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LEGAL REGULATION OF ECOLOGICAL TAXATION IN UKRAINE

ПРАВОВЕ РЕГУЛЮВАННЯ ЕКОЛОГІЧНОГО ОПОДАТКУВАННЯ В УКРАЇНІ

Urgency of the research is the need to improve the actual national legislature as to the problems of ecology taxation.

Target setting. Ecology taxation in Ukraine is one of the components of the management financial and legal mechanism in the field of natural resources consumption.

Actual scientific researches and issues analysis. Both specialists in jurisprudence and economy devote their works to solving the problems of improving legal regulation of natural resources consumption, environment protection and ensuring ecology safety.

Uninvestigated parts of general matters defining. The ecology taxation in extending the number of ecology payments, introducing favourable ecology taxation for some categories of natural resources consumers, whose activity is directed at solving ecology problems.

The research objective. The task is to show the drawbacks of legal regulation of ecology taxation in Ukraine and to prove the conception aspects as to its improvement.

The statement of basic materials. Ecology tax is the state compulsory payment made of real pollution amounts in the air, water, waste materials arrangement, real amount of radioactive waste materials that are temporarily kept by their producers, real amount of new radioactive waste materials and real amount of radioactive waste materials accumulated till April, 1, 2009.

Nowadays there is a need to improve the mechanism of costs distribution that are formed at the expense of ecology taxation depending on their assignment.

Conclusions. Ecology taxation is an important financial and legal institute that provides the efficient management in the field of ecology and environment protection. Ukraine, aspiring to become an equal member of the European Union is to make effective steps in ecologically-oriented development.

Keywords: ecological tax; system of ecological taxation; special fund of environment protection.

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Urgency of the research is the need to improve the actual national legislature as to the problems of ecology taxation because lately environment protection in general and the territory of our country

Актуальність теми дослідження полягає у необхідності вдосконалення діючого національного законодавства з питань екологічного оподаткування.

Постановка проблеми. Екологічне оподаткування в Україні є однією зі складових фінансово-правового механізму управління в галузі природокористування.

Аналіз останніх досліджень і публікацій. Розв'язанню проблем вдосконалення правового регулювання природокористування, охорони природи та забезпечення екологічної безпеки присвячені праці як фахівців в галузі юриспруденції, так й економіки.

Виділення недосліджених частин загальної проблеми. Екологічне оподаткування в Україні потребує реформування в частині розширення спектру платежів екологічного характеру, запровадження пільгового екологічного оподаткування для окремих категорій природокористувачів, діяльність яких спрямована на вирішення екологічних проблем.

Постановка завдання. Виявлення недоліків правового регулювання екологічного оподаткування в Україні та обґрунтування концептуальних аспектів щодо його вдосконалення.

Виклад основного матеріалу. Екологічний податок - загальнодержавний обов'язковий платіж, що справляється з фактичних обсягів викидів у атмосфері повітря, скидів у водні об'єкти забруднюючих речовин, розміщення відходів, фактичного обсягу радіоактивних відходів, що тимчасово зберігаються їх виробниками, фактичного обсягу утворених радіоактивних відходів та з фактичного обсягу радіоактивних відходів, накопичених до 1 квітня 2009 року.

На сьогодні виникла необхідність у покращенні механізму розподілу (перерозподілу) коштів, які формуються за рахунок екологічного оподаткування, в залежності від їх цільового призначення.

Висновки. Екологічне оподаткування є важливим фінансово-правовим інститутом, що забезпечує ефективне управління в галузі екології та охорони навколишнього природного середовища. Україна, яка прагне стати повноправним членом Європейського Союзу, повинна здійснювати дієві кроки щодо формування екологоорієнтованого розвитку.

Ключові слова: екологічний податок; система екологічного оподаткування; спеціальний фонд охорони природи.

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specifically, cause the global ecology disaster that can be avoided by implementing the world progressive ecology saving technologies and rational legal regulation of ecology taxation.

Target setting. Ecology taxation in Ukraine is one of the components of the management financial and legal mechanism in the field of natural resources consumption. Realizing the detailed essence of the ecology taxation is connected with the urgency of solving the problems of environment quality improvement, the ecologization of national economy, changing anthropocentric conception of the Ukrainian society development with ecocentric, that is one of the main tasks of the stable national development of the country.

One can emphasize a number of legal, ecological, social, economic and other factors that are obstacles for providing the process of the stable development of our country, the main of them are:

- low level of ecology and legal consciousness and culture of the population, management bodies and economy subjects;
- a rather low finance amount of environment protection measures, ecology investments into the innovative projects of equipping the national production and the cultural and everyday sector of the economy of Ukraine;
- imperfect system of the national ecology taxation;
- the lack of the strategy and tactics in preserving the natural resources potential of the country for future generations [1].

Actual scientific researches and issues analysis. The works by national and foreign scientists in the field of jurisprudence and economy such as S. V. Antonenko, O. F. Balatskii, O. O. Veklych, V. Hetman, K. F. Hofman, M. P. Kucheriavenko, L. H. Melnyk, V. S. Mischenko, M. F. Reimers, M. A. Khvesyk, Yu. S. Shemshuchenko and others are devoted to solving the problems of improving legal regulation of natural resources consumption, environment protection and ensuring ecology safety including ecology taxation as a modern instrument in the field of social, ecology, economic systems management.

Uninvestigated parts of general matters defining. The ecology taxation in Ukraine needs to be reformed in extending the number of ecology payments, introducing favorable ecology taxation for some categories of natural resources consumers whose activity is directed at solving ecology problems.

The research objective is to show the drawbacks of legal regulation of ecology taxation in Ukraine and to prove the conception aspects as to its improvement.

The statement of basic materials. In the modern world implementation of the state programmes aimed at solving the ecology problems is becoming more and more important. In most countries corresponding programmes are fulfilled with the help of such important financial and legal institute as the ecology taxation.

Ecology tax is the state compulsory payment made of real pollution amounts in the air, water, waste materials arrangement, real amount of radioactive waste materials that are temporarily kept by their producers, real amount of new radioactive waste materials and real amount of radioactive waste materials accumulated till April, 1, 2009. [2, p. 14]

According to Article 240 of the Tax Code of Ukraine taxpayers are economy subjects, juridical parties who are not engaged in economic activity, budget institutions, public and other enterprises, institutions and organizations, constant nonresidents' agencies including those that have agencies functions as to such nonresidents' or their founders, at the time of their activity on the territory of Ukraine and within its continental shelf and excluded (sea) economic zone the following is happening:

- polluting substances get in to the air from stationary pollution sources;
- polluting substances get directly into the water;
- waste materials arrangement (besides the arrangement of some types of waste materials as secondary raw materials that are at the own objects of the economy subjects);
- cultivation of the radioactive waste materials (including those which were accumulated);
- temporary keeping of the radioactive waste materials by their producers over the license term by the special conditions.[2, p. 240]

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Ecology taxes are connected with the 70-ies of the past century and were implemented as the instrument of the ecology and legal principle «a person who is polluting is to pay», and are important in the tax systems of the EU countries. [3].

The mechanism of forming the ecology tax was introduced by the scientist A. Pihu who studied production external ecology expenses, they were called «negative external effect» in the theory of natural resources consumption economy.

According to A. Pihu a society makes a polluting enterprise internalize the ecology expenditure by paying a pollution tax. «Pihu tax» should be equal to a tax per pollution amount that is defined as a negative external effect, i.e. a tax should be equal to a considerable loss, and the state grant should be equal to a considerable profit. But in Ukraine the ecology tax is not equal to a considerable loss of a recipient's disposals and wastes. [1]. In our country till 2010 there was a system of fees for natural resources consumption and fees for the biosphere components consumption: air, water, soils, waste materials arrangement. Since January, 1, 2011 the Tax Code came into force in Ukraine, in which different rates of the ecology tax are legally approved depending on the kinds of polluting substances, their danger class and the object of polluting. [2].

Comparison of the Ukrainian ecology legislature with the ecology legislature of the European countries enables to make such conclusions:

- ecology tax is the tax, which basis is the activity which badly influences the quality of the environment;
- the importance of the ecology tax lies in a payer's motivation (enterprise-natural resources consumer) to ecology-oriented behaviour, providing the ecology balance in the social-ecology-economic system (nature- enterprise-society);
- economic feature of the ecology taxation is proved by the need to preserve and strengthen the natural resources potential of the country, to preserve the quality of the environment for the future generation, to provide the certain level of the ecology security;
- each EU country forms its own policy of the ecology taxation taking into account the ecology problems, population ecology and legal consciousness and culture, management bodies in the ecology sphere, heads of the enterprises – natural resources consumers and peculiarities of their economic activity [4];
- the list of ecology taxes in different EU countries comes to hundreds, there is no unified structure and sizes of ecology taxes;
- a Directorate on taxes and customs fees of the European Commission defines seven groups of ecology taxes (Tab. 1) [5]:

Table 1

Groups of ecology taxes in the EU countries

The group of ecology tax	The type of ecology taxes
Power	Tax on the engine and power fuel, electricity
Transport [6]	Taxes on the vehicle run, a yearly tax on vehicles' owners, excise taxes while buying a new vehicle or the used one
Acoustics	Tax on the noise pollution
Payments for natural resources consumption (royalty)	Payments for consumption of air resources, water resources, soils and other kinds
Payments for changes in the environment quality with admixtures	Taxes on the disposal of the substances that cause global changes (substances that ruin ozone layer, hotbed gas)
Payments for the environment pollution	Tax for emission of polluting substances into the air (carbon dioxide, CO ₂ , chlorine-fluorine-carbon, sulphur oxides, nitrogen, lead) into water (pesticides, other chemical agents used in agriculture)
Payments for waste materials arrangement	Taxes on arrangement of the production waste in the ground and under the ground space, wastes processing, taxes on some special products (polyethylene packets and other kinds of packets), batteries, autotyres, that can't be recycled, oils

- in Ukraine there are no certain kinds of taxes and payments on ecology, to be exact [3-5; 7]:

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- 1) tax on the products that contain ecologically harmful substances or admixtures, that is implemented in Denmark, Norway, Sweden, Czechia, France, Germany, Latvia, Poland;
 - 2) tax on the kind of packing material (plastic, glass, metal) that exists in Denmark, Norway, Sweden and Finland;
 - 3) taxes on air transportation fees that are in France and Great Britain;
 - 4) fees on the environment protection that are implemented in the UK, Germany, Sweden.
- the problem aspect of the national tax system is lack of credits as to ecology tax payment for the enterprises-natural resources consumers, the economic activity of which is directed at environment preservation, renewal and protection, effective, complex and rational consumption of natural resources and goods, providing a high level of ecology security;
 - the experience of the EU countries proves that the active use of ecology tax credits promotes decreasing the general level of environment pollution, positive development of new, ecologically pure output that strengthens competitiveness and producers' economic positions and also stimulates further careful attitude to the environment, its components and formation of the steady ecology culture both of producers and population;
 - essential difference in the ecology taxation between Ukraine and the EU countries is low taxation rates, small part of the ecology taxes in the formation of general tax revenue in our country, in the structure of certain tax revenue (natural resources payments in the European countries are not more than 20 per cent of the general amount of the ecology taxes [7], but in Ukraine it is almost 3/4); different principles of taxation (in Ukraine taxation object is ecology destructive emissions and intervention into the environment and in the EU countries it is the results of the economic activity);
 - in the general amount of tax and nontax revenue of the state budget in Ukraine, ecology taxes, payments and fees connected with natural resources consumption make up about one per cent, moreover, the ecology taxes make up 0,2 per cent of the general revenue to the country budget [1].

It should be mentioned that at present time there is a need to improve the mechanism of allocation (reallocation) of costs which are formed at the expense of the ecology taxation depending on their purpose assignment, that is on the financing of the environment protection measures declared in the Act of Ukraine «On the environment protection», in the Act of Ukraine «The strategy of the state ecology policy of Ukraine for the period till 2020» [8], in ecologically oriented regulations of other normative documents, for example, the Act of Ukraine «On the principles of the state regional policy», the Strategy of the steady development of Ukraine - 2020».

The ecology tax should be spent only on the environment protection measures. However, during 2014 and 2015 the main assignment of the ecology taxation was legally done levelling in Ukraine. This was done at the expense of the reallocation of the ecology tax on the interbudget horizontal line into the general fund of the state budget and local budgets (zero per cent revenue into the special fund of the state budget from the ecology tax, at the same time zero percent revenue into the state and local funds of the environment protection) that caused the process of «exhaustion» of plans and programmes fulfillment as to carrying out the environment protection measures, implementation of the ecological innovations etc.

In consequence of such interbudget reallocation costs from the ecology tax payment lost their further purposeful ecology constructive assignment and made it possible to use them on other expenditure articles, other than environment protection, specifically, measures on modernization and repairs of lifts, reconstruction of apartment houses, construction of networks for streets illumination and others. Unfortunately, this proves low ecology consciousness of the bodies of power, elimination of the financial responsibility of the state and local bodies of self-government at all levels as to the implementation of environment protection measures and ecological purposes.

Since the beginning of 2016 one can see a small improvement in the process of allocation of the costs from the ecology taxation thanks to the adoption of the Act of Ukraine «On changes in the Budget Code of Ukraine as to the purposeful assignment of the ecology tax» [9], that is to aim the ecology tax at the special, purposeful assignment, the local budget level. But the problem of spending costs from the ecology taxes is not still solved. That's why, we think that the main ways of improving the legal regulation of the ecology taxation and solving the ecology problems in Ukraine should be le-

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gally approved possibility to spend the costs that are accumulated from the ecology tax payment only on the environment protection measure. This means the revision of the legal norms of the legislature and their balancing with the budget legislature.

Conclusions. The ecology taxation is an important financial and legal institute that ensures the efficient management in the field of ecology and environment protection. In the EU countries this institute is used to increase the amount and level of the environment protection expenditures, it forms the source of the their revenue to the special environment protection funds. Ukraine aspiring to become an equal member of the EU is to make effective steps in ecologically oriented development. That's why it's necessary to transform the national system of the ecology taxation at the expense of the following actions:

- to improve the valid legislature basis in the aspect of increasing the part of the ecology taxes in their general amount and gradually increase the rates of the ecology taxes and bring them to the average European level in some stages;
- to prohibit the use of revenue from the ecology taxes on others that are not provided by the environment protection measures. Besides, the state fund of the environment protection is to implement the programmes that promote financing the priority measures in the environment protection, natural resources consumption and proper level of the ecology security;
- to include extra kinds of rates of the ecology taxes into the general taxation system in Ukraine (reclaiming and connected with high noise influence);
- to bring back the order of the ecology tax payment for over normative effluents, disposals of polluting substances, waste arrangement, natural resources consumption, moreover, payment of such kind of taxes should be done out of the profit of the enterprise that is a natural resources consumer;
- to develop the system of tax fees for the enterprises that are natural resources consumers and use the ecological and innovative technologies (resources and power-saving, without waste, little waste and environment protection technologies) as well as for the enterprises that do ecology auditing with further investments into the ecologization of their production;
- to use the policy of stimulating prices and extra charges for ecologically pure products of enterprises;
- to raise the level of the ecology and legal, ecology and economic education and culture of state power bodies representatives in ecology, of managers and staff at the enterprises that are natural resources consumers;
- to study the experience of the ecology taxation in the EU countries and the possibilities of its use in the ecology taxation in Ukraine.

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