

Interest in the context of tax relations: traditional approach and trends of tax management development

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Abstract

The article deals with the definition of interest in taxation, its manifestations and features of its varieties, applied aspects of implementation. It focuses on the process of tax management, which is based on the interconnection of private and public interest. The authors emphasize that the private and public interest in taxation is implemented through the processes of rulemaking and law enforcement. It is proposed to define the rational combination or balance of private and public interest in taxation as the fair balance between the need to ensure the sustainable functioning of the tax system and the proper satisfaction of the economic and social needs of a particular taxpayer. The authors use methods of comparative legal analysis and legal modeling to describe the relationship between tax management and ensuring the implementation of private and public interest. The following is proposed in the context of the study: the definition of the content and legal nature of private and public interest in taxation, the disclosure of the peculiarities of their combination during the establishment and collection of tax payments in the state, the implementation of a comparative analysis of domestic and foreign legal doctrine and legal practice in this area.

Keywords: *interest, tax relations, tax policy, tax management.*

JEL Classification: K34, H21

1. Introduction

Taxes are an important economic, social and political factor for the development of every modern society. The formation and implementation of a sound fiscal policy serves as a strategic reference point for the functioning of both highly developed and emerging economies. The growing attention has been recently paid to the social aspects of tax policy, and its adequate changes in connection with the transformation of society itself and its compliance with progressive world experience have been emphasized. The philosophy of reforms in

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the fiscal sphere is based on the transition to service model, the implementation of specific Cooperative Compliance tools, etc. In this context, there are grounds for considering taxation as an element of the social integration mechanism. The connection of private and public interest is manifested therein directly through the creation of a proper financial foundation for the economic and social development of society.

In recent years, due to globalization processes, the states are faced with the task of maximizing tax revenues in order to implement public expenditure programs and reduce public sector deficits. However, the risk of fiscal pressure on taxpayers is attracting more and more attention from investors, the media and civil society as a whole, which directly engages in filling the state treasury.

The reverse problem, which is closely intertwined with modern social and tax management, is the issue of transparency in the context of paying taxes and fees, as well as the growth of the tax culture of the population. The tax history of a particular taxpayer became a matter of his or her reputation. The timely payment of full tax payments is a duty that should be performed with joy and pride, and therefore most taxpayers in the leading countries of the world have no doubts as to whether their tax liability is to be met. An example of this is the survey conducted by the Finnish tax authorities in the context of tax revenue analysis for 2017: 79% of Finnish citizens are pleased to pay taxes, an increase of 10% compared to previous data; 96% agree that collecting taxes is important, since these revenues are used to support the welfare of the nation; 93% say they pay taxes in a timely manner; four of the five respondents were satisfied with the execution of their tasks by the tax office and only 3% did not⁵. In general, the graphic data of the report shows that half of Finland's tax revenue is derived from the personal income tax; while the remaining 33% account for taxes on added value and excise taxes. More than 9% of the total proceeds comes from corporate income tax, and the rest 11% – from other tax payments. The consequence is that the state received tax revenues for 2017 in the amount of 46.8 billion euros (the growth was 3.5% as compared to 2016).

World practice and current trends in the development of tax policies of leading world countries show a gradual transformation of tax systems in the context of cooperation between taxpayers and tax authorities. This necessitates an in-depth study of theoretical and practical aspects of the relationship between tax management and ensuring the implementation of private and public interest.

2. Methodology

The purpose of the article influences three main methods of research. The following approaches were used to take into account the specific features of the object, purpose and objectives of the study: dialectical (characterization of tax management as a management activity by the state, consideration of private and

⁵ Tax Administration 2017. Annual report. Available at: <https://annualreport2017.vero.fi/our-services/guidance-advice-and-service> (accessed September 9, 2019).

public interest in law in the dynamics of their development and interaction with other social and legal phenomena), historical - to reproduce the processes of development of private and public interest in law; formal and legal - to characterize private and public interest in law through legal constructs and legal terminology; axiological - to cover private and public interests in law in terms of conformity with their social values and interconnection; hermeneutic - to find out the essence of private and public interest in the context of the applied aspects of rulemaking and right implementation.

The study of literary sources suggests that the criteria for establishing a balance between private and public interest, as well as their imbalance, are uncertain either in the legislation or in the doctrinal circles. In particular, domestic legal scholars, such as D. Hetmantsev, M. Kucheriavenko, Ye. Lakusheva, A. Makukh, A. Nechai, N. Prishva, A. Rozdaibida, L. Trofimova, V. Chaika and others discussed the issues of the relation between the private and the public, and the issues under study vary in a sufficiently wide range – from the limits of private and public regulation of relations in the field of taxation to the definition of means for the protection of such interests in tax conflicts.

In particular, publications of D. Hetmantsev about private and public interest directly concern the necessity of transformation of the tax policy of the state and compliance with its eurointegration direction, increase of the tax culture of taxpayers, modernization of tax agencies and a new approach to interaction between the state and taxpayers⁶. The research of M. Kucheriavenko covers a wide range of issues in the field of taxation. The scientist pays attention to the nature of tax relations, the balance of private and public interest, the specifics of the subject structure, rights and obligations of participants⁷. The monographic work of V. Chaika⁸ deals with the determinants of the formation and implementation of the tax policy of Ukraine and analyses the legal principles, which serve as its basis. The relationship between the state and taxpayers is considered in this context. L. Trofimova paid attention to the tax policy in the context of "public interest - private interest" dichotomy⁹. Public finances and public funds, including as the sphere of collision of various interests (sometimes contradictory and different-

⁶ Hetmantsev, Danyyl Aleksandrovych, *Naloh – ne podarok hosudarstvu. [Tax is not a gift to the state]. Zerkalo nedely [Mirror of the week]. 2018. № 1177. Available at: https://zn.ua/business/nalog-eto-ne-podarok-gosudarstvu-nalogoplatelshchik-imeet-pravo-na-massovyy-finansovyy-isk-272615_.html (accessed September 9, 2019).*

⁷ Kucheriavenko, Mykola Petrovych, *Osoblyvosti roztsudu v podatkovopravovomu rehulivanni [Features of discretion in tax regulation]* "Mizhnarodnyi naukovyi zhurnal «ScienceRise: Juridical Science»" [International scientific journal «ScienceRise: Juridical Science»], 2017. Vol. 1, pp. 37-41.

⁸ Chaika, Viktoriia Viktorivna, *Podatkova polityka Ukrainy: teoretyko-pravovyi aspekt [Tax policy of Ukraine: theoretical and legal aspect].* Irpin, 2017. 348 p. (Seriiia «Podatkova ta mytna sprava v Ukraini», t. 96).

⁹ Trofimova, Larysa Vitaliivna, *Podatkova polityka v konteksti dykhotomii «publichnyi interes – pryvatnyi interes» [Tax policy in the context of the dichotomy «public interest - private interest»].* Naukovyi visnyk Natsionalnoho universytetu derzhavnoi podatkovoi sluzhby Ukrainy [Scientific Bulletin of the National University of State Tax Service of Ukraine], 2009. № 4, pp. 170- 178.

polar) are the object of the study by A. Nechai¹⁰. Regarding the legal regulation of public incomes as revenues intended to cover the costs associated with the satisfaction of public interest, N. Prishva offers his own understanding¹¹. According to Ye. Lakusheva, the mechanisms of ensuring the balance of public and private interests in the field of taxation are their proper legal regulation, the implementation of the legal rules themselves, the existence of an effective mechanism for the protection of the rights and interests of the subjects of tax legal relations. The scientist proves it in his research¹², mainly focusing on the private interests of taxpayers. O. Makukh¹³, who studies the legal nature of the regulation of financial relations and the ratio of private and public interest in them, discusses the dynamics of financial legal relations, which includes the system of tax relations. A. Rozdaibida disclosed the issues of the content of public and private interests in the field of taxation, the peculiarities of the correlation and the provision of their balance in the resolution of tax disputes in her dissertation study¹⁴.

Taxation as a social institution, which development was due to the interaction of private and public interest, and tax policy in the context of its social orientation, were discussed by the scholars in the field of economic sciences, in particular V. Andrushchenko, O. Vasilik, V. Vishnevskiy, V. Heiets, T. Yefimenko, T. Kalinescu, A. Krisovatyi, V. Melnyk, A. Sokolovska, L. Tarangul and others. Particular attention should be paid to the monograph "Tax State" by V. Andrushchenko and T. Tuchak, which, by the example of the Western states, reveals the concepts and phenomena of the tax state, puts an emphasis on the principles of taxation¹⁵.

Works in the field of public administration¹⁶ and tax management¹⁷ will be useful to update the approaches to taxation (establishing guarantees for citizens, introducing democratic procedures) and replacing traditional management practices based on the use of power and clear bureaucracy procedures that focus on

¹⁰ Nechai, Anna Anatoliivna, *Problemy pravovoho rehuliuвання publichnykh finansiv ta publichnykh vydatkiv* [Problems of legal regulation of public finances and public expenditures]. Chernivtsi: Ruta, 2004. 264p.

¹¹ Pryshva, Nadiia Yuriivna, *Pravove rehuliuвання publichnykh dokhodiv* [Legal regulation of public revenues]. Visnyk Kyivskoho natsionalnoho universytetu imeni Tarasa Shevchenka. Yurydychni nauky [Bulletin of Taras Shevchenko National University of Kyiv. Law], 2005. № 64-65, pp. 71-73.

¹² Lakusheva, Yevheniia Volodymyrivna, *Publichni ta pryvatni interesy v podatkovomu pravi* [Public and private interests in tax law]: PhD Thesis. Kyiv, 2014. 212 p. p. 4.

¹³ Makukh, Oksana Volodymyrivna, *Dynamika finansovykh pravovidnosyn: metodolohichni aspekt* [Dynamics of financial relationships: methodological aspect]: avtoref. Doctoral Thesis. Zaporizhzhia, 2017. 26 p.

¹⁴ Rozdaibida, Anastasiia Andriivna, *Zabezpechennia balansu interesiv pry vyrishenni podatkovykh sporiv* [Ensuring a balance of interests in resolving tax disputes]: PhD Thesis. Irpin. 2015. 198 p.

¹⁵ Andrushchenko, Volodymyr Leonidovych, Tuchak, Tetiana Volodymyrivna, *Podatkova derzhava* [The Tax state]. K.: Alerta, 2016. 304 p.

¹⁶ A. F. Melnyk, O. Yu. Obolenskyi, A. Yu. Vasina, L. Yu. Hordiienko. *Derzhavne upravlinnia: navch. posib* [Public administration: a textbook]. K.: Znannia-Pres, 2003. 343 p.

¹⁷ D. I. Dema, I. V. Shevchuk, H. P. Martyniuk. *Podatkovi menedzhment: navch. posibnyk* [Tax Management: a textbook] K.: Alerta, 2017. 256 p.

providing quality public services, the transformation of traditional market management mechanisms: from “command and control” to “motivate and receive result”.

Martin I.¹⁸ et al. studied taxation in historical retrospective and new fiscal sociology; Peeters B., Gribnau H. and Badisco J.¹⁹ discussed the formation of trusting relations between the state and taxpayers; some aspects of tax administration were reflected in works by such foreign scholars as Walsh K.²⁰, Hauptman L., Horvat M. Korez-Vide R.²¹. Christians A. describes the results of the tax policy study in a recent publication entitled *Introduction to Tax Policy Theory*, which answers the question: why and how societies are charged with taxes²².

At the same time, the results of studies in the state management and economic law dimensions do not fully cover the issues that arise in the context of the need to reconcile the interests of tax legal entities.

This manuscript aims to define the notion of “interest” in tax relations, to clarify the mutual influence of the implementation of private and public interest in taxation and the process of implementation of state tax management.

The following tasks were set to achieve this goal:

- defining the concept of “interest”, “balance of interests” in the taxation process;
- characterizing the peculiarities of private and public interest of entities in tax legal relations and establishing their correlation;
- identifying the mutual influence of the implementation of private and public interest in taxation and the process of state tax management;
- outlining the current trends of state tax management.

3. The nature, significance and functions of tax management

Tax management as a separate branch of knowledge arose in the early twentieth century, and has gained intensive use in highly developed countries as a modern tool for managing financial resources in the field of taxation. The object of such managerial influence is the relations that arise in the process of collecting taxes and fees, which participants are endowed with appropriate rights and obligations. The results of such influence are the formation of centralized funds, the creation of favorable conditions for the development of economic activity, ensuring the implementation of the interests of society. There are many opinions in the scientific literature about the nature, significance and functions of tax

¹⁸ Martin I., Mehrotra A., Prasad M. *The New Fiscal Sociology: Taxation in Comparative and Historical Perspective*. Cambridge University Press, 2009. 328 p.

¹⁹ Peeters B., Gribnau H., Badisco J. *Building trust in taxation*, Intersentia, Cambridge, 2017. 376 p.

²⁰ Walsh K. *Understanding taxpayer behaviour - new opportunities for tax administration*. *Economic and Social Review*, 2012, № 43 (3). pp. 451-475.

²¹ Hauptman L., Horvat M., Korez-Vide R. *Improving tax administration's services as a factor of tax compliance: The case of tax audit*, *Lex Localis*. 2014. № 12 (3). pp. 481-501.

²² Christians A. *Introduction to Tax Policy Theory* Available at: <https://ssrn.com/abstract=3186791> (accessed September 9, 2019).

management, but in most cases, scholars agree that tax management should be considered at the macroeconomic and microeconomic levels, i.e. at the state and enterprise level²³. Describing tax management, one can agree with the distinction of its following features:

- aimed at reconciling the subjective intentions of taxpayers and those responsible for collecting taxes with the real circumstances and organizational efficiency of the tax system, the combination of the ideally desired with the real possibility under the prevailing conditions;
- is a system of methods for implementing the potential inherent in the economic category of “tax”;
- acts as an integral part of state management and management, which fully meets the conditions of a market economy and ensures stable tax revenues to the budget.

After reviewing the results of previous scientific studies, it was found that state tax management can be considered as an economic phenomenon, a special kind of administrative activity and a process that takes place between the state and taxpayers in the following stages: formation of tax policy, organization of payment of taxes and fees, control and analysis of the implementation of legal requirements of the participants in tax legal relations.

In a generalized form, tax management as a special type of administrative activity at the state level may have the following components: definition of goals and formation of the tax policy of the state; activities of authorized state agencies on the creation of the legal framework for the functioning of the tax system; organizational, managerial and law enforcement activities of authorized state agencies in the context of administration of taxes and fees, assessment of the efficiency of state tax management.

When characterizing the national tax policy, scientists point out that it is a component of state regulation of the economy and an element of the mechanism for managing socio-economic development of the state; a set of measures and actions of authorized agencies in the field of taxation regarding the determination and establishment of elements of taxes, procedures and administration processes; the result of the work of numerous experts and specialists; a sphere of compromise between different groups of influence, which are part of political and economic system of countries²⁴.

4. The interest in the field of taxation

Interest is an independent social phenomenon, an indispensable component of any act and a potential object of legal protection. The interest determines the direction of the behavior of the subject and forms the motives of actions. The

²³ D. I. Dema, I. V. Shevchuk, H. P. Martyniuk. *Podatkovi menedzhment: navch. posibnyk [Tax Management: a textbook]* K.: Alerta, 2017. 256 p. p. 12.

²⁴ Shvabiy, Kostiantyn Ivanovych, *Podatkova polityka derzhavy. Shche o dyn velykyi kompromis [State tax policy. Another great compromise]*. K.: Alerta, 2018. 62 p. p.4.

public nature of interest is observed where it is about the representation of society as a whole, private – on the contrary – is inherent in its individual elements. The isolation of private and public interest takes place depending on its carrier entity. Each individual or a group of persons represents their interests that may be related to public interests, exist in parallel or even contradict them. At the same time, ensuring public interest is a condition for satisfying private interests (public needs in education, health care, social protection, etc. are important and valuable both for the state and for society as a whole, and for the individual), on the other hand – public interest is caused by certain interests of specific persons.

Interest in the field of taxation is manifested in the desire of tax legal entities to ensure its legitimate implementation, to take actions aimed at satisfying the needs and protecting rights, obtaining various benefits, and fulfilling the obligations defined by law.

The problem of combining in the tax policy of the state with the personal and social, private and public interest, achieving a compromise and establishing a balance emerged in the civilization with the emergence of taxation. However, fiscal payments still lead to controversy in relations between taxpayers and competent authorities. The collision of the interests of individuals, society and the state in the field of taxation is inevitable; the state's task at the same time is maximally satisfying the public interest, minimizing losses in the implementation of private interests.

The definition of the basic principles of tax policy and the dynamics of rulemaking in the field of taxation may indicate a desire of the legislator to fulfill this task in full. Regulation of the behavior of the participants in tax relations, as aptly observed by M. Kucheriavenko, must objectively be based on the logic, expediency and, accordingly, the legality of collecting money from a person, who honestly earned (received) a certain amount, to the state or its separate administrative and territorial formation²⁵. This contradiction is increasing in comparison with the regulation of public incomes and expenditures. In particular, the scientist notes that this is a situation in which a payer accurately and timely fulfilled his or her tax liability by paying taxes and formed a reasonable opportunity for a public entity to finance a certain need (construction and maintenance of roads, lighting of streets, maintaining law and order, education, medical services), for which these funds actually accumulated in a certain budget, but which was not in the appropriate form and amount financed from the budget. Thus, in order to fulfill certain tasks and functions of the state or territorial communities, funds were collected at the expense of taxes and fees paid, but these tasks and functions were not financed or funded insufficiently. D. Hetmantsev emphasized in this aspect "the traditional approach of the domestic doctrine of financial law to the taxpayer's tax liability is quite often called into question...

²⁵ Kucheriavenko, Mykola Petrovych, *Osoblyvosti rozsudov v podatkovopravovomu rehuliuванні [Features of discretion in tax regulation]* "Mizhnarodnyi naukovi zhurnal «ScienceRise: Juridical Science»" [International scientific journal «ScienceRise: Juridical Science»], 2017. Vol. 1, pp. 37-41, p. 37.

From the nineteenth century and by this time, the position that the duty of the taxpayer corresponds not only to the right, but also the counterparty obligation of the state for the effective use of the funds received, in the order and for the purposes specified by law, looks exotic and perceived as purely scientific flood deprived of practical value²⁶. However, scientific circles demonstrate the trend towards raising the issue of communication, interdependence and mutual influence of private and public interest in taxation, which can be manifested including through mutual demand and correspondence of duties.

As for the state, one of its features is the availability of the tax system, which, as emphasized by V. Andrushchenko and T. Tuchak, is kept by citizens at the expense of taxes²⁷. The system of relations between the authorities and the population paying taxes has a long history. It includes the tax policy of the states of the past ages and different peoples, its formation and implementation are inextricably linked with the interconnection and interpenetration of private and public interest. The ethics of a modern tax policy must be based on the principles that each state has a duty to create a fair and sound tax system; restrictions of property rights and interests must be adequate, proportionate, and obligatory; each individual is obliged to pay the relevant part of the expenses for the maintenance of the state. Moreover, the conflict caused by the contradictions between private and public interest, causes the existence of such a trend of tax regulation as its political compromise.

Charles Adams argues about taxes as a powerful tool for influencing people, more powerful than the rulers and governments can imagine. Adams argues that in the event that a state imposes large tax liabilities, the result can be a rebellion (violation rule of law), escape (emigration) or tax evasion. The society may experience even worse situation – low productivity, slow economic growth, and restriction of freedom and weakening of autonomy, punitive and confiscatory tax system²⁸. Dissatisfaction with the tax policy of the state reinforces the opposition of the authorities and the population, in which an adequate balance of private and public interest becomes impossible. The usual argument that the subject of tax legal relations receives civilizational benefits in exchange for taxes paid becomes unconvincing to the extent that the individual advantages of civilization are being questioned.

The combination of private and public interest is also observed in the process of implementing the state tax policy through the observance, use, implementation and application of tax regulations. Law-enforcement manifestations of reconciliation and provision of interests are characteristic of tax

²⁶ Hetmantsev, Danyyl Aleksandrovych. *Naloh – ne podarok hosudarstvu [Tax is not a gift to the state]. Zerkalo nedely [Mirror of the week].* 2018. № 1177. Available at: https://zn.ua/business/nalog-eto-ne-podarok-gosudarstvu-nalogoplatelschik-imeet-pravo-na-massovyy-finansovyy-isk-272615_.html (accessed September 9, 2019).

²⁷ Andrushchenko, Volodymyr Leonidovych, Tuchak, Tetiana Volodymyrivna, *Podatkova derzhava [The Tax state].* K.: Alerta, 2016. 304 p. p.6.

²⁸ Adams Ch. *Vlyaniye nalohov na stanovlenye tsyvylyzatsyy [The Impact of Taxes on the Formation of Civilization].* Cheliabynsk: Sotsyum, Mysl, 2018. 639 p. p. 557.

relations, whose participants enjoy the rights and perform duties in the relevant field. Harmonization of the rights and obligations of taxpayers and powers of the tax authorities can occur based on the inequality, taking into account at least that the main method of legal regulation of tax relations is imperative, and one of the parties is a public authority. At first glance, this implies a shift in the balance of rights and responsibilities of entities that relate to different parties in tax relations. In support of this postulate one can specify the legal status of the subjects of tax relations by the Tax Code of Ukraine, in which the article on the obligations of the taxpayer (Article 16) begins the definition of the nature of the legal relations of the obligatory and eligible participants in the tax relations, but already then the rights of the taxpayer are transferred (Article 17) and the functions, rights, duties of the controlling agencies are outlined (Articles 19¹ – 21)²⁹. M. Kucheriavenko explains "tax and legal regulation is aimed at streamlining relations that ensure the receipt of funds in the form of taxes and fees to the budgets, i.e. it is about the settlement of the first stage of the movement of public money. Therefore, it is completely logical that the owner of this money (the state or the territorial community) disposes of them and determines the peculiarities of the mode of their movement. This explains the fact that the owner of funds authorizes the relevant subject to control their movement at this stage of financial activity, assigning to the obliged subject mainly prescriptions determining the nature, form and method of fulfilling tax accounting, payment and reporting obligations"³⁰.

As for to the characteristics of interest in tax relations, it is logical to state the fact that the interest of the taxpayer and the interest of the state or territorial authority can both conflict and coincide. When paying taxes, the obliging party is definitely interested in obtaining high-quality social services at the expense of budget financing, however, the distribution and use of centralized funds are determined by rules of law and directly depend on planned actions of the state and territorial communities for the corresponding budget year.

At the same time, this is not the evidence of a confrontation between private and public interest, because the imperative mechanisms for regulating tax relations ensure the maximum implementation of private legal interests. The tax policy of the state allows the discretionary powers of the tax authorities, which consists of a certain freedom of choice in making a decision. At the same time, in the relations between the taxpayer and the controlling agencies, there is a presumption of the lawfulness of decisions of the taxpayer in the event that the rule of the law or by-law involves ambiguous interpretation of the rights and obligations of the subjects of tax relations, as a result of which there is an opportunity to make a decision in favor of each of the parties. According to M. Kucheriavenko, tax

²⁹ Podatkovyyi kodeks Ukrainy [Tax Code of Ukraine]. Available at: <http://zakon.rada.gov.ua/laws/show/2755-17> (accessed September 9, 2019).

³⁰ Kucheriavenko, Mykola Petrovych, *Osoblyvosti rozsvudu v podatkovopravovomu rehuliuванні* [Features of discretion in tax regulation] "Mizhnarodnyi naukovi zhurnal «ScienceRise: Juridical Science»"[International scientific journal «ScienceRise: Juridical Science»], 2017. Vol. 1, pp. 37-41. p.38.

regulations are a rather new phenomenon, which emerges due to many factors including the need to balance the private and public interest in taxation³¹.

The mechanisms for balancing private and public interest in the resolution of tax disputes include procedures for appealing against decisions or actions of tax authorities in administrative and judicial procedures, as well as additional tools for ensuring a balance of private and public interest in taxation, such as mediation, interconversion, arbitration, etc.

There are grounds for considering the institution of liability of tax legal entities an instrument for restoring the balance of interests when implementing tax regulations. While tax liability remains the responsibility of the taxpayer without fault, the legal community is actively discussing proposals for amending the domestic legislation on the introduction of the guilty responsibility of the latter (such as that inherent in other branches of law)³². It is noted that violation of tax regulations may be caused by factors independent of the taxpayer or actions of third parties, such as failures in the system of electronic reporting systems or actions of other potential tax legal entities such as tax agents, tax representatives, entities, contributing to the payment of taxes (banks, for example), etc. On the other hand, the controlling authority often does not bear responsibility for unlawful acts, despite formal confirmation that the unlawful acts of officials of the controlling agencies are tax offenses (Articles 21, 109 of the Tax Code of Ukraine³³). Even more declarative is the state's responsibility for the efficiency of the use of income received from taxpayers. It is necessary to recall Article 3 of the Constitution of Ukraine regarding the fact that the state is responsible for its activities, and Article 95 of the Constitution of Ukraine³⁴, according to which the budgetary system of Ukraine is based on the principles of just and impartial distribution of social wealth between citizens and territorial communities. In addition, the Constitution states that exclusively the law on the State Budget of Ukraine determines any expenditures of the state for general needs, the size and purpose of these expenditures, and regular reports on revenues and expenditures of the State Budget of Ukraine should be made public. However, the above obligations of the state are not supported by a specific form of legal liability. Moreover, certain private interests (for example, in the field of security assurance, education, etc.) are met irrespective of whether the carrier fulfills its tax obligations in good faith.

³¹ *Ibid.*, p. 38.

³² Podatkovi pravoporushennia: vidpovidalnosti buty! [Tax Offenses: The Liability to Be!] Available at: <http://advisortax.org/?p=4859> (accessed September 9, 2019).

³³ Podatkovyi kodeks Ukrainy [Tax Code of Ukraine] Available at: <http://zakon.rada.gov.ua/laws/show/2755-17> (accessed September 9, 2019).

³⁴ Konstytutsiia Ukrainy [The Constitution of Ukraine]. Available at: <http://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80> (accessed September 9, 2019).

5. Conclusions

Thus, in the context of political, economic and legal changes occurring in Ukraine, the legal doctrine and practice offer a number of legal stories that should promote the harmonious transition to a new level of tax management and successfully ensure the implementation of private and public interest. The nature and extent of their implementation will result in an increase in the effectiveness of the entire state mechanism and the modernization of the supervisory agencies, in particular, will contribute to the formation of good tax behavior. In the ratio of private and public interest is a subtle mobile boundary, which is due to the socio-economic level of society development, state needs and the will of the legislator.

The following is proposed in the context of the study:

1) interest in taxation is the desire of the participants in public relations to meet the economic and social needs by forming the necessary financial support at the expense of tax revenues;

2) it is feasible to define a combination of private and public interest in taxation as a fair balance between the need to ensure the sustainable functioning of the tax system and the proper satisfaction of the economic and social needs of a particular taxpayer. The achievement of the balance of interests in the tax area is an endless process, which implies a modification of taxation practices from coercion to voluntary payment, self-taxation against the background of the development of economic and social relations;

3) the mutual influence of the implementation of private and public interest in taxation and the process of state tax management is traced at each stage of public administration in the field of taxation, in particular the formation of tax policy, the organization of payment of taxes and fees, control and analysis of the implementation of legal requirements by the participants in tax relations;

4) modern trends of state tax management are a change in the content of tax policy and its implementation in the context of compliance with the basic principles of taxation, the identification and consideration of public priorities, the active development of new forms of management, tax competition between countries.

Taking into account the above, it is worth noting that the definition of the content and legal nature of private and public interest in taxation, the disclosure of the peculiarities of their combination during the establishment and collection of tax payments in the state, the implementation of a comparative analysis of domestic and foreign legal doctrine and legal practice in this area are promising areas of research in the field of tax law in the context of improving public financial activity and current tax legislation. This is because tax revenues are a prerequisite for the harmonious functioning of the state. The legal regulation in the field of taxation aimed at meeting public interest should not ignore the interests of taxpayers or violate their fundamental rights and freedoms. A fair balance between the public interest and the basics of the implementation of basic human rights in a democratic state must be taken into account during administration of law.

Bibliography

1. Tax Administration 2017. Available at: <https://annualreport2017.vero.fi/our-services/guidance-advice-and-service> (accessed September 9, 2019).
2. Гетманцев, Даниил Олександрович, [Hetmantsev, Danyyl Aleksandrovych], *Налог – не подарок государству [Tax is not a gift to the state]*. Зеркало недели [Mirror of the week]. 2018. Vol. 1177. Available at: https://zn.ua/business/nalog-eto-ne-podarok-gosudarstvu-nalogoplatelshchik-imeet-pravo-na-massovyuy-finan-sovyuy-isk-272615_.html (accessed September 9, 2019).
3. Кучерявенко, Микола Петрович, [Kucheriavenko, Mykola Petrovych], *Особливості розсуду в податково-правовому регулюванні [Features of discretion in tax regulation]*. Міжнародний науковий журнал «ScienceRise: Juridical Science» [International scientific journal «ScienceRise: Juridical Science»], 2017. Vol. 1, pp. 37-41.
4. Чайка, Вікторія Вікторівна, [Chaika, Viktoriia Viktorivna], *Податкова політика України: теоретико-правовий аспект [Tax policy of Ukraine: theoretical and legal aspect]*. Ірпін, 2017. 348 p.
5. Трофімова, Лариса Віталіївна, [Trofimova, Larysa Vitaliivna], *Податкова політика в контексті дихотомії «публічний інтерес – приватний інтерес» [Tax policy in the context of the dichotomy «public interest - private interest»]*. Науковий вісник Національного університету державної податкової служби України [Scientific Bulletin of the National University of State Tax Service of Ukraine]. 2009. Vol. 4, pp. 170-178.
6. Нечай, Анна Анатоліївна, [Nechai, Anna Anatoliivna], *Проблеми правового регулювання публічних фінансів та публічних видатків [Problems of legal regulation of public finances and public expenditures]*. Chernivtsi: Ruta, 2004. 264p.
7. Ришва, Надія Юріївна, [Pryshva, Nadiia Yuriiivna], *Правове регулювання публічних доходів [Legal regulation of public revenues]*. Вісник Київськ. нац. ун-ту імені Тараса Шевченка. Юридичні науки. [Bulletin of Taras Shevchenko National University of Kyiv. Law]. 2005. Vol. 64-65, pp. 71-73.
8. Лакушева, Євгенія Володимирівна, [Lakusheva, Yevheniia Volodymyrivna], *Публічні та приватні інтереси в податковому праві [Public and private interests in tax law]*: PhD Thesis. Kyiv, 2014. 212 p.
9. Макух, Оксана Володимирівна, [Makukh, Oksana Volodymyrivna], *Динаміка фінансових правовідносин: методологічний аспект [Dynamics of financial relationships: methodological aspect]*: avtoref. Doctoral Thesis. Zaporizhzhia, 2017. 26 p.
10. Роздайбіда Анастасія Андріївна, [Rozdaibida, Anastasiia Andriivna], *Zabezpechennia balansu interesiv pry vyrishenni podatkovykh sporiv [Ensuring a balance of interests in resolving tax disputes]*: Ph doctoral dissertation. Irpin. 2015. 198 p.
11. Андрущенко, Володимир Леонідович, [Andrushchenko, Volodymyr Leonidovych], Тучак, Тетяна Володимирівна, [Tuchak, Tetiana Volodymyrivna], *Податкова держава [The Tax state]*. Kyiv: Alerta, 2016. 304 p.
12. Мельник А. Ф., Оболенський О. Ю., Васіна А. Ю., Гордієнко Л. Ю. [Melnyk A. F., Obolenskyi O. Yu., Vasina A. Yu., Hordiienko L. Yu.], *Державне управління: навч. посіб [Public administration: a textbook]*. Kyiv: Znannia-Pres, 2003. 343 p.

13. Дема Д. І., Шевчук І. В., Мартинюк Г. П. [Dema D. I., Shevchuk I. V., Martyniuk H. P.], Податковий менеджмент: навч. посібник [*Tax Management: a textbook*]. Київ: Alerta, 2017. 256 p.
14. Martin I., Mehrotra A., Prasad M. *The New Fiscal Sociology: Taxation in Comparative and Historical Perspective*. Cambridge University Press, 2009. 328 p.
15. Peeters B., Gribnau H., Badisco J. *Building trust in taxation*. Intersentia, Cambridge, 2017. 376 p.
16. Walsh, Keith *Understanding taxpayer behaviour - new opportunities for tax administration*. Economic and Social Review. 2012. Vol. 43 (3). pp. 451-475.
17. Hauptman L., Horvat M., Korez-Vide R. *Improving tax administration's services as a factor of tax compliance: The case of tax audit*. Lex Localis. 2014. Vol. 12 (3). pp. 481-501.
18. Christians, Allison, *Introduction to Tax Policy Theory*. Available at: <https://ssrn.com/abstract=3186791> (accessed September 9, 2019).
19. Швабій, Костянтин Іванович, [Shvabiy, Kostiantyn Ivanovych], *Податкова політика держави. Ще один великий компроміс* [*State tax policy. Another great compromise*]. Київ: Alerta, 2018. 62 p.
20. Адамс, Чарльз, [Adams Charles], *Влияние налогов на становление цивилизации* [*For good and evil. The Impact of Taxes on the Course of Civilization*]. Cheliabynsk: Sotsyum, Mysl, 2018. 639 p.
21. Податковий кодекс України [Tax Code of Ukraine]. Available at: <http://zakon.rada.gov.ua/laws/show/2755-17> (accessed September 9, 2019).
22. *Податкові правопорушення: відповідальності буту!* [*Tax Offenses: The Liability to Be!*] Available at: <http://advisortax.org/?p=4859> (accessed September 9, 2019).
23. Конституція України [The Constitution of Ukraine]. Available at: <http://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80> (accessed September 9, 2019).

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