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MODERNIZATION OF THE TAX AUDIT IN UKRAINE

The article deals with the world experience of conducting a tax audit and its legal bases. Both in Ukraine and abroad the consideration of issues related to tax audit, is topical and is of particular interest for the development of the Ukrainian tax system. In the current circumstances of the formation and development of market relations, the issues of tax interaction between tax payers, tax authorities and objects of management during the tax audit acquire special significance. It is proposed to implement the e-audit system during tax audits.

Keywords: tax verification, tax audit, the tax system, taxpayer, e-audit, tax authority.

Симоненко В., Костюк Б. Модернізація податкового аудиту в Україні.

В статті розглянуто світовий досвід проведення податкового аудиту та його правових основ. Розгляд питань, пов'язаних з податковим аудитом, як в Україні, так і в зарубіжних країнах є актуальним і представляє особливий інтерес для розвитку податкової системи України. В сучасних умовах становлення та розвитку ринкових відносин питання податкового взаємодіяння платників податків, податкових органів та об'єктів господарювання при проведенні податкового аудиту набувають особливого значення. Пропонується впровадити систему е-аудиту при проведенні податкових перевірок.

Ключевые слова: налоговая проверка, налоговый аудит, налоговая система, налогоплательщик, е-аудит, налоговый орган.

Background. Development of any country in a greater degree depends on budget revenue, the basis of which is taxes, dues and fees, and obligatory payments.

Filling of revenues of budgets of all levels, financing of different fields of country's activity, personal needs of citizens depend on completeness and timeliness of tax payment. Important means of budget tax revenue supporting is tax audit as specific form of the tax control.

Development of diverse forms of entrepreneurship at times of world economy globalization forces many countries, including Ukraine, to search

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for new directions and forms of relations in tax field which meet the requirements of today. Differences in definition of state's role in managing social-economic processes in any country stipulate importance of tax collection as an element of the state economic impact system.

Experience of foreign countries in tax field including tax auditing by state tax authorities enables to ascertain the possibility for building of the efficient system of relations between tax authorities and the taxpayers during tax audit.

Thus, the study of the questions of legal basis of tax auditing by tax authorities of foreign countries needs working-out. That fact stipulates the topicality of this article.

Analysis of recent research and publications. Substantial contribution to the research of tax auditing was made by such foreign scholars as S. Smiley, H. Chase, M. Todorova, Andrew D. Appleby, A. Novikova, N. Poponova [1–6].

Marking out of unsolved parts of general issue to which the article is dedicated. In spite of extended coverage of formation of the perfect tax audit system of the state fiscal service in scientific literature, not all aspects of this complex issue are found out and grounded properly. Particularly, the questions of the perspectives of improving of legal regulation of tax auditing by the state fiscal service authorities regarding international experience need to be studied.

The **aim** of the article is to ground the directions of improving of legal regulation of tax auditing by the state fiscal service authorities regarding international experience.

Materials and methods. Systematic and structural methods are used during showing of the peculiarities of legal regulation of tax auditing in foreign countries. Abstraction and synthesis techniques are used to bring to light the directions of improving of legal regulation of tax auditing by state fiscal service authorities regarding international experience.

The results of the research. Beginning our research we should mention that such countries as the USA, France, Canada, Sweden, Great Britain etc. have rich experience in tax management. Diverse variants and forms of tax management organization including control process activities are used in these countries. We turn our attention to experience of particular countries which will allow us to reveal the trends and principles of development of legal regulation of tax auditing by the state fiscal service authorities.

The USA, According to Professor of Georgetown University, S. Smily, tax authorities are held in high estimation among citizens. The US Federal Tax Service is called Internal Revenue Service. It is in its way Federal Tax Police which investigates the violation of the tax legislation, finds out and prosecute in operative way individuals who defraud the revenue [1, p. 10].

The USA has progressive tax system. The more profits a taxpayer has, the more amounts of taxes he has to pay. Progressive tax system is the means of solving of the problem of economic disparity in the society.

However this system is not perfect, although not very rich people may not pay the federal income tax but state, local taxes, excise duty and sales tax are also charged on them [2, с. 13].

Auditing carried out by Internal Revenue Service is the checking (examination) of accounts, financial information of organization or individual in order to ensure records accuracy and accordance of these records to tax legislation and also accuracy of tax amount specified in a tax declaration.

According to M. Todorova, in the USA tax control (tax audit) is defined as study of personal financial information and company's accounts in order to detect the accuracy of information in a tax declaration of a taxpayer and its accordance to tax legislation, and also checking of the accuracy of declared tax amount by taxpayer [3]. The official USA authority controlling activity in tax and duties field is the Internal Revenue Service which is a part of the Ministry of Finance. In Ukraine similar functions are conferred on territorial the State fiscal service of Ukraine.

The US tax legislation provides three types of tax audit:

- by correspondence (documents are posted to the Control department of the Internal Revenue Service);
- cameral (conducted at the location of the Internal Revenue Service);
- on-site audit (conducted at the location of a taxpayer).

In the USA any tax auditing cannot be carried out unless a taxpayer is informed. Official body informs a taxpayer about documents necessary for auditing in decision to conduct an audit. In such a case, tax inspector (auditor) makes decisions himself according to what type of tax audit to conduct concerning each taxpayer [4].

Audit may be conducted by the USA Internal Revenue Service by post or during personal interview and checking of a taxpayer's documents. An interview may be conducted at the location of the USA Internal Revenue Service (cabinet audit) or in a taxpayer's house and or his accountant's job location (on-site audit).

If audit is conducted by post the letter of tax authority will contain request for extra information on particular items specified in a taxpayer's tax declaration (for example, income, expenses and itemized deductions). If the volume of available account books or documentation is too large to post, taxpayer can file a request for auditing in form of personal interview.

Auditors of the USA Internal Revenue Service can use one of the manuals on methods of audit conducting (Audit Techniques Guides). These Guides allow taxpayers to review the algorithm and the rules of audit conducting directly.

As a rule the USA Internal Revenue Service can include into auditing tax declarations for the last three years. If it finds out significant mistake, tax authority may expand the volume of audit. As a rule the USA Internal Revenue Service doesn't expand the volume of audit more than for six last years.

The USA tax authority tries to conduct the audits of tax declarations as soon as possible after they are submitted. Thus, the subject of the most audits is tax declarations submitted during the last two years.

If the audit is not conducted wholly the USA tax authority can ask for extension of tax check period which has limited terms. As a rule, this period can be three years after this terms or actual date of tax declaration submission; it depends on which of these dates is later. There are also limited terms of return of overpaid taxes. Extension of this period gives a taxpayer more time for submission of extra documentation in order to ground his position, an appeal (in case of disagreement according to the results of audit) or an application for return of overpaid taxes or credit.

Moreover it provides the USA Internal Revenue Service with more time for completing the audit and processing of results.

There could be the following three results of an audit:

1. Without changes: it's an audit in process of which a taxpayer grounded all considered issues and there are not any changes.
2. Agreement: it's an audit in process of which the USA Internal Revenue Service offers some changes and a taxpayer understands them and agrees with them.
3. Disagreement: it's an audit in process of which the USA Internal Revenue Service offers some changes and a taxpayer understands them but does not agree with them.

Showing peculiarities of French tax system, we should mention that it's «very similar with Ukrainian one because continental legal system dominates in France; it is of importance for tax regulation assets which are codified in France and Ukraine respectively».

Tax administration in France is conducted by taxpayer himself, who provides data for calculation of tax amounts; the most parts of tax amounts are paid voluntary. The development of France tax legislation is realized on base of taxpayer's honesty [5, c. 25].

A rage of factors contributes to efficiency of France tax authority's work:

- Tax legislation with well-defined tax procedures and equality of parties in tax relations.
- Predominance of functional approach over sectoral one in organization of tax authority. Functional approach creates the control and counterbalance system, contributes to staff skill improvement and increase efficiency of labor by means of specialization and complex approach.
- Availability of tax control conception, concentration of expert effort on key control directions; purposeful selection of enterprises for checking on basis of wide informational background.
- Assessment of work of subdivisions and employees of tax authorities by clear criteria, creation of motivation to increase efficiency of tax control [6, c. 73].

All necessary means for control over delinquency in taxes are provided in the Internal Revenue Code of France. Similar integral document exists not in many countries. It is defined more accurately annually during passage of the budget law in France. Two volumes of interpretation (annual comments) are added to the Code.

Let's turn our attention to specific issues of functioning of French tax audit system. Tax auditing in France is conducted by tax centers created in every department; they send notifications to the payers, study declarations submitted on a voluntary basis. The declaration must be submitted by all individuals regardless of the levels of their income.

Tax officials conduct two types of tax audit. They work with declarations at the workplaces (cameral audit). Available information in database is compared with information specified in a declaration. Usually, differences are found out already at this stage and auditor addresses taxpayer in order to get proper explanation.

If this explanation is not enough for tax authority, it may claim for additional taxes or apply for other control departments for detailed control.

On-site audit is usually conducted if there are serious evidences for suspicion of hidden income.

Special feature of tax audit in France is the fact that in contrast to instructions of many European countries a French taxpayer must be informed about tax audit 8 days before at least. Sudden audit without notification can be conducted only if there is reliable information that an enterprise avoids tax payment.

Usually an audit is conducted for period of last three years. There are not special regulations of audit frequency. With rare exceptions repetitive audit inspections during the same period are not usually carried out [7].

Selection of an enterprise to be inspected is realized with respect to many criteria, risk analysis is in the base. At first, the potential law breaker enterprises are chosen; at second, the information from informers is used.

The duration of tax audit procedure depends on size of an enterprise: the terms of not more than three months are specified for small enterprises and the terms are not specified for big enterprises. The term of auditing of individuals mustn't be more than 12 months.

Relations between tax authority and taxpayer are built in form of exchange of ideas: each party defends its rightness. Tax administration is obliged to answer taxpayer's questions in written form; the last can use these answers for his further defense.

Tax authorities use different sanctions as a result of finding out breaking of the law. The sanctions depend on the fact whether the taxpayer's actions were intentional or unintentional and also whether a taxpayer helps tax authority. Mild punishment is implemented in case of simple mistakes. Extra tax charging takes place administratively. Criminal punishment is symbolic but this method is used more frequently and accusation of tax avoidance is provided to the director personally. If a taxpayer paid an

excessive tax amount, the disparity will be returned to him, as a rule, with interest. Usually this amount is refunded at once.

Studying the experience of foreign countries in field of tax auditing we cannot miss the issue of electronic audit by tax authorities.

Thus, in 2005 the Organization for Economic Cooperation and Development (OECD) published the first version of guidance SAF-T (Standard Audit File-Tax) for electronic inspections conducting. The structure of this document includes the main aspects of accounting and contains the gross book, journals, accounts receivable, accounts payable, check registers and also asset registers.

Introduction of this guidance has the aim to create efficient and effective approach to auditing through unitary standard document on system of accounting software. As a matter of fact SAF-T system is one of possible instruments for e-audit conducting, that is to say electronic inspections by tax authority.

Portugal was the first European country which introduced the practice of SAF-T into its tax administration and from 2008 SAF-T became the compulsory system for all legal bodies who keep electronic accounting records. Here is the list of countries which use SAF-T system: Great Britain, Netherlands, Sweden, and Norway. Among CIS countries only Azerbaijan uses SAF-T from 2012 during tax inspections of big taxpayers [8].

The experience of the Republic of Lithuania is interesting for our research. The country is in transitional period of introduction of e-audit. From 2012 they have been using voluntary electronic tax inspection; from 2017 they will have compulsory electronic tax bookkeeping. In 2012 already Lithuanian tax authorities managed to decrease average terms of tax inspection to 18 working days. Moreover labor costs of an enterprise during electronic tax auditing were reduced by half in comparison with costs during common tax auditing in this country.

Conclusion. The analysis of foreign experience of the legal regulation of the tax audit by the state fiscal service allows to draw the conclusion that the approaches to build an efficient system of tax auditing are diverse and are formed with taking into account solely mentality of inhabitants and peculiarities of development of national economy and the financial system of a country. In order to improve the activity of the state fiscal service of Ukraine in field of tax auditing on grounds of available world experience, at first it's necessary to make the whole activity of tax authority closer to needs of taxpayers on basis of person-centred approach. Such an activity has to be consistent and fully conform to legislation on taxes and duties. Introducing of e-audit by control authority in information technology era is absolutely logical process. Such an informational cooperation of tax authority and the taxpayers before and after tax reporting meets their mutual interest and will be beneficial in decreasing of tax disputes and their swift settlement. In general swift tax auditing is the aim both of the taxpayers and tax authority. Certainly, introduction of this

system must be grounded on the practice of the leading countries in e-audit field. In their turn the taxpayers have to be aware of future new systems and upgrade automation of their bookkeeping to the highest possible level.

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Симоненко В., Костюк Б. Модернізація податкового аудиту в Україні.

Постановка проблеми. Розвиток будь-якої країни переважно залежить від надходжень до бюджету, основу яких складають податки, збори та обов'язкові платежі. Саме від своєчасності і повноти сплати податків залежить наповнення дохідної частини бюджетів усіх рівнів, фінансування різних сфер життєдіяльності держави, особистих потреб громадян. Важливим засобом забезпечення надходження податкових платежів до бюджету є податковий аудит як особлива форма податкового контролю. Досвід зарубіжних країн у сфері оподаткування, у тому числі у сфері проведення податкового аудиту податковими органами, дозволяє визначити можливості для побудови ефективної системи взаємовідносин між податковими органами і платниками податків при проведенні податкового аудиту. Дослідження питань правових основ проведення податкового аудиту податковими органами зарубіжних країн потребує своєї розробки, що й обумовлює актуальність цієї статті.

Аналіз останніх досліджень і публікацій. Проблематика проведення податкового аудиту органами ДФС України відображена в працях таких науковців: С. Смайлі, Х. Чейс, М. Тодорової, Е. Еплбай, А. Новікової, Н. Попонової. Проте, дослідження специфіки організації та здійснення податкового аудиту потребують сучасних аспектів і систематизації векторів удосконалення контрольної діяльності фіскальних органів.

Мета статті – обґрунтування напрямів удосконалення правового регулювання проведення податкового аудиту органами ДФС з урахуванням міжнародного досвіду.

Матеріали та методи. Під час дослідження застосовано методи порівняльного аналізу та синтезу для встановлення шляхів вдосконалення проведення податкового аудиту органами ДФС України.

Результати дослідження. Багатий досвід податкового адміністрування мають такі країни як США, Франція, Португалія, Литва та ін., в яких використовуються найрізноманітніші варіанти та форми організації податкового адміністрування, у тому числі при проведенні контролюючих процесуальних заходів. У США будь-який податковий аудит не може початися, поки платник податків не буде повідомлений про це. В рішенні про проведення аудиту посадова особа повідомляє платнику податків про документи, необхідні для цього. При цьому податковий інспектор (аудитор) самостійно приймає рішення про вид проведення аудиту щодо конкретного платника податків. Встановлено, що французька податкова система максимально наближена до української. Здійснення аудиторських перевірок у Франції покладено на створені в кожному департаменті податкові центри, які направляють повідомлення платникам, вивчають подані в добровільному порядку декларації. Декларації зобов'язані подавати всі фізичні особи незалежно від розміру їх доходів. Актуальним на сучасному етапі розвитку є проведення електронного аудиту податковими органами. Серед перших європейських країн, що впровадили проведення е-аудиту, була податкова адміністрація Португалії. Наразі триває впровадження е-аудиту в Литовській Республіці, яка з 2017 р. переходить на обов'язкове надання платником податків електронної звітності.

Висновки. Аналіз зарубіжного досвіду правового регулювання проведення податкового аудиту податковими органами дозволяє зробити висновок, що підходи до реалізації побудови ефективної системи податкового аудиту різноманітні і будуються виключно з урахуванням менталітету населення й особливостей розвитку національної економіки та фінансового устрою країни. Для вдосконалення діяльності органів ДФС України у сфері проведення податкового аудиту на підставі наявного світового досвіду перш за все необхідно максимально наблизити діяльність податкових органів до потреб платників податків на основі положень людиноцентристського підходу. Вона має бути послідовна і повністю відповідати положенням законодавства про податки та збори. Впровадження е-аудиту контролюючими органами в епоху інформаційних технологій є цілком закономірним процесом. Подібна інформаційна взаємодія податкових органів і платників податків до і після надання податкової звітності повинна відповідати взаємним інтересам. Це буде сприяти скороченню податкових диспутів і їх швидкому вирішенню. Платники податків повинні бути в курсі майбутніх нових систем і підтримувати автоматизацію своїх обліків на максимально можливому рівні.

Ключові слова: податкова перевірка, податковий аудит, податкова система, платник податків, е-аудит, податковий орган.

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