

LEGAL PRINCIPLES OF ENVIRONMENTAL TAXATION: EUROPEAN EXPERIENCE AND ITS APPLICATION IN UKRAINE

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ABSTRACT

The article is devoted to the study of legal principles of environmental taxation by studying European experience and application features in Ukraine. The essence of the concept of environmental taxation has been defined based on a review of scientific achievements of some scientists in the context of the investigated topic. Special attention was paid to regulatory documents governing environmental taxation in the European Union. The main purpose and priorities of the New European Economic Development Strategy have been determined. The purposes of creation and operation features of the European system of national and regional accounts have been revealed (ESA95). The classification of environmental taxes has been considered in accordance with European standards. The analysis of the regulations of the existing legislation of Ukraine governing the issues of environmental taxation has been conducted. In particular, attention has been focused on the consolidation of the concept of environmental tax at the legislative level, as well as the regulation by the Ukrainian legislator of issues regarding the definition of the circle of taxpayers of environmental tax, objects and base of environmental taxation. A number of outstanding issues in the field of environmental taxation have been emphasized, which remain problematic in the way of approximation of Ukrainian legislation to the European standards.

Keywords: Environmental Taxation, Environmental Tax, European System of National and Regional Accounts, New European Economic Development Strategy.

INTRODUCTION

Currently, environmental problems are one of the urgent and important issues addressed by the policies of many European countries. In the XX and XXI centuries aggravation of problems related to environmental pollution was caused by rapid development of global production systems. The latter was the cause of environmental degradation, depletion of natural resources, excess levels of ecologically permissible anthropogenic impact on nature, violation of ecological functions of the ecosystem, etc. (Krajewski, 2016).

The environmental policy of many European economically developed countries aims to maximize compliance with environmental standards at all stages of activities carried out by users

of natural resources (Gao et al., 2019). In this context, the application of such an economic instrument of any country's environmental policy as environmental taxation is effective. The effective operation of the environmental tax system encourages environmental polluters to consciously treat natural resources, reduce pollutant emissions, businesses-upgrade their production and technology base and implement new safe technologies.

The main objectives of the environmental tax policy of a country are aimed at:

1. Formation of the funds of financial resources and restoration of the environment;
2. Restriction of environmentally harmful activities.

European integration processes in Ukraine require directing its policy towards European standards, which also includes making certain changes to the tax system and bringing it closer to the development level of European states. In accordance with nation-wide interests and tasks, a priority function of the foreign policy of Ukraine is its direct involvement in solving contemporary global problems, among which environmental protection is no exception. Given this, it is relevant to study the operational specifics of the environmental tax system in the European Community and in Ukraine.

LITERATURE REVIEW

The main purpose of taxation is to provide the government with stable and predictable income through the use of economic and financial instruments (Reznik & Shevchenko, 2015). Ballandras-Rozet (2019) notes that, regardless of the regular replenishment of the state budget, environmental taxation has an impact on the behavior of taxpayers in order to prevent possible negative effects of their activities, which may concern to biodiversity, natural resources and human health. Environmental taxation involves the use of mandatory, disruptive and incentive measures, the wide variety of which underscores the importance of the tax system in protecting the environment. Environmental taxation aims to encourage people to protect water, soil, air and nature by trying to limit waste, reduce energy consumption and pollutant emissions.

Tipper & Harkness (2018) argue that environmental taxation aims at economic growth, formation of capital and employment. Thus, the use of environmental taxes improves the environment. In doing business in the market, businesses and households pay government environmental taxes on the one hand and receive environmental benefits on the other (Drobnyazko et al., 2019).

The opinion of Andrei et al. (2016) is quite interesting, according to which environmental taxation is a lever to ensure environmental protection and sustainable development. For developing countries, environmental taxation can be a way to achieve sustainable development and a high level of green income through taxation of pollutants and the promotion of environmental practices and technologies.

METHODOLOGY

The study of the legal principles of environmental taxation in European countries and Ukraine was conducted using dialectical, comparative legal and formal legal methods. The dialectical method was used to define the essence of the concept of environmental taxation based on the study of the views of scientists in the context of the phenomenon under study. The comparative legal method was used to identify the regulations, which provisions, to varying

degrees, define the principles of environmental taxation both at the level of the European Community and in Ukraine. The formal legal method allowed to interpret the regulations for clarification of their essence, in particular, for defining the concept of environmental tax, subjects and objects of environmental taxation.

FINDINGS AND DISCUSSIONS

When studying the legal principles of environmental taxation in European countries, it should be noted that an important legal instrument regulating the legal relationship in this field is the Regulation (EU) No 691/2011 of the European Parliament and of the Council "*On European environmental economic accounts*" date July 6, 2011 (hereinafter-the Regulation (EU) No. 691/2011). Part 2 2 of Art. 2 of the Regulation (EC) No 691/2011 contains the definition of an environmental tax understood to mean a tax which tax base is the physical unit of a proven, specific adverse environmental impact and which is defined in the European system of national and regional accounts (ESA95) as a tax (Regulation, 2011).

The European system of national and regional accounts, known as ESA95, has collected comparable, up-to-date and reliable information on the structure and development of the economy of the member-states of the European Union and their respective regions. By providing an internationally compatible accounting framework, ESA95 was created to describe the overall economy of a region, country or group of countries, its constituents, and relation to other common economies. ESA95 broadly complies with the UN system of national accounts (1993 SNA) as to definitions, accounting rules and classifications. But because of the higher requirements for the accuracy of accounting definitions and rules, it also has some peculiarities, especially in its presentation, which is more in line with EU practice (European statistics, 2010).

It should be emphasized that the Regulation (EU) No 691/2011 provides for the existence of environmental tax statistics, which records and presents data to the subjects of taxation, which are fully compatible with the data reported in ESA95. The recording of environmental tax revenues from a national economy is carried out in accordance with economic activities that include production and consumption. Environmental tax statistics are based on amounts confirmed by estimates and declarations or by taking into account the timing of cash flows, to ensure consistency with ESA95 and improve international comparability. The Regulation (EU) No 691/2011 envisages that member-states produce statistics on environmental taxes in accordance with such characteristics: (1) energy taxes; (2) transport taxes; (3) pollution taxes; (4) resource taxes. Statistics are provided by member-states in millions of national currencies (Regulation, 2011).

Currently, the New European economic development strategy entitled "*Europe 2020: a strategy of smart, sustainable and inclusive growth*" is in place. The main objective of this strategy is to bring to life the ideas of a more rational use of natural resources, to improve the environmental situation and to develop new environmentally friendly technologies. According to the single environmental strategy estimated by 2020, compared to 1990 it is planned to:

1. Reduce greenhouse gas emissions;
2. Increase the share of energy production from renewable energy sources up to 20%;
3. Reduce the total energy consumption of the EU member-states by 20% (European Union of Law, 2010).

Environmental taxes have been divided by the Directorate-General for Taxation and Customs Union (Taxation and Customs Union, 2010) of the European Commission into seven groups based on such criteria as scope:

1. Transport taxes;
2. Energy taxes;
3. Payment for the use of natural resources;
4. Pollution charges;
5. Taxes on emissions leading to global change;
6. Noise tax;
7. Payment for the disposal of wastes on landfills and their treatment (Taxation and Customs Union, 2010).

Thus, the European Community aims at harmonizing the environmental tax system by taking into account the relation between the introduction of environmental taxes and the specific nature of environmental activities in different countries. However, in spite of this, it can be stated today that the application of environmental taxes in different European countries has differences in structure and methods. For example, the EU Regulation No 691/2011 defines as a type of environmental tax a transport tax, which includes vehicle registration fees, fuel duty, car excise duty, motorway toll. At the same time, the criteria for calculating such a fee are different in different countries, because in one case the type, capacity and age of a car are taken into account, in the other this is affected by the distance traveled by a car, etc.

It is important to note that in some European countries, including France, Sweden, Austria, Czech Republic, Belgium, Slovakia and Lithuania, there is a practice of applying specific environmental taxes. In these countries, the environmental tax system has a tax on waste electrical and electronic equipment (WEEE). Such environmental tax is included in the cost of production and is calculated on each unit of the product purchased. The legislation of Germany, the UK and Austria provides for an environmental tax on air transportation or aviation fuel, depending on the range of flights (Bokovykova, 2016).

In order to be aware of the scale of environmental tax revenue in Europe, it is necessary to refer to statistics. For example, 5.1 billion euros in environmental taxes were raised in 2018, which is 2.5% less than in 2017. According to experts, this was the first significant decrease since 2009 and this is explained by the fall in taxes paid for light hydrocarbons and car tax. Energy taxes (mainly taxes on transport fuels) accounted for 62% of the total environmental tax in 2018, transportation taxes (including car tax and vehicle registration tax)-for another 38% (Central Statistics, 2019).

In Ukraine, the Tax Code of Ukraine 2010 (hereinafter-the TC of Ukraine) is the codified law regulating the relations arising in the sphere of taxes and fees collection. Art. 9 of the TC of Ukraine contains a list of national taxes and fees, including an environmental tax. In subpara. 14.1.57 of para. of Art. 14 of the TC of Ukraine the environmental tax is defined as a national mandatory payment collected from the actual volumes of emissions into the air, discharges of pollutants into water bodies, disposal of waste, the actual volume of radioactive waste, which is temporary stored by their manufacturers, the actual amount of radioactive waste generated and the actual amount of radioactive waste accumulated up to April 1, 2009 (The Legislation of Ukraine, 2010).

The TC of Ukraine has a separate Section VIII “*Environmental Tax*” intended to regulate the issues related to environmental taxation. The legislator determines who are the payers of the environmental tax and which persons do not fall into this category. Thus, the payers of the

environmental tax are business entities, legal entities that do not conduct economic (business) activities, budgetary institutions, public and other enterprises, institutions and organizations, permanent representative offices of non-residents, including those who perform agency (representative) functions in relation to such non-residents or their founders, whose activities in the territory of Ukraine and within its continental shelf and exclusive (maritime) economic zone involve:

1. Emissions of pollutants into the air by stationary sources of pollution;
2. Discharges of pollutants directly into water bodies;
3. The disposal of waste (except for the disposal of certain types of waste as recyclable material placed on the own territories of business entities);
4. Generation of radioactive waste;
5. Temporary storage of radioactive waste by their manufacturers beyond the specified terms of the license (The Legislation of Ukraine, 2010).

The legislator pays separate attention to the objects and base of taxation, which are:

1. Volumes and types of pollutants discharged into the air by stationary sources;
2. Volumes and types of pollutants discharged directly into water bodies;
3. Volumes and types (classes) of waste disposed other than volumes and types (classes) of waste as secondary raw materials disposed of in the own territories (facilities) of business entities;
4. The volume and category of radioactive waste generated as a result of the activities of business entities and/or temporarily stored by their manufacturers beyond the specified terms of the license;
5. Volumes of electricity generated by operating organizations of nuclear installations (nuclear power plants).

The tax base for carbon dioxide emissions for the tax (fiscal) year is reduced by 500 tonnes of such emissions (The Legislation of Ukraine, 2010).

In addition to the TC of Ukraine as a specialized codified law, in one way or another the issues of environmental taxation are regulated by the Law of Ukraine "*On Environmental Protection*" of 1991, the Regulation on the State Environmental Protection Fund of 1998. Despite the fact that today in Ukraine there is a certain regulatory framework for environmental taxation, the effectiveness of the harmonization measures of this system faces a number of problematic issues regarding the following:

1. Lack of targeting of the environmental tax and distribution of its revenues among budgets of different levels;
2. Lack of execution of compensatory and fiscal functions by the environmental tax;
3. Transfer of environmental tax revenues into the budget, which makes it impossible to direct them on measures to address environmental problems;
4. Low environmental tax rates, which are not an incentive for business entities to modernize their production and use alternative energy sources.

RECOMMENDATIONS

The harmonization of the environmental tax system remains one of the urgent problems, which is related to the effective operation of this instrument in Ukraine in regulating the environmental security of the state. It is possible to solve this problem by using the experience of European countries where the use of environmental taxes has already given a positive result. In this context, it is important to consider foreign experience in the field of applying environmental taxes in order to improve the environmental tax system in Ukraine.

CONCLUSION

According to the results of the study, it is important to note that the concept of the environmental tax is both established at the level of the European Community legislation and defined by the Ukrainian legislator. If in the countries of the European Community an important legal instrument regulating the legal relations in the field of environmental taxation is considered the Regulation of the European Parliament and of the Council "On European environmental economic accounts" of 2011, then in Ukraine the Tax Code of Ukraine 2010 is a codified law regulating relations in the sphere of taxes and fees collection. It has been established that the Directorate-General for Taxation and Customs Union (Taxation and Customs Union, 2010) of the European Commission have divided environmental taxes into seven groups based on such criteria as the scope. According to the results of the study of the European experience in the regulation of environmental taxation, there were identified a number of outstanding issues in this sphere, which remain problematic in the way of approximation of the Ukrainian legislation to the European standards.

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