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## ECONOMIC AND LEGAL PROVISION OF ALTERNATIVE TAXATION SYSTEMS FOR LEGAL ENTITIES

**Introduction.** Modern realities in which functioning tax system of Ukraine, military aggression, recession of economic activity, significant loss of resources is the small list of problems that it is necessary to decide the leadership of the state in order to meet the needs countries, people, economy. Analysis of scientific publications makes it possible talk about the need to create new approaches to the formation of conditions, which will ensure proper conditions for tax legal relations, creation of possible conditions for avoiding conflicts between taxes payers and the State Tax Service.

A significant number of draft regulations prepared in this area, namely in tax legal relations, speaks of due attention from both the legislator and a large number of subjects tax regulation. Problems related to taxation legal entities are associated with many factors and need an integrated approach to improvement. Analysis of the situation showed about the possibility of not only fundamental changes in the taxation system, which are not can always be acceptable and positive for all subjects tax relations and creation of certain conditions for the defined taxpayer categories – creating alternative systems taxation. It is through such measures that it is possible to provide additional incentives for the development of economic relations and entrepreneurial activity in to the state. The relevance of the research is confirmed by the fact that the applicant a significant number of scientific and informational legal documents, carried out the corresponding analysis of the specified materials, made critical analysis and relevant conclusions and recommendations for improvement of tax legal relations. All these aspects point to relevance of the study.

The selected research topic is very important for science financial law, since at present, taking into account the complex economic conditions that currently exist in the state there is a need for theoretical legal

research on the legal provision of tax legal relations, in particular taxation of legal entities.

### **Analysis of recent research and publications.**

The theoretical basis of the study is the works of such domestic legal scholars in the field of financial and tax law: Y. Anistratenko, N. Atamanchuk, V. Belous, L. Voronova, A. Dmitrik, D. Getmantsev, L. Kasyanenko, M. Kucheryavenka, A. Novitsky.

Separate aspects related to legal support alternative systems of taxation of legal entities were the research subject of the following scientists: V. Korotun, O. Panasyuk, O. Punda, V. Sinchak, M. Slavitskaya, O. Brigintsy, M. Glukh, M. Karmalita, G. Striyashko.

Despite a significant number of scientific achievements dedicated to main aspects of legal support of alternative systems taxation of legal entities, issues that became the subject of research, in the works of these authors are not disclosed.

**Formulation of the article's objectives.** The purpose of the research is to develop evidence-based proposals improving legal support for the introduction of alternative systems of taxation of legal entities.

**Methods and methodology.** The methodological basis of the research is a set of methods and techniques of scientific knowledge that made it possible to investigate systematically the legal support of alternative systems taxation of legal entities. General scientific dialectical method cognition was the main in this system of methods and allowed to perform scientific tasks defined in the study, in the unity of their social content and legal form. The use of the generalization method made it possible to highlight the problems of legal support of the application alternative systems of taxation of legal entities. Using the system approach, approaches to the analysis of individual alternative taxation systems are formed depending on the type of activity, conditions entrepreneurial activity.



### Presentation of the main research material.

Taxation of legal entities has always been associated with tax on profit of enterprises. However, not all legal entities are payers' corporate income tax as a significant part of small business chooses a simplified taxation system. The latest tax regime has a number of features and limitations, which unfortunately does not prevent big business grind and use this scheme for yourself. Thus simplified taxation system for legal entities is the only alternative to taxation on the income tax of enterprises.

The presence of such a choice should be reflected theoretically in the economic activity and business efficiency. However, at the same time, the question arises or does not lead such a choice to violate the rights of those entities that pay tax on profits of enterprises. After all, the economic benefit for the subject at the expense of staying on a simplified system creates advantages not due to equal competition participants of which present the best qualities and organization to get consumer attention. Reaching the maximum the threshold of staying on a simplified tax system, in turn, becomes drive for business milling, adjustment of reporting for pre-threshold indicators, or a slowdown in economic activity. So to answer the question should be compared the mandatory elements of both taxes and make a conclusion on the differences in the conditions of taxation of legal entities.

According to the State Statistics Service, 1.49 million legal entities were registered in the register of enterprises, institutions and organizations as of October 2023 [1]. Also according to open data the State Tax Service of Ukraine on the 3rd group of the simplified system as of October 2023, there were 605 thousand taxpayers (legal entities account for about 1/3 in this number). So thus, it can be said that more than 15% of legal entities are on simplified taxation system.

Y. Anistratenko's conclusion is correct that the content of taxation of small and medium-sized businesses in Ukraine is disclosed through the possibility of using two taxation systems (general and simplified), which are determined depending on the category of the payer, its legal status and occupation of a certain type of business. Efficiency the use of each tax system is realized due to the ability of the payer to determine the advantages of each of them when choosing business [2, p. 383]. However, it is not necessary to make such a choice between different ways of taxation as the main feature of the content taxation of small and medium-sized businesses in Ukraine. After all, the regulatory function of tax can also be implemented within the framework of tax on profits of enterprises, which can be observed in the tax legislation of many states.

At the same time, for example, the special mode "Action City" also gives a choice for business in the field of information technology, but does not express the general content of taxation of this area of activity. We believe that the content of taxation of small and

medium-sized businesses is in the development a set of measures and tools aimed at realizing the interests of the state and society in this area. Again, Poland's experience in The introduction of "Estonian CIT" initially extended to small and medium-sized businesses, which the state is trying to develop, providing that individuals will form enterprises, thus gaining the opportunity to accumulate capital and continue to develop. Therefore, it is obvious that the content taxation of small and medium-sized businesses is not to provide it selection in relation to the tax regime, which is one of many tax tools, and in the use of a wide range of measures and tools implementation of regulatory and stimulating functions of taxes.

Special taxation regime, which provided for relief of conditions small business activity was introduced in 1998 by Presidential Decree Ukraine, but the modern version of this regime was introduced accordingly the Law of Ukraine "On Amendments to the Tax Code of Ukraine and some other legislative acts of Ukraine regarding a simplified system taxation, accounting and reporting". Thus, taxpayers continued to use the simplified accounting system in the new format as an alternative for paying income tax enterprises. At the same time, legal requirements for payers who can use a simplified tax system, do not allow larger part of legal entities to switch to this mode of taxation [3].

To the advantages provided by a simplified system of taxation scientists include the following: simplified procedure and procedure for registration of the taxpayer; the possibility of switching to the payment of single tax from the beginning of any quarter; easy calculation of a single tax; simplified accounting, calculations related to the determination of tax amounts and relative simplification filling out reports, including taking into account the Accounting Provisions accounting; increase of payers' own working capital at the expense of reduction of amounts of payments on taxes and fees availability of choice, about payment of value added tax [4, p. 244].

At the same time, restrictions on single tax payers make such a system not relevant for medium and large businesses, although the domestic business has repeatedly demonstrated flexibility to optimize the tax burden due to small business a formal sign (Fox trot, Rozetka, etc.). It should also be noted here on the impossibility of displaying more complex business processes and transactions that require accounting and introduction of accounting policy in the enterprise for accounting features of its activities provided by law [3].

In turn, the content of corporate income tax is determined through the concept of profit, which is an abstract economic category, with through which a theoretical justification is made that economics originated on the basis of the desire to understand the principles of economic mechanism [5, p. 92]. Thus, the legal expression of this tax lies in the plane of the economic content of profit, which, in turn, often generates a discrepancy between the content of business transactions and formal legal expression.

Economists are not unanimous in determining the content of the concept of profit and offer the following definitions: profit – general economic category, which is inherent in commodity-money relations and is part of the income of a particular companies affected by internal and external environment and business development [6, p. 83]; is the difference between income from all activities and costs companies that arose during the receipt of this income, and the implementation of the process extended reproduction and satisfaction of the interests of business owners, employees, investors and you can use the state [7, p. 84]. At the same time in Regulation on National Accounting Standards (Standard) 1 “General requirements for financial statements” profit is mentioned as “the amount by which the income exceeds the associated costs” and the loss as “exceeding the amount of expenses over the amount of income for which these expenses were incurred” [7].

It is known from the theory of financial law that income tax enterprises in the form of taxation is a direct tax, this means that it directly depends on the amount of income of the payer and significantly affects the

activities of business entities. Ukrainian scientist V. Andrushchenko draws attention to the predominant use of its regulatory potential in Western states [8, p. 242]. Regulatory mechanism of income tax enterprises are implemented through the differentiation of tax rates for various types of payer activities and preferential taxation of production priority goods. Therefore, in other countries you can not often find such a tax regime as a simplified tax system for incentives development of small and medium-sized businesses outside corporate tax.

Other tax incentives and benefits apply: simplified accounting system; lower income tax rates; introduction special tax rules; stimulation of investments in the main capital; providing tax holidays for startups; stimulating spending on research and development; use of taxes on estimated income and minimum taxes [9, p. 152; 10, p. 266] and even the application of tax on withdrawn capital as a separate regime for small and medium-sized businesses.

Table 1 shows the elements characterizing the main differences between corporate income tax and group III and IV of a single tax.

Table 1

**Comparison of corporate income tax and single tax of groups III and IV**

Comparison criterion	Corporate income tax	Simplified taxation system	
		III group	IV group
Taxpayer	Legal entity resident and equivalent non-resident	Legal entity resident who meets the criteria cl. 291.4 ar. 291 TCU	Legal entity resident who meets the criteria cl. 291.4 ar. 291 TCU
Object	Financial result +/- adjustment * tax rate/100	Income * tax rate/100	Land area in ownership or use * normative monetary valuation of land * rate tax
Tax rates	Percentage of tax base		
Resident	18, 3, 0	3% for VAT payers; 5% without VAT, 15% (ar. 293.4 TCU)	0,95; 0,57; 0,19; 2,43; 6,33
Non-resident	0, 4, 5, 6, 12, 15, 20	Cannot be a payer (cl. 291.5.7 TCU)	
Reporting	Declaration of choice up to 20 million UAH annual or quarterly, > 20mn UAH quarterly	Tax payment quarterly, annual reporting	Tax payment quarterly, annual reporting
Conditions of registration	State registration of legal entity	When registering a legal entity, or at the request of the taxpayer, if there is compliance with the Tax Code of Ukraine	When registering a legal entity, or at the request of the taxpayer, if there is compliance with the Tax Code of Ukraine
Features of accounting	Accounting, International Financial Reporting Standards	Simplified financial report of the small business entity in the Balance Sheet	Book of income and expenses in the electronic account of the payer
Revenue per year	There are no restrictions	7 million UAH	Farmland area not less than 2 hectares and not more than 20 hectares, 75% revenue from agricultural activities
Quantity of employees	There are no restrictions	There are no restrictions	There are no restrictions

Source: compiled by authors.

Immediately it becomes noticeable that the income tax of enterprises has a wider range of taxpayers, since it is required to pay not only legal entities residents, but

also non-residents. Thus, the existence of the status of a tax resident, which for a legal entity manifests itself in state registration, is a prerequisite for the use of a

simplified taxation system. After all, the goal of introducing a simplified taxation system and the complexity of foreign economic transactions and their volume do not allow applying simplified reporting. A separate important sign of the legal status of the single tax payer is the restriction on the amount of income and activities.

In addition, there is also a restriction on the structure of owners, since a legal entity cannot be a single tax payer if another legal entity owns a stake in its authorized capital of 25% or more percent. Farms also have significant restrictions on the amount of land and income from agricultural activities for the use of a simplified taxation system. Previously, there were also restrictions on the number of employees, which significantly limited the possibility of staying on a simplified tax system. In our opinion, such restrictions on single tax payers are explained by the need to minimize abuse associated with manipulation and adjustment to such requirements of larger taxpayers [3].

The subject of taxation by the single tax is all the income of a legal entity with the exception of income, which is not included due to the need to report on the payment of income tax for third parties or receive income from them, which, when accrued, are also taxed on the income of enterprises. In turn, the object of taxation on the income tax of enterprises takes into account the peculiarities of the taxpayer's activity and the formation of profits based on the financial result.

The object of taxation of corporate income tax in the modern definition in accordance with Article 134 of the Tax Code of Ukraine is income with a source of origin from Ukraine and abroad, which is determined by adjusting (increasing or decreasing) the pre-tax result specified in the company's annual financial statements for tax differences. Income of a single tax payer-legal entity in accordance with sub-clause 2 clause 292.1 of article 292 of the Tax Code of Ukraine determines any income of such person received during the tax period in monetary form (group III).

Income should be understood as the total amount of income of the taxpayer from all types of activities received (accrued) during the reporting period in monetary, material or intangible forms both on the territory of Ukraine, its continental shelf in the exclusive (marine) economic zone, and beyond them (sub-clause 14.1.54 of clause 14.1 of Article 14 of the Tax Code). Now, the procedure for determining the object of taxation when levying income tax, determined by the legislation of Ukraine, is considered difficult [11], and legal norms can have different interpretations. It is no coincidence that ideas appear to replace enterprise income tax with, for example, a tax on withdrawn capital. And tax optimization can lead to the fact that individual taxpayers will not be taxed at the proper level, thus transferring the burden of paying tax to other taxpayers, because a significant part of the tax revenue from corporate income tax is provided by only 0.4% of all taxpayers of this tax [12]. Also, constant changes in

the tax system lead to non-compliance with the tax reporting of the Tax Code of Ukraine, and leads to ambiguous situations and tax disputes [13].

The main corporate income tax rate is 18%, however, unlike a single tax, this rate applies to profit, not to income as a whole (individual income is the object of taxation of corporate income tax). In addition, within the income tax there are other rates that apply to individual objects of taxation of types of activity and taxpayers (non-residents), which makes its application more flexible. Thus, the maximum amount of tax paid by a legal entity within the limits of the third group of the simplified tax system will be 210 thousand UAH with VAT (3%) and respectively 350 thousand UAH excluding VAT (5%). At the same time, corporate income tax has no marginal income limits and makes it possible to take into account the peculiarities of activities and calculate the losses of previous periods.

For legal entities - single tax payers of the third group, a double rate determined by clause 293.3 of article 293 of the Tax Code (that is, 6% of income of VAT payers, and 10% of income of those who are not VAT payers) is applied: to the amount exceeding the limit level of annual income defined for this group of payers in sub-clause 3 of clause 291.4 of article 291 of the Tax Code; to income received when applying a different method of calculation than provided for single tax payers; – to income received from the implementation of activities that do not give the right to apply a simplified tax system.

In case of violation of the conditions of stay on the simplified tax system, the legal entity will have to switch to the general tax system, that is, pay income tax on enterprises. Such reasons for mandatory transition, in accordance with sub-clause 298.2.3 of clause 298.2 of article 298 TCU for legal entities - single tax payers of group 3 are: exceeding the established amount of income; the use of a non-cash form of calculations; conducting activities that do not give the right to apply a simplified taxation system; carrying out activities not specified in the register of single tax payers; violation of the requirements for the composition of the authorized capital; having tax debt "for every first day of the month for two consecutive quarters".

Providing certain preferences categories of taxpayers, or creating additional conditions for conducting business activities is not a novel of the national tax system. Studying foreign experience can see different approaches in different jurisdictions to establish special tax conditions categories of taxpayers.

Therefore, M. Reta noted that when deciding on the choice of the taxation system, it is necessary to carefully weigh all the pros and cons, as well as ensure the maximum possible consideration of the specifics of the work of the business entity in the future. The most general approach for making a decision on the transition to a simplified system is considered from the point of view of obtaining an economic effect by calculating a relative decrease (increase) in tax payments provided



that the volumes of activity, assortment, price parameters, etc. [14] are unchanged.

Therefore, in different tax systems are introduced different methods of stimulation, which include:

- simplified accounting system;
- use of reduced income tax rates;
- exemption from VAT and/or the application of differentiated rates;

- stimulation of investments in capital assets;
- stimulation of R&D costs;
- provision of tax holidays (exemption from taxes of newly created enterprises).

Foreign experience in introducing tax incentives for small businesses is presented in Table 2.

Table 2

#### Application of tax incentive methods for small businesses

Methods of stimulation	Examples of application in some countries
1	2
Simplified accounting system	France: small enterprises keep only records of purchases and financial revenues, as well as make formal calculations on VAT, which indicate that VAT is not charged. UK: Businesses with annual income of up to £ 15 thousand fill out a simple tax return without details of their activities or assets or liabilities. Sweden: small enterprises file a simplified tax return, use a cash method of accounting for income and are required to register only with the tax inspectorate; MP with an annual income of up to 110 thousand dollars. The United States may file a tax return once a year rather than monthly [15]
Apply reduced income tax rates	France: small enterprises who have the status of a legal entity and are owned by individuals pay income tax at a rate of 19% (instead of 33% at the standard rate). Lithuania: small enterprises, gross income of which does not exceed 25 thousand dollars, pays income tax at a rate of 15% (under the general scheme – 29%). Bulgaria: the income tax rate to the republican budget is 15% for enterprises with an annual profit of up to 50 thousand BGN, and 20% – more than 50 thousand BGN. Holland: for enterprises with taxable income up to 50 thousand guilders, the income tax rate is 30%, more than 50 thousand guilders is 35%. USA: income tax rate is 15% – with annual taxable income up to 50 thousand dollars, 25% – from 50 to 75 thousand dollars, 34% – from 75 thousand to 10 million dollars and 35% – more than \$10 million. The UK: for businesses and individuals, the income tax rate is 10% with monthly income up to £1,520, 22% – up to 28.4 thousand and 40% – more than 28.4 thousand [15]
Exemption from VAT payment and/or application of differentiated rates	France: small enterprises must be registered by VAT payers, but VAT is not paid if the minimum limit value of the annual turnover has not been exceeded. Bulgaria: small enterprises paying a single annual patent tax are exempt from VAT. Poland: applies zero VAT rate for exported goods, 3% – for certain pharmaceutical goods, 7% – for construction materials and services, printing products, 22% – for other goods; some goods and services are exempt from VAT (education, medicine, insurance, certain types of food products). Czech Republic: VAT is 22% on goods and 5% - services, food and energy sources [15]
Capital Asset Investment Incentive a) Internal investment b) Foreign investment	a) France: part of the taxable income of small enterprises from which the reduced tax rate is levied should be used for capital investments in the same enterprise. Estonia: exempt from taxation the part of profit that is invested by the enterprise in its development; any investment of Estonian enterprises, including those invested in other countries, is exempt from income tax. Great Britain: a widespread tax rebate on depreciation of buildings and equipment, which makes it possible for some small enterprises to deduct from the tax base to 40%. Holland: taxable profits are reduced by investment in some capital assets. US: small enterprises can withdraw from taxation investments in capital assets if their annual volumes do not exceed \$ 24 thousand. Pakistan: foreign investors receiving dividends of less than 15 thousand rupees are exempt from taxation; when owning capital for less than one year with 60% of income, income tax is not levied, and the rest 40% is levied at a rate of 25% (instead of 30%). Syria: foreign investors who have made investments in the tourism sector may be exempt from the tax on commercial and industrial profits for a period of three years. Indonesia: Foreign investors receive benefits based on the return on investment in the industry; have the ability to transfer abroad profits, depreciation charges, etc. [15]
Stimulation of R&D costs	The UK: since 2000 there is an increased rate of write-off of R&D costs from the tax base in the amount of 150% for small and medium-sized businesses. Australia: tax deduction of R&D costs from the tax base in the amount of up to 125% (under certain conditions - up to 175%). Hungary: full deduction of R&D costs from the tax base is provided. The Netherlands: the possibility of deducting part of payroll expenses for employees participating in R&D from tax liabilities. US: from accrued income tax there is a possibility to deduct 20% increase in costs for some types of R&D relative to average costs in the base period (calculated over four years).

Ending of table 2

1	2
	France: 50% of the increase in qualified R&D costs (expenses for work, acquisition of scientific equipment and remuneration of scientific staff) over the past two years can be deducted from the amount of income tax. Spain: deductions from income tax are provided for 30% of R&D expenses in the current year and 50% of excess of average expenses in the last two years [15]
Provision of tax holidays (exemption from taxes of newly created enterprises)	Jordan: Tax holidays are granted to newly formed businesses for up to six years. Indonesia: New enterprises created in priority sectors of the economy may not pay taxes for a period of two to six years. Pakistan: providing tax holidays to enterprises of the mining industry (up to five years), a number of sub-sectors related to the production of food [15]

Source: compiled by authors.

### Conclusions and prospects for further research.

Thus, a simplified system of taxation, which itself undergoes a number of transformations each year, still does not allow to fully take into account the peculiarities of the activities of legal entities for their reasonable taxation and can be beneficial for starting and conducting small business with a small differentiation of activities, in particular IT business [16]. Therefore, it is necessary to improve further the legal regulation of corporate income tax to realize its regulatory potential and legal certainty.

Simplified taxation system has become the main mechanism of tax stimulation of business entities. It was with the introduction of a simplified taxation system that we began to talk really about the possibility of using alternative taxation systems, which was expressed in the possibility of free choice of the conditions of tax legal relations.

To realize the potential of the guarantee of the choice of alternative methods of taxation by the payers, it is necessary to create conditions for the implementation of relevant calculations and decision-making by the subject of economic activity.

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**Панчишин А., Власова Я. Економіко-правове забезпечення альтернативних систем оподаткування юридичних осіб**

Однією з головних ознак альтернативної податкової системи є її вільний вибір платником податків. Саме можливість самостійно обирати ту чи іншу податкову систему за своїм вибором, на такий розсуд є ознакою альтернативної податкової системи. Альтернативні системи оподаткування не розглядаються як інструмент зменшення податкового навантаження платників податків.

Вони не є системою обмежень у вільному виборі системи оподаткування, а слугують стимулом для забезпечення того чи іншого результату, зокрема, який є незалежним, вільним, альтернативним вибором системи оподаткування.

Розглянувши спрощену систему оподаткування, обліку та звітності як альтернативу податку на прибуток підприємств, зазначається, що саме з введенням спрощеної системи оподаткування почали реально говорити про можливість використання альтернативних систем оподаткування, що виразилося в можливості вільного вибору умов податкових правовідносин.

**Ключові слова:** альтернативні системи оподаткування, податки, податкове законодавство, суб'єкти податкових правовідносин, платники податків, податкові органи, антикризове оподаткування, податок на прибуток підприємств, податкове зобов'язання, контролюючий орган, резидент, нерезидент, непрямі податки, податкова політика, оподаткування суб'єктів малого підприємництва, удосконалення податкових ставок.

**Panchyshyn A., Vlasova Ya. Economic and Legal Provision of Alternative Taxation Systems for Legal Entities**

One of the main signs of the alternative tax system is its free choice by the taxpayer. It is the ability to choose independently a particular tax system of their choice, in this discretion is a sign of an alternative tax system. Alternative taxation systems are not seen as a tool to reduce taxpayers' tax burden. They are not a system of restrictions in the free choice of the taxation system, but serve as an incentive to ensure one or another result, in particular, which is an independent, free, alternative choice of the taxation system.

Having examined the simplified system of taxation, accounting and reporting as an alternative to corporate income tax, it is noted that it was with the introduction of the simplified system of taxation that they began to really talk about the possibility of using alternative systems of taxation, which was expressed in the possibility of free choice of the conditions of tax legal relations.

**Keywords:** alternative taxation systems, taxes, tax legislation, subjects of tax legal relations, taxpayers, tax authorities, anti-crisis taxation, corporate income tax, tax liability, supervisory authority, resident, non- resident, indirect taxes, tax policy, taxation of small business entities, improvement of tax rates.

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