

SIGNIFICANCE OF THE ACTIVITIES STATE FISCAL SERVICE OF UKRAINE AS A SUBJECT OF THE SYSTEM THE ECONOMIC SECURITY OF THE STATE TODAY



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Abstract. The article is devoted to the analysis of the activity of tax police units of the State Fiscal Service (SFS) of Ukraine in combating tax offenses in the aspect of ensuring the proper functioning of the economic security system of Ukraine. It emphasizes the importance of the efficient functioning of the analyzed subjects in the current conditions of rapid legislative changes and the emergence of new challenges to the state.

The performance of these taxpayers as one of the many real threats to the national economy is evaluated. Attention is drawn to the possible emergence of a number of destructive consequences for certain components of the economic security system of Ukraine, as a result of committing tax offenses.

All main directions of work of the investigated law enforcement agency on counteraction to tax offense are determined. It is established that such are the investigation of crimes in the sphere of taxation and budgetary sphere, as well as the implementation of operative-search measures aimed at exposing them.

It emphasizes the existence and confirms the numerous facts of impediment to the effective activity of the Tax Police units of the SFS of Ukraine in combating tax offenses, both in the past and the present. The focus is again on the need to ensure that there are favorable political and legal conditions for the normal functioning of the subjects analyzed, especially in the run-up to the launch of a new law enforcement agency empowered to counter most financial offenses.

Keywords: *national economy, threats to national economy, system of economic security of the state, tax offenses, units of tax police of the SFS of Ukraine.*

Introduction

Ensuring the effective functioning of the state's economic security system is one of the most important tasks of modern Ukraine. Successful achievement of the intended goal requires a systematic coordinated work on counteracting its threats, among which the tax offense is an important place. Therefore, there is a need for the existence of a specialized entity empowered to directly counteract these threats, which, to date, are units of the tax police of the State Fiscal Service of Ukraine (hereinafter – the SFS of Ukraine). However, in recent years, a rather powerful campaign is aimed at discrediting this law enforcement agency, which has a significant negative impact on its work, and therefore there is a need to analyze this problem.

Analysis of recent research and publications. Various aspects of this issue have been the subject of scientific interest of O. Bandurka, Yu. Harust, O. Dzisiak, A. Kulish, M. Kucheriavenko, S. Maklakov, M. Makarenko, D. Muliavka, T. Pikulia, O. Ponomarov,

Y. Rymarenko, T. Saraskina, O. Yunin, T. Yatsyk and others.

Statement of purpose of the article. To find out the importance of the activity of tax police units of the SFS of Ukraine as subjects of the economic security system of the state

in the current conditions.

The main material of the research.

Analyzing the activity of tax police units as subjects of the economic security system of the state, it should be noted, first of all, that this structure is authorized to carry out preliminary investigation of a wide range of economic crimes, the consequences of which can significantly affect the financial component of the economic security of the state. Considering the steady global tendency to increase the number of ways of committing such unlawful acts and the chronically delayed reaction of the domestic legislator to create appropriate legal mechanisms for counteracting it, the effective work of the police forces of the State Tax Service of Ukraine is of great value for the national economy. Thus, according to the reporting on the work of investigative bodies, which control the compliance with tax legislation for the 9 months of 2019 (form No. 1-SL), the investigative units of the State Tax Administration completed pre-trial investigation in 1448 criminal proceedings. The amount of damages caused to the state in these criminal proceedings is more than 850 million UAH [1].

Among the completed criminal proceedings the following are directed to court:

- 1) with indictment – 637 criminal proceedings (44%);
- 2) the request for closure – 160 criminal proceedings (11%) [1].

651 criminal proceedings were closed directly by tax police investigators, accounting for 45% of all cases completed [1].

In the context of Articles of the Criminal Code of Ukraine [2]:

- 1) "Illegal manufacture, storage, sale or transportation for the purpose of sale of excisable goods" (Article 204 of the Criminal Code of Ukraine) – 282 CPs (20% of all completed) were completed, 200 of them with an indictment;
- 2) "Fictitious Entrepreneurship" (Article 205 of the Criminal Code of Ukraine, which was recently decriminalized in accordance with Part 1 of Article 1 of the Law "On Amendments to the Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine on Reducing Business Pressure" of 18.09.2019 101-IX [3]) – 262 CPs (18%) were completed, 165 of them with indictment;
- 3) "Counterfeiting of Documents Filed for

State Registration of Legal Entity and Entrepreneur Individuals" (Article 205¹ of the Criminal Code of Ukraine) – 161 CPs (11% of all completed) were completed, of which 135 CP were charged;

- 4) "Tax evasion, fees (compulsory payments)" (Article 212 of the Criminal Code of Ukraine) – 635 CP (44% of all completed) were completed in total, of which 90 CP were charged [1].

According to the press service of the SFS of Ukraine, in January – March 2019 alone, the total economic effect of the tax police was UAH 6 billion 300 million. Thus, in the first quarter of 2019, in the fight against the shadow economy, the indicated subject of the economic security system of Ukraine achieved the following results:

- 1) seizure of property and funds in criminal proceedings in the amount of UAH 2.4 billion;
- 2) the amount of VAT that is the subject of pre-trial investigations by UAH 898 million has been reduced to compensation;
- 3) prevented formation of schematic VAT in the system of electronic tax administration for the amount of UAH 910 million;
- 4) UAH 168 million was charged to the budget in the field of public procurement;
- 5) the budget for the benefit of the purchasers of the conversion centers was UAH 344 million;
- 6) excise goods in the amount of UAH 744 million were withdrawn from illicit circulation;
- 7) additionally paid UAH 193 million in customs payments from the increase in the customs value of the declared goods;
- 8) the damages in all criminal proceedings investigated by tax police investigators in the amount of UAH 676 million were compensated [4].

These statistics dictates, certainly, indicate the importance of the work of tax police units in the fight against economic crime, which "undermines" the entire economic security system of Ukraine. Accordingly, its effective work is extremely important in the current circumstance.

At the same time, the work of these subjects has been significantly complicated. For example, in 2016, as a result of the adoption of the Law "On Amendments to the Tax Code of Ukraine on Improving the Investment Climate in Ukraine" as of December 21, 2016, No. 1797-VIII [5], this

law enforcement agency was excluded from the Tax Code of Ukraine [6]. In fact, a legal conflict has occurred, because the Transitional Provisions of this Law stipulate that the action of section 133 of Title I (to exclude section XVIII-2) – from the date of entry into force of a law that defines the legal bases for the organization and activity of the central body of executive power, to which it relies the duty to ensure the prevention, detection, termination, investigation and disclosure of criminal offenses the object of which is the financial interests of the state and/or local government, which are attributed to its jurisdiction in accordance with the Crimea of the Code of Procedural Code of Ukraine and other persons with whom this body interacts [5]. The enacted act also stipulates that p 133 has been amended in para. 1 of item 344.1 Art. 344, namely: the words "bodies, in addition to operating units of the tax police, are carried out" shall be replaced by the words "bodies are carried out" [5]. And Art. 344.1. PC of Ukraine dated 02.12.2010 № 2755-VI [6] concerning the provision of pensions to the officials of the supervisory bodies, in addition to the existing units of the tax police, is carried out in the manner and under the conditions stipulated by the then legislative act on public service.

Adoption of this law brought the activities of tax police units outside the legal field. Although everyone understood that the draft law had a technical error in item 133 instead of 134, but the law was signed by the President of Ukraine and promulgated in the Verkhovna Rada (BB) 2017, No. 5-6, Art. 48 and, accordingly, entered into force. Later this error was corrected and the activity of the tax police was resumed. Analyzing the authority of the said law enforcement agency, as well as being aware of the latter's appointment in accordance with its tasks and functions, we can state that the key areas of activity of the tax police departments as a subject of providing the economic security system of the state are the investigation of criminal activities in the sphere of taxation and budgetary sphere activities. At the same time, other areas of service are important, such as interaction with other entities of the system, collecting and analyzing information about tax and budget violations, forecast trends in the development of negative criminal processes related to taxation, etc. In general, the successful performance of relevant tasks and

the implementation of functions should contribute to reducing the level of shadowing of the Ukrainian economy.

However, the presidential initiative regarding the need to create a new law enforcement agency empowered to counter most financial crime offenses and uncertainty about the future fate of the tax police has somewhat affected the results of these units. Thus, the said entity of the economic security system in accordance with the Regulation on the State Tax Service of Ukraine dated 06.03.2019 № 227 [7] was to operate within the State Tax Service of Ukraine (STS) and, accordingly, the territorial subdivisions of the latter, and all DPS tax police officers must be transferred to the DPS. However, this transfer was delayed, and there were no plans at all in the structure of the MRF approved by the Minister of Finance of Ukraine for units that would perform the law enforcement function. Another step forward was another change in the legal provision of the analyzed subject of the economic security system. Thus, according to the Resolution of the Cabinet of Ministers of Ukraine "On Amendments to Certain Acts of the Cabinet of Ministers of Ukraine" dated September 25, 2019 No. 846 [8]:

«The units of the tax police within the State Fiscal Service continue to exercise the powers and perform the functions of the implementation of state policy in the sphere of combating offenses during the application of tax legislation, as well as the legislation on the payment of a single contribution, carrying out operative-investigative and criminal functions completing the implementation of measures for the creation of a central executive body, which is charged with the duty to prevent, detect, terminate criminal investigation, investigation and disclosure of criminal offenses the object of which is the financial interests of the state and / or local self-government, which are related to its jurisdiction in accordance with the CPC of Ukraine »[8]. Namely, the special legislation was adjusted and the units of the tax police were entitled to continue to function in the structure of the State Tax Service of Ukraine.

Investigating the place and role of tax police in the country's economic security system, it should be noted that the Verkhovna Rada of Ukraine approved in the first reading the bill "On the Bureau of Financial Investigations" of September 18, 2019 No.

1208-2 [9], which provides for "separation of service and law enforcement functions of the tax service, the elimination of the tax police, optimization of the structure and number of bodies that deal with crimes in the sphere of finance, elimination of duplication of their functions and establishment of the Bureau of Financial Investigations - the central executive body government, formed by the Cabinet of Ministers of Ukraine and operates to prevent, prevention, detection, suspension, investigation and disclosure of criminal offenses ascribed to its jurisdiction"[9].

The draft law provides for the establishment of a Bureau of Financial Investigation in the system of central executive bodies. Its activities will be directed and

coordinated through the Minister of Finance of Ukraine of the CMU. The structure of the Bureau of Financial Investigation should consist of divisions of the central office and territorial departments registered as legal entities under public law. Accordingly, it will be an independent central executive body that will exercise a law enforcement function aimed at the detection, disclosure and investigation of many economic crimes. Adoption of the bill in the second reading will allow to create a special independent law enforcement agency in the economic security system of Ukraine with wider powers than the tax police of the State Fiscal Service of Ukraine, which will cease to exist after the latter.

Conclusions

Summarizing the results of our study, it is worth to notice that at the present stage of domestic state-building it is a very important issue to effectively ensure the proper functioning of the state's economic security system. In modern Ukraine, among the existing state law enforcement agencies of this system a special role is given to the police units of the State Tax Service of Ukraine. Important directions of activity of the specified body, as a subject of providing the system of economic security of the state are investigation of crimes in the sphere of taxation and budgetary sphere and carrying out operative-search measures aimed at exposing them.

Over the past decade, obstacles of an objective and subjective nature have often been created for the activity of tax police units of the State Fiscal Service of Ukraine, which negatively affected the effective accomplishment of the tasks and the implementation of the functions of the latter. However, today, before the launch of an already new state body, the proper work of the said entity is one of the prerequisites for ensuring economic stability in the country, reducing the likelihood of destructive impact on various spheres of economic activity of Ukraine.

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