective shift of the taxable base or the emergence of new forms of taxes); 5) anti-inflation orientation (presupposes taking into account the amount of tax deductions for the implementation of measures to prevent or slow down inflation); 6) convenience (takes into account both the ability of taxpayers to fulfill the requirements established by the tax payment procedure and the ability of the state to attract tax instruments as tax levers of influence on economic processes); 7) equality (proceeds from the principle of ensuring equal conditions of taxation for taxpayers in equal economic conditions, and a differentiated approach to those taxpayers whose legal and economic status differs); 8) stimulation (in the sense of the influence of taxes on the formation of economic and legal processes with the aim of obtaining the predicted desired result); 9) cost-effectiveness (takes into account the ratio of tax administration costs and the size of the budget tax revenues mobilized by it); 10) the uniformity of the definition of the object and the tax base (oriented to a rational approach to fixing the object of the tax and the tax base in order to prevent such optimization by the payer of his tax obligations when, as a result of tax maneuvering, the use of various components of value and the withdrawal of activities from - subject to taxation) (Kucheryavenko, 2012).

Such economic principles of construction of taxation systems are a certain generalization and may differ for specific states, taking into account the specifics of their legal systems and tax policy. For example, according to the legislation of the United States of America, it is forbidden to set and pay taxes for any purpose other than fiscal, i.e. replenishment of budgets; therefore, in such conditions, a number of the above-mentioned economic principles cease to be implemented directly, although this does not exclude their hidden action within a single system of tax principles and objective relationships within such a system (Fabio Ambrosio, 2020).

It is quite natural that we find one or another (including direct) manifestation of the effect of the specified economic principles of taxation at the level of the foundations of tax legislation of Ukraine, enshrined in Article 4 of the Tax Code of Ukraine. According to the content of Clause 4.1 of Article 4 of the Tax Code of Ukraine, the tax legislation of Ukraine is based on the following principles: universality of taxation; equality of all taxpayers before the law, prevention of any manifestations of tax discrimination; the inevitability of liability defined by law in case of violation of tax legislation; presumption of legality of the taxpayer's decisions; fiscal sufficiency; social justice; efficiency of taxation; neutrality of taxation; stability; uniformity and convenience of payment; a unified approach to setting taxes and fees (Tax Code of Ukraine, 2010).

A total of eleven principles have been established, of which the most important principles of tax law are indicated in the first two positions - generality and equality, which are both directly and indirectly duplicated at the highest level of legal regulation in our country - the Constitution of Ukraine. This only emphasizes the importance of such principles not only for the sphere of tax relations, but also for the entire activity of the state.

The generality of taxation is almost identically determined both by subsection 4.1.1 of clause 4.1 of Article 4 of the Tax Code of Ukraine and by the first part of Article 67 of the Constitution of Ukraine. In the first, it is noted that every payer has an obligation to pay taxes and fees established by the Tax Code of Ukraine. The Constitution also states that every person has the duty to pay taxes and fees in the order and amounts established by law (Constitution of Ukraine, 1996), that is, by the Tax Code of Ukraine and relevant decisions of local councils on local taxes and fees put into effect on the basis of provisions of the Tax Code of Ukraine. We state that in most countries of the world, at the constitutional level, the generality of taxation was established relatively recently. Thus, I. Kucherov writes that in the recent past, the obligation to pay taxes was not reflected in all state constitutions. This especially applied to the constitutions of socialist states, which usually did not include among the basic duties of citizens an indication of the universal obligation to pay taxes (Kucherov, 2009, p. 158). Specialist in constitutional law of foreign countries B. Strashun also noted that for political purposes it was often emphasized that, unlike capitalist states, in countries with a socialist orientation, taxes are usually collected not from citizens, but from enterprises, and that

indirect taxes are absent (Constitutional (state) law of foreign countries, 1995; Barin, 2015). However, this model proved its imperfection and in the modern world there are almost no states that consider taxes not so important as to establish the obligation of universal taxation. On the contrary, all the geopolitical problems and challenges of our time, in particular the need for states to implement their social insurance programs and pay off ever-increasing foreign debt, necessitate the participation of everyone and everyone in bearing and distributing the tax burden.

The universality of taxation has its roots in both the legal and economic spheres. From the point of view of the first, the generality of taxation becomes a development of the principle of the rule of law at the level of tax legal relations, including in such aspects as the principle of justice and legal certainty. With regard to the economic roots of the principle of universality of taxation, it lies in the plane of maintaining balance in various branches of the economy and in those provisions derived by Adam Smith, according to which taxes should be commensurate with the ability of payers to bear the tax burden, and the size of such a burden should be as small as possible for payer and at the same time sufficient to meet the needs of the state and society.

The next principle of the current tax legislation is the equality of all taxpayers before the law, the prevention of any manifestations of tax discrimination, which is directly enshrined in subsection 4.1.2 of clause 4.1 of article 4 of the Tax Code of Ukraine and can be deduced indirectly from the content of the fourth part of article 13 of the Constitution of Ukraine, which guarantees equal protection of the rights of all owners, regardless of the form of their ownership, by the state (Constitution of Ukraine, 1996). According to it, the state must ensure the uniformity of the approach to each taxpayer, regardless of any of his individual characteristics or features of his property, in particular, the place of origin of capital.

From a legal point of view, equal taxation is based on the principle of justice, when ignoring the principle of equality can lead to tax discrimination against certain categories of taxpayers. The economic component of the principle of equality in taxation manifests itself in several forms. First, it occurs when comparing the economic situation of different taxpayers at the time of setting taxes and fees, when the same tax regime should be ensured for taxpayers in the same economic situation, and a different tax regime for taxpayers whose economic situation differs significantly. The outlined mechanism for the implementation of the principle of equality includes, in order to take into account economic disparities between payers, the establishment of preferential taxation regimes for less protected obliged participants in tax relations. Secondly, under the conditions of the principle of equality, both the uniformity of the tax burden on various components of the tax object and the uniform influence of tax levers on the structure of the economy and its individual branches are ensured.

The third principle of the tax legislation of Ukraine is the inevitability of liability defined by law in the event of a violation of tax legislation, which is enshrined in subsection 4.1.3 of clause 4.1 of article 4 of the Tax Code of Ukraine. This is mostly a legal tax principle, which refers to the possibility of applying various types of legal responsibility for a committed tax offense - both in relation to taxpayers, who bear administrative, financial and criminal responsibility, and in relation to officials of control bodies, who mostly bear disciplinary responsibility. As noted by I. Kucherov, responsibility in tax law comes from two models. The first is close to civil-legal (compensatory) liability, and the other to administrative-criminal liability (Kucherov, 2009). Such an approach is based on the fact that, on the one hand, the person who committed a tax offense must suffer a fair punitive impact, and on the other hand, the public interest must be restored in order to plan the movement of the main centralized cash funds of the public territorial entity. And it is during the restoration (compensation) of the budgets' right to tax revenues that the economic aspect of this principle is realized, and the practical embodiment of the principle of equality in its broad sense is also ensured, due to which the economic component of the principle of inevitability of responsibility for a committed tax offense is also strengthened.

Another mostly purely legal tax principle is the basis of the presumption of legality of the taxpayer's decisions in the event that a norm of the Tax Code or another legal act presupposes a multiple (ambiguous) interpretation of the content of tax relations (that is, the rights and obligations of participants in tax relations – taxpayers and controlling bodies), which is defined by subsection 4.1.4 of clause 4.1 of article 4 of the Tax Code of Ukraine. The legal context of this principle is dominant,

its content protects the rights of taxpayers as the weaker and less protected side of tax relations. However, an economic factor can also be seen in such protection of private interests in taxation. So, first of all, by providing guarantees to taxpayers, they are simultaneously stimulated to increase the volume of economic activity, maintain trust in the state and thereby increase the efficiency of the economic component of the tax system. Secondly, due to the establishment of the presumption of legality of the decisions of taxpayers, the implementation of most of the economic principles of taxation, which were formed by Adam Smith, takes place: taking into account the actual tax capacity of taxpayers, ensuring the clarity and comprehensibility of the tax, paying tax funds in the order that most takes into account the convenience of the taxpayer, as well as paying as little tax as possible.

The fifth principle of tax relations, which is defined in the Tax Code of Ukraine, is the principle of fiscal sufficiency, which is defined in subsection 4.1.5 of clause 4.1 of Article 4 of the Tax Code of Ukraine. This principle already gravitates more to the economic content than to the legal form, because it involves taking into account the needs of budgets and the formation of channels of their revenues (with the aim of achieving a balance of budget revenues and expenses) when setting taxes and fees. This context of applying the principle of fiscal sufficiency largely determines the fiscal direction of the entire tax system of Ukraine, when the priority of budgets and, accordingly, the implementation of the fiscal function of taxation is put first. At the same time, the stimulating function is significantly limited and implemented mostly in a fragmentary manner. However, despite the not always positive impact on the economic proportions and macro indicators of the national economy during the practical implementation of this principle, its economic basis becomes the most pronounced and noticeable.

The next principle identified among the principles of domestic tax legislation is social justice. Its legal consolidation is carried out by subsection 4.1.6 of clause 4.1 of article 4 of the Tax Code of Ukraine, and according to its content, the solvency of taxpayers must be taken into account when setting taxes and fees. Thus, the direct effect of the principle of tax equality and the general principle of justice is ensured at the same time. The economic content of the principle of social justice becomes paramount and by its nature can be revealed as a modern embodiment of the first economic principle of taxation, which was formulated by Adam Smith - taking into account the tax capacity of payers when setting taxes. At the same time, the correct approach of the legislator to the implementation of this principle of tax legislation allows to increase tax revenues at the expense of greater (but still fair) involvement in paying taxes of persons who have greater economic opportunities to bear the tax burden.

The seventh principle of taxation, enshrined in subsection 4.1.7 of clause 4.1 of article 4 of the Tax Code of Ukraine, is the basis of the economy of taxation, which means the introduction of only those taxes and fees, the revenue from which significantly exceeds the administrative costs for their administration. In this case, there is a direct comparison of the economic costs incurred during the administration of the tax by the controlling body with the amount of those revenues that accumulate to the budget as a result of the payment of the corresponding tax. If the expenses are not significantly less than the tax revenues, then the mandatory payment of a tax nature does not meet the principle of economy and it can be excluded from the composition of the national tax system. It was primarily due to this principle that a number of inefficient local taxes were stopped and the elemental composition of the tax system of Ukraine was optimized.

Another principle of taxation with a predominantly economic context is the neutrality of taxation, which is defined in subsection 4.1.8 of clause 4.1 of Article 4 of the Tax Code of Ukraine as the establishment of mandatory tax payments in such a way that does not increase or decrease the competitiveness of taxpayers. In essence, this principle prescribes the legislator to introduce only such a legal form and establish only that legal tax mechanism that does not change the ability of taxpayers to conduct their economic activities in market conditions and compete with other taxpayers. It is important that, in its economic content, the neutrality of taxation refers to the prevention of both cases of potential reduction in the competitiveness of certain payers (for example, by increasing the taxation of the products produced by them), and cases of providing competitive advantages (for example, by introducing preferential taxation on the products of the payer). One of the typical cases in which a prohibition is actually established by the principle of tax neutrality is the provision of certain companies or sectors of activity with a limited number of participants (for example, in relation

to contractors who prepare the holding of international sports competitions, such as Euro-2012) the opportunity to tax the services provided at a zero rate of value added tax, or not to pay (pay in a reduced amount) corporate income tax. The importance of the principle of tax neutrality also lies in the fact that it allows not only the implementation of original economic principles, but also is a necessary component of the comprehensive implementation of the principle of tax equality.

The principle of stability is enshrined as the next principle of tax legislation of Ukraine. In accordance with its content, defined by subsection 4.1.9 of clause 4.1 of Article 4 of the Tax Code of Ukraine, changes to the elements of the tax mechanism are limited in time and cannot be made during the budget year, as well as after June 30 of the current year for the next budget period (if such a date is already has passed, then the changed tax mechanisms can begin to operate only from the budget period following the next one). The principle of stability becomes very important not only for the ability to plan and implement budgets, that is, for the public interest. The value of the projected tax-legal regime is even more important for taxpayers, who, in the conditions of the stability of the effects of taxes and their mechanisms, can count on a certain level of profit, according to which they draw conclusions regarding the expansion of their activities and plan current and future expenses - which is the main economic content of this principle of taxation. From the legal side, the stability of taxation is most closely related to the general principle of the rule of law, one of the components of which is legal certainty, which is also realized through the action of the analyzed principle.

The principle of uniformity and ease of payment is also present in the system of principles of domestic tax legislation. Its legal consolidation is carried out by subsection 4.1.10 of clause 4.1 of article 4 of the Tax Code of Ukraine, according to which the terms of payment of taxes and fees must be established based on two criteria: first, timely and full replenishment of budgets with planned amounts of tax revenues; secondly, the convenience of such payment terms for taxpayers. This principle additionally balances the temporal aspects of the deadlines for the payment of taxes and fees, in particular, the application of the design of advance payments and the determination of the terms and frequency of payment of the relevant taxes depending on the group characteristics of their payers. In this principle, we find an equal combination of both the legal aspect, which allows for optimal planning and implementation of state and local budgets, and the economic aspect - which takes into account the peculiarities of one or another economic activity of the payer, adapts to the regime of such activity and thereby implements not only one of the fundamental principles of Adam Smith, but also a modern idea of the need to achieve a balance of public and private interests in tax relations.

Finally, the eleventh and last tax-legal basis established by the current Tax Code of Ukraine is the introduction of a unified approach to the establishment of taxes and fees. The content of this principle, in accordance with subsection 4.1.11 of clause 4.1 of Article 4, is defined as the duty of the legislator to define all mandatory elements of their legal mechanism when establishing the relevant tax or fee. The latter, in accordance with Clause 7.1 of Article 7 of the Tax Code of Ukraine, are: the payer; object of taxation; tax base; rate; order of calculation; tax period; the term and procedure for tax payment. Consolidation of these elements of the tax mechanism not only brings legal certainty to the central component of tax relations - the timely and full fulfillment of tax obligations by taxpayers, but also allows the main economic principles and recommendations of Adam Smith to apply to the introduction of balanced taxation and the construction of an effective and at the same time transparent and understandable tax system.

CONCLUSIONS

Thus, in each principle of taxation, defined by the current Tax Code of Ukraine as the basis of domestic tax legislation, there is both a part of the legal structure and a part of the economic aspect of taxation. The first of them is based on the fact that the consolidation of the very foundations of tax legislation and the regulation of tax relations can only take place in a legal form, which guarantees fairness, transparency and legal certainty as the main components of the general principle of the rule of law. Instead, the economic aspect of the foundations of the current tax legislation of Ukraine is clearly expressed in their content and is a natural consequence of the economic essence of tax relations,

the original importance of taking into account economic laws, proportions and levers of influence when establishing legal mechanisms, implementing and administering taxes and fees. It is in the unity of the legal form and the economic content that the principles of tax relations become not only abstract static rules, but also directly begin to act in tax relations, taking into account their dynamics and the primacy of economic laws to achieve the goals of taxation with the unwavering observance and implementation of the principle of the rule of law and its components. And as a logical result of such interaction, we will get the same desired balance of public and private interests in tax relations, which is a guarantee of their effectiveness, both filling budgets and ensuring the development of the economy.

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ПРИНЦИПИ ОПОДАТКУВАННЯ ТА ЇХ ЕКОНОМІКО–ПРАВОВА ПРИРОДА

Анотація. Надано аналіз принципам податкових відносин, закріплених у чинному Податковому кодексі України як засади податкового законодавства, висвітлено їх співвідношення з основними економічними принципами податкових відносин. Встановлено, що на правове регулювання податкових відносин покладається важливе та відповідальне завдання з спрямування об'єктивних економічних процесів на користь публічному інтересу суспільства, вирівнювання виникаючих диспропорцій між окремими галузями економіки або територіями, здійснення справедливого розподілу суспільного багатства. Констатовано, що економіка детермінує і зумовлює потребу в правовому регулюванні і появі відповідних правових форм, механізмів і засобів, а створені внаслідок цього правові форми опиняються способом існування, оформлення, розвитку і перебудови економічного змісту. Визначено, що при дослідженні економічного змісту у принципах податкових відносин потрібно враховувати природу податку і таку одну з основних функцій

оподаткування, як розподільча (перерозподільча), що доповнює інші основні функції податку, а саме фіскальну, стимулюючу і регулюючу. Наголошено, що податкові та економічні відносини характеризуються динамічністю їх розвитку, тому властивість принципів визначати і спрямовувати розвиток дуже важлива в умовах, коли статичні податково-правові норми вже не встигають за природною динамікою регульованих податкових відносин. Встановлено, що формування науковцями економічних принципів оподаткування дозволило підняти податково-правове регулювання на якісно новий рівень.

Аргументовано, що в кожному принципі оподаткуванні, визначеному чинним Податковим кодексом України як засади вітчизняного податкового законодавства, існує як частка правової конструкції, так і частка економічного аспекту оподаткування. Перша з них виходить з того, що закріплення самих засад податкового законодавства і регулювання податкових відносин може відбуватись лише у правовій формі, що гарантує справедливість, прозорість і правову певність як основні складові загального принципу верховенства права. Натомість економічний аспект засад чинного податкового законодавства України є чітко вираженим у їх змісті і є закономірним наслідком економічної сутності податкових відносин, вихідної важливості врахування саме економічних законів, пропорцій та важелів впливу при встановленні правових механізмів, введенні в дію і справлянні податків і зборів. Зроблено висновок, що саме у єдності правової форми і економічного змісту принципи податкових відносин стають не лише абстрактними статичними правилами, а й безпосередньо починають діяти, враховуючи динаміку і першочерговість економічних законів для досягнення цілей оподаткування при неухильному дотриманні і втіленні принципу верховенства права і його складових.

Ключові слова: податкові відносини, засади податкових відносин, функції податків, правова форма податкових принципів, економічний зміст податкових принципів, публічний і приватні інтереси в оподаткуванні.

PRINCIPLES OF TAXATION AND THEIR ECONOMIC AND LEGAL NATURE

Abstract. An analysis of principles of tax relations enshrined in the current Tax Code of Ukraine is performed, highlights of their correlation with the basic economic principles of tax relations are given. It is established that legal regulation of tax relations is an important and responsible task to connect objective economic processes and the public interest, equalize the resulting disparities between individual sectors of the economy or territories of the state, achieve a fair distribution of social wealth. The interdependent influence of economics and tax law regulation as an indication of general interaction between law and economics is demonstrated. It is determined that the study of economic content in the principles of tax relations should take into account nature of taxation and one of the main functions of taxation, which is distributive (redistributive) function, that complements other basic tax functions, namely fiscal, incentive and regulatory. It is emphasized that tax and economic relations are characterized by the dynamics of their development, therefore, the ability of principles to define and guide development is very important in conditions when static tax law rules no longer keep up with the natural dynamics of regulated tax relations.

It is argued that in each principle of taxation, defined by the current Tax Code of Ukraine as the basis of domestic tax legislation, there is both a part of the legal structure and a part of the economic aspect of taxation. The first of them is based on the fact that the consolidation of the very foundations of tax legislation and the regulation of tax relations can only take place in a legal form, which guarantees fairness, transparency and legal certainty as the main components of the general principle of the rule of law. Instead, the economic aspect of the foundations of the current tax legislation of Ukraine is clearly expressed in their content and is a natural consequence of the economic essence of tax relations, the original importance of taking into account economic laws, proportions and levers of influence when establishing legal mechanisms, putting into effect and paying taxes and fees. It is concluded that in the unity of legal form and economic content the principles of tax relations become not only abstract static rules, but also begin to operate directly, given the dynamics and priority of economic laws to achieve goals in taxation while strictly adhering to and implementing the rule of law and all its components.

Keywords: tax relations, principles of tax relations, functions of taxes, legal form of tax principles, economic content of tax principles, public and private interests in taxation.

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