

REFORM OF THE SIMPLIFIED TAXATION SYSTEM AS A KEY AND HIGHLY DEBATED ASPECT OF TAX REFORM IN UKRAINE

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Summary

The article considers the current challenges of ensuring the economic and tax security of Ukraine in the conditions of martial law, which has been in effect since February 24, 2022. The author emphasizes that the economic security of the state is inextricably linked to tax security, because taxes and fees, in particular from small and medium-sized businesses, are key sources of financing the security needs of the state. It is noted that the current regulatory and legal framework in the field of economic security is mainly declarative in nature and does not contain clear mechanisms for implementing tax security. Particular attention is paid to the simplified taxation system, which in modern conditions, in the author's opinion, poses a threat to tax security, as it contributes to incomplete tax revenue to the budget. The work justifies the need to revise the principles of functioning of this system, and its complete removal from tax legislation. The author emphasizes the importance of a comprehensive approach to improving tax policy both in wartime and during the period of post-war reconstruction of the country. The focus of the study is on finding ways to achieve a balance between supporting entrepreneurship and ensuring stable revenues to budgets of all levels as the basis of national security in a broad sense.

Key words: taxation system, taxes and fees, tax security of the state, economic security of the state, national security, budget system of Ukraine, small and medium-sized enterprises.

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1. Introduction

In connection with the military aggression of the Russian Federation against Ukraine, on February 24, 2022, by the Law of Ukraine No. 2102-IX, the Verkhovna Rada of Ukraine, in accordance with paragraph 31 of part one of Article 85 of the Constitution of Ukraine and Article 5 of the Law of Ukraine "On the Legal Regime of Martial Law", approved the Decree of the President of Ukraine dated February 24, 2022 No. 64/2022 "On the Introduction of Martial Law in Ukraine". So, from this moment on, Ukraine's life in a state of war and new realities of economic security began, the provision of which is one of the most important functions of the state and the business of the entire Ukrainian people. But economic security is based on tax security, which is its integral component. Taxes and fees, which are paid in particular by small and medium-sized enterprises, are the main sources of financing of any security component of the state, including in conditions of martial law in order to increase its defense capability. At the same time, it is worth noting that most regulatory and legal acts in the field of economic security are declarative in nature, since they do not have a specific algorithm (formula) and tools for legal regulation of social relations regarding the implementation of tax security. And some

regulatory acts, which, in particular, introduced a simplified taxation system, generally provoke non-payment of taxes and fees in full.

Considering the existing achievements in the field of tax law, it is worth noting that the issues of a simplified taxation system in the current conditions of war realities and the subsequent post-war reconstruction of Ukraine are important. The relevance and importance of these problems, the need to solve them determined the choice of the topic of this study and outlined the range of issues that are considered in it, especially in the context of the current state of the problem of ensuring security at the global level.

2. Tax security as a component of Ukraine's economic security

According to Article 4 of the Law of Ukraine “On Innovation Activity”, new knowledge is the object of innovation activity (*Pro innovatsiinu diialnist, 2002*). And Article 2 of the Law of Ukraine “On Priority Areas of Innovation Activity in Ukraine” specifies that the priority areas of innovation activity in Ukraine, among others, are scientifically and economically justified areas of innovation activity aimed at ensuring national security and defense and economic security of the state, in particular (*Pro priorytetni napriamy innovatsiinoi diialnosti v Ukraini, 2011*). A component of Ukraine’s economic security is tax security, the main task of which is to ensure tax revenues in full in order to fill budgets of all levels. Last but not least, the state of tax revenues depends on taxpayers who have chosen the simplified taxation system, which since its inception has become a legal opportunity for tax evasion. And this, in turn, poses a threat to tax security.

Article 17 of the Constitution of Ukraine emphasizes that ensuring the economic security of Ukraine is one of the most important functions of the state, the business of the entire Ukrainian people. The norm-principle “ensuring the economic security of Ukraine is the business of the entire Ukrainian people” is specified by the provision of Article 67 of Section II “Rights, Freedoms and Duties of Man and Citizen” of the Fundamental Law, according to which everyone is obliged to pay taxes and fees in the manner and amounts established by law (*Konstytutsiia Ukrainy, 1996*). Therefore, the business of the entire Ukrainian people in the field of ensuring the economic security of Ukraine and tax security in particular should be the fulfillment by each of their constitutional obligations to pay taxes and fees in the manner and amounts established by law. However, “it did not happen as planned”.

Specific means and ways of ensuring national security, both of Ukraine and of any state in the world, are determined by the priority of national interests, and national interests and their priority are determined by the specific situation in the country and abroad. But none of the priorities in the field of national security can be implemented without appropriate financial support, and, for example, the budget of the state of Ukraine, like that of any other state, is filled primarily with taxes. In particular, the level of the share of tax revenues in the total amount of revenues of the State Budget of Ukraine, in general, is more than 80%. Taxpayers in Ukraine – small and medium-sized enterprises (SMEs) that have not chosen the simplified taxation system (STS), pay the relevant taxes and fees stipulated by the Tax Code of Ukraine and thereby fully fulfill their constitutional duty and contribute to filling the budget and tax security of the state. On the other hand, it would be appropriate to cite the position set out in the analytical note of the National Institute for Strategic Studies, which states that the reform of the simplified taxation system is one of the most debatable and at the same time important areas of tax reform. During its existence, this system has become overgrown with numerous problems that have reduced its effectiveness and distorted the goals and objectives of its

implementation (*Shchodo reformuvannia sproshchenoi systemy opodatkuvannia, obliku ta zvitnosti*, 2010).

Today, the simplified taxation system in Ukraine, as an alternative to the taxation system, is a threat to tax security, because the main role and main task of tax security is to ensure the protection of timely and full tax payments to the revenue side of budgets of all levels. That is, public relations in the field of the simplified taxation system need to be reviewed from the point of view of the compliance of this system with the requirements of tax security, and possibly with the complete removal of this system from the norms of the tax legislation of Ukraine.

The study of the Ukrainian phenomenon of the simplified taxation system is based on the scientific works of the following scientists: Calinescu T.V. (*Calinescu*, 2020); Ivanyshyna O. & Demidenko L. (*Ivanyshyna & Demidenko*, 2020); Ponomareva, T., & Hrynevich, K. (*Ponomareva & Hrynevich*, 2020); Riadinska V., Protsenko T., Kuznietsova O. (*Riadinska, Protsenko & Kuznietsova*, 2021); Soldatenko O. & Brunko V. (*Soldatenko & Brunko*, 2022); Synchak V.P. (*Synchak*, 2020); Tkachenko A., Dubyna O. & Machak T. (*Tkachenko, Dubyna & Machak*, 2023); Treshchov M. (*Treshchov*, 2024); Trush Y. & Kudrenko N. (*Trush & Kudrenko*, 2021); Tuchak T. (*Tuchak*, 2024); Zakrevska O. (*Zakrevska*, 2022).

3. Issues of the simplified taxation system in Ukraine

Small and medium-sized enterprises are the foundation of the Ukrainian economy, providing two-thirds of added value and more than 80 percent of jobs. The development of small and medium-sized enterprises stimulates competition in the market and the corresponding growth of the competitiveness and innovative potential of the economy, contributes to the strengthening of the middle class in society (*Pro skhvalennia Stratehii vidnovlennia*, 2024). However, there is a need to strengthen control over the activities of individual entrepreneurs and counteract the abuse of the simplified taxation system, because, as is known, the practice of large businesses and retail chains carrying out their activities under the guise of individual entrepreneurs (IEPs) is widespread. This requires increased analytical work to identify cases of deliberate “fragmentation” of the activities of enterprises and networks and the expansion of requirements for the use of fiscal registrars of settlement transactions by individual entrepreneurs (*Oleksii Liubchenko*, 2021). Ukraine needs to level the tax landscape and create equal conditions for paying taxes. This is primarily about the taxation of those structures for which preferential conditions for doing business have been created during the 30 years of the state's existence. Thus, in particular, more than 52 business entities with billions in income, which are engaged in plant and animal husbandry, work on the IV group of the simplified taxation system. At the same time, they pay a fixed agricultural tax and pay ten times less in value added tax. The simplified system is, first of all, support for small and medium-sized businesses. It is precisely billionaires in this classification who pay the least taxes. They have learned to evade taxation through various mechanisms, starting from the withdrawal of funds, preferential regimes, understatement of income tax, etc. At the same time, small businesses pay 10 times more, being on the same simplified system. This is the distortion of the tax landscape. This situation must be changed and, in particular, the disclosure of personal data is important. Businesses will pay taxes better when there is a clear and understandable position on the efficiency of spending budget funds. This is a kind of motivational element and a very important one (*Vyrishalnym ye ne stavky podatkiv, a yikh administruvannia*, 2021).

By the way, Yu.I. Anistratenko, having studied the legal regulation of taxation of small and medium-sized businesses in Ukraine, claims that: “The content of taxation of small and

medium-sized businesses in Ukraine, its features and place in the tax system of Ukraine are revealed through the possibility of using two taxation systems (general and simplified), which are determined depending on the category of the payer, his legal status and occupation of a certain type of business. The effectiveness of using each taxation system is realized due to the ability of the payer to determine for himself the advantages of each of them when choosing a business occupation. The right of choice for small and medium-sized business entities to switch from a general to a simplified taxation system is to determine priority advantages regarding the amount of tax payments, the volume of which will not exceed, and in some cases will be less, which will allow developing small and medium-sized businesses, establishing economic ties and reducing relevant costs" (Anistratenko, 2017: 383–385).

Continuing the above, we note that the tax system of Ukraine is too discretionary and leads to the shadow economy. As for the size of tax rates in Ukraine, they are generally in the same range as in European countries. However, tax administration remains an important problem (*Pro zatverdzhennia Natsionalnoi ekonomichnoi stratehii na period do 2030 roku*, 2021). In this case, the National Revenue Strategy until 2030 (hereinafter referred to as the NSDU) deserves special attention, as a vision of the future reform of the simplified taxation system by narrowing the scope of its application by excluding legal entities, as well as introducing safeguards to reduce abuse, raising the threshold for registering VAT payers and increasing effective tax rates to the level of the general regime (*Natsionalna stratehiia dokhodiv do 2030 roku*, 2023).

From a business taxation perspective, the simplified system regime jeopardizes tax revenues and influences business decisions. The optional nature of the system means that taxpayers with the highest profits have the greatest incentive to choose this system, which de facto reduces their tax liabilities. The possibilities for understating tax liabilities, combined with the practical absence of accounting for the movement of goods, the high level of cash settlements in the absence of the registrar of settlement operations (RSO) and the non-requirement of documentary evidence of the origin of goods sold under the simplified taxation system, are strong incentives for various types of taxpayers to hide turnover or certain types of activities under the contours of this system in order to sell illegally imported or manufactured goods, as well as the real volumes of cash settlements with end consumers of such goods (*Natsionalna stratehiia dokhodiv do 2030 roku*, 2023: 58).

The simplified taxation system is the biggest challenge. Many legal entities and individuals choose to use the status of self-employed person under the simplified taxation system instead of registering a standard employment relationship.

The reform of the simplified taxation system should return such a system to the scope of application of micro and small businesses (startups) and minimize the possibilities of using the advantages and features of the simplified taxation system by medium and large businesses in order to minimize tax payments and/or hide from taxation the volumes of sales of goods and services, including goods illegally imported or produced, and make it economically inexpedient to use the simplified taxation system to replace labor relations with civil law ones. That is, the reform of the simplified taxation system should support the development of micro and small businesses in Ukraine and eliminate the possibilities of distorting the competitive environment by large companies due to abuse of the advantages of the simplified taxation system (*Natsionalna stratehiia dokhodiv do 2030 roku*, 2023: 59).

The urgent need to reform the simplified taxation system is also emphasized in the Letter of Intent and Memorandum on Economic and Financial Policies of 11 December 2024 (*Lyst pro namiry ta Memorandum pro ekonomichnu i finansovu polityku*, 2024: 13–14); (*Memorandum of*

Economic and Financial Policies, 2024: 90–91). This document emphasizes that over the next few years, important tax policy reforms will be implemented in Ukraine, guided by the NSDU, to meet post-war needs. In addition to streamlining tax benefits, revenue mobilization will be strengthened by, in particular, limiting the scope of application and opportunities for abuse of the simplified taxation system. No later than the beginning of 2027, it is planned to implement measures that will limit the possibility of business entities returning to the simplified taxation system after the transition to the general taxation system, review approaches to determining and indexing thresholds for applying the simplified taxation system, and narrow the right to apply the simplified taxation system by excluding certain types of activities. However, as stated in the NSDU, the reforms of the personal income tax and the simplified taxation system require administrative reforms, including protecting the confidentiality of tax data in the systems of the State Tax Service and providing tax authorities with access to data on the amounts of funds in taxpayers' bank accounts.

4. Conclusions

Amendments to the legislation are currently being developed to introduce reporting requirements for digital platform operators and international data exchange in accordance with the EU Council Directive DAC 7 / OECD Model Reporting Rules, which will allow the State Tax Service to receive from digital platform operators and international bodies data on the income of individuals who receive income without registering as a private entrepreneur or using a simplified taxation system. This will become an effective tool for controlling the timeliness, accuracy and completeness of the declaration of such income and will contribute to a significant expansion of the tax base by including individuals whose income is currently not taxed. This measure will contribute to revenue mobilization and harmonization of Ukrainian tax legislation with EU legislation and OECD standards, and will also be the first step towards reforming the taxation system through the introduction of new digital control tools by the State Tax Service.

References

1. Anistratenko Yu. I. *Pravove rehulivannia opodatkuvannia maloho ta serednoho biznesu v Ukraini [Legal regulation of taxation of small and medium-sized businesses in Ukraine]: dys. ... d-ra yuryd. nauk. Irpin, 2017. 460 s.. [in Ukrainian]*
2. Calinescu T.V. (2020) *Use of the simplified taxation system by agriculture business. Time description of economic reforms. № 2. P. 45–51. DOI: 10.32620/cher.2020.2.06*
3. Ivanyshyna O.S. & Demidenko L.S. (2020). *Simplified system of taxation, accounting and reporting: current state and direction of its improvement. Efficient economy. № 5. DOI: 10.32702/2307-2105-2020.5.87*
4. Konstytutsiia Ukrainy: *Zakon Ukrainy vid 28.06.1996 № 254k/96-VR [Constitution of Ukraine: Law of Ukraine dated 28.06.1996 No. 254k/96-VR.] Bulletin of the Verkhovna Rada of Ukraine. 1996. № 30. <https://zakon.rada.gov.ua/laws/show/254k/96-ep/ed19960628#Text>. [in Ukrainian]*
5. *Lyst pro namiry ta Memorandum pro ekonomichnu i finansovu polityku vid 11 hrudnia 2024 roku. [Letter of Intent and Memorandum on Economic and Financial Policy dated December 11, 2024.]. https://mof.gov.ua/storage/files/Lol_MEFP_Ukraine_2024-12-11.pdf [in Ukrainian]*

6. Memorandum of Economic and Financial Policies. <https://mof.gov.ua/storage/files/lukrea2024004-print-pdf.pdf>.
7. Natsionalna stratehiia dokhodiv do 2030 roku [National Revenue Strategy until 2030]. https://mof.gov.ua/uk/national_income_strategy-716. [in Ukrainian]
8. Oleksii Liubchenko. Spravedlyvist, prozorist, zruchnist: yak udoskonalyty podatkovu rehu-liuvannia v Ukraini. Kolonka Holovy Derzhavnoi podatkovoi sluzhby Ukrainy Oleksiia Liub-chenka u vydanni "Dzerkalo tyzhnia", 29 bereznia 2021 r. Derzhavna podatкова sluzhba Ukrainy. [Oleksiy Lyubchenko. Fairness, transparency, convenience: how to improve tax regu-lation in Ukraine. Column by the Head of the State Tax Service of Ukraine Oleksiy Lyub-chenko in the publication "Dzerkalo Tyzhnia", March 29, 2021. State Tax Service of Ukraine.]. <https://www.kmu.gov.ua/news/kolonka-golovi-derzhavnoyi-podatkovoyi-sluzhbi-ukrayini-olek-siya-lyubchenka-u-vidanni-dzerkalo-tizhnnya-29-bereznia-2021-r>. [in Ukrainian]
9. Vyrishalnym ye ne stavky podatkov, a yikh administruvannia. Derzhavna podatкова sluzhba Ukrainy, opublikovano 12 travnia 2021 roku. [It is not tax rates that are decisive, but their administration. State Tax Service of Ukraine, published on May 12, 2021]. <https://www.kmu.gov.ua/news/oleksij-lyubchenko-virishalnim-ye-ne-stavki-podatkov-yih-administruvannya>. [in Ukrainian]
10. Ponomareva, T., & Hrynevich, K. (2020). Problems and ways to improve the simplified taxation system in Ukraine. *Bulletin of V. N. Karazin Kharkiv National University Economic Series*, (99), P. 50–56. <https://doi.org/10.26565/2311-2379-2020-99-05>
11. Pro innovatsiinu diialnist: Zakon Ukrainy vid 04.07.2002 № 40-IV. [On innovative activ-ity: Law of Ukraine dated 04.07.2002 No. 40-IV.]. *Bulletin of the Verkhovna Rada of Ukraine*. 2002. No. 36. <https://zakon.rada.gov.ua/laws/show/40-15> [in Ukrainian]
12. Pro priorityetni napriamy innovatsiinoi diialnosti v Ukraini: Zakon Ukrainy vid 08.09.2011 № 3715-VI. [On priority areas of innovation activity in Ukraine: Law of Ukraine dated 08.09.2011 No. 3715-VI.]. *Bulletin of the Verkhovna Rada of Ukraine*. 2012. No. 19–20. <https://zakon.rada.gov.ua/laws/show/3715-17#Text> [in Ukrainian]
13. Pro skhvalennia Stratehii vidnovlennia, staloho rozvytku ta tsyfrovoyi transformatsii maloho i serednoho pidpriemnytstva na period do 2027 roku ta zatverdzhennia operatsiinoho planu zakhodiv z yii realizatsii u 2024–2027 rokakh: Rozporiadzhennia Kabinetu Ministriv Ukrainy vid 30.08.2024 № 821-r. [On approval of the Strategy for the Recovery, Sustainable Develop-ment and Digital Transformation of Small and Medium-Sized Enterprises for the Period Until 2027 and Approval of the Operational Plan of Measures for its Implementation in 2024–2027: Resolution of the Cabinet of Ministers of Ukraine dated 08/30/2024 No. 821-p.]. *Ofitsiyni visnyk Ukrainy*. 2024. № 82. St. 4867. <https://zakon.rada.gov.ua/laws/show/821-2024-p#Text> [in Ukrainian]
14. Pro zatverdzhennia Natsionalnoi ekonomichnoi stratehii na period do 2030 roku: Postanova Kabinetu Ministriv Ukrainy vid 03.03.2021 № 179 [On approval of the National Economic Strategy for the period until 2030: Resolution of the Cabinet of Ministers of Ukraine dated 03.03.2021 No. 179]. *Ofitsiyni visnyk Ukrainy*. 2021. № 22. [in Ukrainian]
15. Riadinska V., Protsenko T. & Kuznietsova O. (2021). Ways of the improvement of the simpli-fied taxation, accounting and reporting system in Ukraine. *Nauka i pravookhorona*. P. 142–154. DOI: [https://doi.org/10.36486/np.2021.1\(51\)](https://doi.org/10.36486/np.2021.1(51))
16. Shchodo reformuvannia sproshchenoi systemy opodatkovannia, obliku ta zvitnosti. Anali-tychna zapyska Natsionalnoho instytutu stratehichnykh doslidzhen vid 13.06.2010. [Regarding the reform of the simplified system of taxation, accounting and reporting. Analytical note of the National Institute for Strategic Studies dated 13.06.2010.]. <https://niss.gov.ua/doslidzhennya/>

ekonomika/schodo-reformuvannya-sproshchenoi-sistemi-opodatkuvannya-obliku-ta-zvitnosti [in Ukrainian]

17. Soldatenko O. & Brunko V. (2022). *Simplified taxation system in ukraine in the conditions of digital transformation. The collection of "Uzhhorod National University Herald. Series: Law". № 72(2). P. 94–99. DOI <https://doi.org/10.24144/2307-3322.2022.72.48>*

18. Synchak V.P. (2020). *Special Taxation Mechanism in Conditions of Functioning of the Simplified Taxation System. Accounting and Finance. № 2 (88). P. 103–113. DOI [https://doi.org/10.33146/2307-9878-2020-2\(88\)-103-113](https://doi.org/10.33146/2307-9878-2020-2(88)-103-113)*

19. Tkachenko A., Dubyna O. & Machak T. (2023). *Simplified system of taxation of agribusiness enterprises. Agrosvit. № 2. P. 16–21. DOI: 10.32702/2306-6792.2023.2.16*

20. Treshchov M. (2024). *Combat tax avoidance through the modernization of the simplified taxation system in Ukraine. Scientific Bulletin: Public Administration. No. 2(16) P. 30–44 [https://doi.org/10.33269/2618-0065-2024-2\(16\)-30-44](https://doi.org/10.33269/2618-0065-2024-2(16)-30-44)*

21. Tuchak T. (2024). *Simplified taxation system in Ukraine: current state and prospects for reform. Efektyvna ekonomika. No. 5 DOI: <http://doi.org/10.32702/2307-2105.2024.5.75>*

22. Trush Y. & Kudrenko N. (2021). *Simplified system of taxation, accounting and reporting of small enterprises: current state and features of taxation. Financial and credit activities: problems of theory and practice. № 5 (40). P. 120–126. http://nbuv.gov.ua/UJRN/Fkd_2021_5_14*

23. Zakrevska O. (2022). *Display of the simplified taxation system in the bas software product. International scientific journal "Internauka". Series: "Economic sciences". № 7 (63). P. 147–151. DOI: 10.25313/2520-2294.2022.7.8143*