

Realization of private and public interest in taxation during public financial activity in Ukraine

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Abstract

This article analyzes the legal basis for the realization of private and public interest in taxation, ways to establish a balance between private and public interests as a basis for a "tax security" of the state. It is stated that: 1) the peculiarity of Ukrainian legislation is the insufficient balance of private and public interests in taxation; 2) the balance of private and public interests in taxation should be implemented at the level of law; 3) the state has not yet established a climate of trust between the state and taxpayers due to imperfect tax legislation, frequent changes in tax rules, low level of professional training of tax officials, low level of service for taxpayers by the tax authorities and lack of transparency in using the public monetary funds by government bodies. The current correlation and the ratio of private and public interest in the legal literature and in tax legislation is analyzed, recommendations for its improvement are offered. The foreign approaches to the balancing of the private and public interest in the tax legislation has been reviewed. The concept of "tax security of the state" is formulated, the basic requirements to its maintenance are defined, namely: 1) existence of clear transparent procedures of realization of norms of tax laws; 2) existence of a highly professional tax service; 3) existence of established appropriate level of tax culture of the population which allows to increase revenues through voluntary payment of taxes.

Keywords: public financial activity, private and public interest in taxation, tax policy, tax security, public finance, public monetary funds, public needs of population.

JEL Classification: K23, K34.

1. Introduction

Legal provisions for the realization of private and public interest in taxation is a complex system. It should be a logically coherent, dynamic system of legal instruments necessary and sufficient for the establishing of a fair balance between private and public interests, for ensuring the realization of the human

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rights and freedoms during the implementation of public financial activities. Private and public interests in taxation are closely linked, interact and complement each other. Taxation involves the participation of individuals in the formation of centralized public monetary funds and into a financing of expenditures which are needed for the proper functioning of the state, administrative-territorial units (local governments) and civil society as a whole.

From the point of view of the legal bases for the implementation of a tax policy, the private interest can be understood as an interest in protecting income and profits of a particular individual or a legal entity – taxpayers. For one, the profit remaining with a person or a legal entity after paying all taxes and mandatory payments, should be sufficient for a normal human life or for the sustainable economic operations.

At the same time, the total amount of taxes and mandatory payments received by the state (or by the local governments) should be sufficient to perform the necessary functions of the state (or of the local governments). In addition, the amount of taxation should be such that taxpayers pay it voluntarily and in full, without trying to avoid this obligation. This kind of balance between public and private interests in taxation should be the public interest of the authorities in the field of tax policy.

Thus, in various countries about one third of the gross domestic product is redistributed through tax revenues. And the tax system is regarded as a part of the national security mechanism. The study of the tax policy of OECD member countries indicates a present of some global trends in taxation, which are the result of post-crisis tax reforms and mainly relate to personal income tax, single social contribution and VAT⁵. In seven countries amount of tax revenues in GDP is more than 40%. These are Austria, Belgium, Denmark, Finland, France, Italy and Sweden. The ratio of taxes to GDP in Denmark is 49.6%, in France - 45.5%, in Belgium - 44.8%, in Finland - 43.8%. The lowest rates of taxes in GDP are in Mexico 17.4% and Chile 20.7%. There is a similar trend in Ukraine as well. Although the share of taxes in GDP is increasing every year, the indicator itself is much lower than the average in OECD countries. For example, in 2019 it was 29.1%.⁶

In Ukraine, tax revenues to the State Budget of Ukraine account for 82.98% of total payments (in particular, in 2019 - 1 070 321.84 million UAH), and the dynamics of tax revenues confidently shows a significant share of personal income tax (25.74%) and corporate income tax (10.96%) in the structure of tax revenues of the Ukrainian state⁷. Through taxation of income and property of

⁵ Liubov M. Kasianenko et al, «Legal Regulation of Value Added Tax Payers in Ukraine», *Journal of Advanced Research in Law and Economics* v. 10, n. 5 (43), (sep. 2019): 1459-1466, <https://journals.aserspublishing.eu/jarle/article/view/4831> (date of access: 24/03/ 2020).

⁶ <https://www.oecd.org> (date of access: 24/03/2020).

⁷ Yearly report on the State Budget of Ukraine execution for 2019, <https://www.treasury.gov.ua/ua/file-storage/richnij-zvit-pro-vikonannya-derzhavnogo-byudzhetu-ukrayini-za-2019-rik> (date of access: 24/03/2020).

individuals and legal entities, both the State Budget and local budgets of Ukraine are formed. That is why the most significant threat to the state is the imperfection of the legal regulation of relations in the field of taxation.

Today, in the public relations between economic entities and the state of Ukraine, represented by its various authorities, there is a priority of protecting public interest. This is evident in the legislation that governs taxation. In addition, legislation and scientific literature are increasingly blurring the clear separation of the concepts of "public" and "private" in the financial sphere. This, in turn, creates the legal conditions for the theft of public funds through "quasi-private" and "quasi-public" monetary funds⁸. So, in order to prevent the deepening of financial corruption through further blurring of the concepts of "public" and "private" in the financial sphere, it is necessary to have clear criteria for their distinction and demarcation.

For clearly confine between public and private interests in the financial sphere, it is necessary to clearly define the features of public interest and public finances. We propose to use the following criteria of "publicity", including in the financial sphere:

1) form of ownership of funds: state (belonging of the funds to the entire population of the state), or communal (belonging of the funds to the population of the relevant administrative-territorial unit, local governments), or collective (belonging to the relevant group of people);

2) the public nature of interests and needs that can be financed from the funds: the satisfaction of these needs should be important to the entire population of the state, or the population of the relevant administrative-territorial unit, or a certain group of people;

3) the public purpose of the relationship that requires funding: the relationship should arise not to meet the needs of one person, but for the needs of a certain group of people, the population of the territory or the state as a whole;

4) the procedure for the formation, distribution, management and use of funds: should be enshrined in regulatory legal acts of an imperative nature;

5) the procedure for exercising public control over funds is ensured at each stage of the existence and use of these funds.⁹

Thus, "public monetary funds" are funds that belong (or should belong) to an association of people (by territorial or collective affiliation), the recognition of such funds is enshrined in the regulatory legal acts of the imperative nature of public authorities or local governments, the use of such funds satisfies (or should satisfy) the needs of society as a whole, the state, administrative-territorial unit or group of people, and herewith such a monetary fund should be (or is) the object of public control.

⁸ Nechay A., «Legal issues of definition, classification and regulation of quasi-public monetary funds». *Law of Ukraine* 3, (2016): 236-243.

⁹ Nechai A., *Problems of legal regulation of public finances and public expenditures*. (Monograph, Chernivtsi: Ruta), 2004: 30-35. T. Sholkova. «Legal bases of public funds of local self-government bodies», Dissertation, Ph.D. Cand. jurid. Science, Irpen, 2011, 27-33.

Public financial activity is the activity of authorized state authorities and local self-government bodies regulated by legal acts on the formation, distribution, management, use and control of financial resources of public centralized and decentralized funds in order to perform tasks and functions of the state, local self-government bodies and to satisfy the public interest. And ensuring the balance of private and public interest should be carried out by the law.

2. Legal bases of realization of private and public interest in taxation during realization of public financial activity

Regulation of tax relations in Ukraine is carried out by the provisions of the Tax Code of Ukraine, laws and numerous bylaws. The subjects of tax rule-making (development, consideration and adoption of laws and bylaws) are the parliament, president, government, ministries and departments, local governments of Ukraine. Rule-making is the official activity of authorized subjects of the state and local government regarding the establishment, change, suspension and abolition of legal norms, their systematization. Thus, the formation and implementation of tax policy of the state is carried out by multiple state and local government authorities, and the current legislation highly reflects and protects the public interest, which is carried by numerous public authorities.

In our opinion, tax relations should be regulated exclusively by a single codified legal act - the tax code, on the basis of which other legal acts (regulations) can be adopted to ensure the implementation of the codified tax law. The scientist V. Solovyov also writes that it is inadmissible to regulate tax relations by the laws that are not part of the codified tax legislation. According to him, the legislative bodies must have a specific procedure for introducing changes of tax legislation. Such a special procedure for a passing tax laws exist, for example, in the United States of America. There, the coordination, adoption and entry into force of tax laws are subject to the obligatory involvement of specialists in the tax law¹⁰.

In foreign countries, the rights of the taxpayer are often enshrined in special legislative acts that are not part of the country's tax code. In addition, in countries with a federal system, the country's tax code is not the only tax law. For example, in Canada, in order to protect the rights of the taxpayer, the Declaration of Taxpayer Rights and later - the Taxpayer Bill of Rights were adopted which are not part of the tax code of Canada. In the United States, there is a separate bill which is not part of the tax code - the Taxpayer Bill of Rights. In the United Kingdom, as well as in Australia, there is a legal document Taxpayers' Charter. In Kazakhstan, the "Charter of the Taxpayer of the Republic of Kazakhstan" was adopted, in France - the legislative act "La charte du contribuable" is not a part of the tax code, and Spain has the "Carta de Derechos del Contribuyente"¹¹.

¹⁰ Solov'ev V.A. «Private and public interests of subjects of tax relations»: Dissertation, PhD., Moscow, 2002, 52-54.

¹¹ Chaika, Viktoriia V. et al. «Legal Forms of Implementation of Foreign Tax Policy in the Context of European Integration of Ukraine». *Journal of Advanced Research in Law and Economics*, [S.l.], v. 10, n. 1, (mar. 2019): 85-103.

The OECD Committee on Fiscal Affairs offers countries a standard approach to defining taxpayers' rights and obligations in the separate legal act Taxpayers' Rights and Obligations - Practice Note. OECD Committee of Fiscal Affairs Forum on Tax Administration¹².

In Ukraine, at the stage of drafting laws and bylaws, open and hidden lobbying of the interests of not only government structures, but also certain private groups take place. The creation of a mechanism for direct public discussion of draft regulatory legal acts is the practice of many developed countries. Ukraine is also introducing mechanisms that enable all interested individuals and legal entities to express their views directly on the draft laws being developed by the authorities.

For example, in accordance with the Procedure for public consultations on the formation and implementation of public policy, approved by the Decree of the Cabinet of Ministers of Ukraine dated November 3, 2010 No. 996 "On ensuring public participation in the formation and implementation of public policy", draft regulatory legal acts are subject to publication on the official websites of the Ministry of Justice of Ukraine and other ministries and departments, as well as discussed at conferences, round tables and other public events. It can be said that the effective use of such a mechanism for discussing important draft legislative acts can have a positive impact on creating a balance of public and private interest in the legislation of Ukraine. But the efficiency and resultativity of such practice in Ukraine yet to be analyzed in the future based on the monitoring of the real impact on the final versions of the law made through this mechanism of the public discussions.

As a result, the legislative process in the field of taxation reflects a certain struggle of public and private interest. And balancing public and private interests turns out to be extremely difficult. The clash of interests of individuals, society and the state in the field of taxation is inevitable. Therefore, the task of the state is to satisfy the public interest as much as possible while minimizing the violations of the realization of private interest of people at the same time.

Article 67 of the Constitution of Ukraine states: "Everyone is obliged to pay taxes and fees in the manner and amounts established by law."¹³ Direct implementation of this article requires from the citizens of Ukraine a certain tax culture, namely - voluntary payment of taxes, in which the state has a "passive role" in receiving and accounting for voluntarily paid taxes. Thus, at the level of the Constitution of Ukraine, the passive role of the state in the process of collecting taxes from taxpayers and the active role of taxpayers themselves, who must voluntarily fulfill their obligation to pay taxes, are established.

At the same time, Article 74 of the Constitution of Ukraine prohibits active direct expression of the will of citizens of Ukraine regarding taxes and the budget.

¹² «Legal act Taxpayers' Rights and Obligations». *Practice Note. OECD Committee of Fiscal Affairs Forum on Tax Administration*: https://www.oecd.org/tax/administration/Taxpayers'_Rights_and_Obligations-Practice_Note.pdf (date of access: 12/11/2019).

¹³ Constitution of Ukraine: Law of Ukraine. Verkhovna Rada of Ukraine (28.06.1996 № 254к/96-ВР), <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#n4386> (date of access: 01/11/2020).

The Article states: "Referendum is not permitted on draft laws on taxes, budget and amnesty." Based on this, it can be concluded that the Constitution of Ukraine stipulates the active role of taxpayers in fulfilling their obligation to pay taxes voluntarily, and at the same time it establishes a certain priority of the public interest of the state over the private interest of the citizens of Ukraine in the formulating the tax policy.

It is interesting to note that in countries such as Georgia, the United States of America and Switzerland, the right to make strategic tax decisions is delegated to the population through the referendums.¹⁴ In particular, with the adoption of the Act of Economic Freedom in 2011, the introduction of new taxes (with the exception of excise taxes) or an increase of the rates of existing mandatory payments in the field of taxation are impossible without the support of such a proposal by a majority of citizens in a national referendum. Switzerland has a long history of holding tax referendums. The decision is considered adopted if it receives the support of the "double majority", ie if the majority of citizens vote for it and the majority of the cantons agree with it. The turnout of Swiss voters in referendums ranges from 40% to more than 70%, depending on the issues raised. In 2019, Switzerland held a referendum, which by a majority of votes (64%) supported the government's corporate tax reform, which abolishes the preferential treatment for multinational companies.¹⁵

Thus, in the above examples, the legislation of the countries introduces much stronger direct mechanisms to ensure the balance of public and private interest in the field of taxation than the current legislation of Ukrainian.

Today, the Ukrainian authorities are convinced that it is too early to allow a national referendum as the lawmaking of the Ukrainian people (civil society) in the field of taxation for a number of reasons, including low awareness of the tax issues to be voted on and the political and social consequences of a national referendum itself. However, the state government tries to establish contact eighth active social groups and NGO institutions by creating platforms for discussing draft laws and changes to the tax legislation. Unfortunately, the results of such discussions are rarely included in draft laws that are submitted to the Parliament for approval. That is why private interest has not actually been reflected in the legislation currently in force.

The priority of public interest over private interest in the field of taxation, enshrined in the Constitution of Ukraine, is reflected furthermore in the tax laws of Ukraine. Paragraph 6.1 of Article 6 of the Tax Code of Ukraine defines the tax as "a mandatory, unconditional payment to the relevant budget, which is collected from taxpayers in accordance with this Code."¹⁶ Thus, the passive role of the state

¹⁴ Kapelush A., Zadorozna L.A. «Behavioral aspects of low efficiency of tax reforms in Ukraine». *Current economic problems*, 4 (190), (2017), 170.

¹⁵ «In Switzerland the referendum supported the reform of the corporate tax». *Herald. Officially about taxes*. (20.05.2019), <http://www.visnuk.com.ua/ru/news/100012566-u-shveytsariyi-na-referendumi-pidtrimali-reformu-korporativnogo-podatku> (date of access: 12/10/2020).

¹⁶ Tax code of Ukraine: Law of Ukraine. Verkhovna Rada of Ukraine. date 02.12.2010 <https://zakon.rada.gov.ua/laws/show/2755-17#Text> (date of access: 12/10/2020).

as a recipient of taxes voluntarily paid by taxpayers is replaced by the active role of the state that collects taxes from taxpayers. As a result, the tax "collection" process itself is perceived by the taxpayers as a forced collection.

But enforcing procedures for the fulfillment of the tax obligation is the worst option for the tax policy implementation, causing a lot of resistance from the population, tax evasion or hiding part of taxable amount of funds. This is also noted by European scientists. For example, Katharina Gangl, Eva Hofmann, Erich Kirchler¹⁷ conclude that coercive tax enforcement usually is applied in countries where there is no trust of taxpayers in the state, where the government is not properly perceived and there is no authority among the population.

This is due to non-transparent tax conditions and non-transparent distribution and use of public money, low level of service from the tax authorities, difficult and unclear tax procedures and frequently changing legislation that does not take into account the private interest of the taxpayer. In such a situation, coercive force of the state, which is expressed in strict tax control and large amounts of penalties, becomes the starting point for compliance and fulfillment of tax obligations.¹⁸

Laboratory experiments indicate that in a social dilemma situation with low levels of trust, authorities using coercive power are efficiently increasing compliance¹⁹. However, the psychological effectiveness of coercive power lies in its potential to scare, deter and enforce taxpayers through efficient and strict audits and severe fines. Accordingly, coercive power precludes the emergence of implicit trust. Instead, a vicious circle of mistrust and consequently stronger coercive power is likely to develop between the tax authorities and the taxpayers resulting in an antagonistic climate and enforced motivation of tax compliance.²⁰

This situation requires constant total control by the state and cannot lead to the development of an understanding and willingness of taxpayers to voluntarily pay taxes.

In addition, strengthening control and extensive use of state enforcement require additional financial resources of the state to increase the staff of tax authorities and to ensure control procedures. However, the voluntary payment of taxes can provide a systematic and full revenue, reduce the staff of regulatory authorities, as well as turn the coercive authorities of the state into the service bodies. But such a transformation is possible only if there is a trust between the subjects of tax relations and the state. Because today taxation is not only the right of the state to collect taxes, but also the right of the taxpayer to know how and with

¹⁷ Gangl K., et al, «Tax authorities' interaction with taxpayers: A conception of compliance in social dilemmas by power and trust». *New Ideas in Psychology* 37, (2015): 13-23.

¹⁸ Ibid.

¹⁹ Van Vugt, M.&De Cremer, D., «Leadership in social dilemmas: the effects of group identification on collective actions to provide public goods». *Journal of Personality and Social Psychology* 76, (1999): 587-599.

²⁰ Gangl K. et al, *op. cit.*, 13-23.

what efficiency the tax revenues are used²¹.

Introduction of the tax benefits may be one of the mechanisms of taking into account the private interest of the taxpayers. The legal benefits serve as a universal legal means of harmonizing the interests of an individual, social groups, the state and promote the development of both an individual citizen and society as a whole. Tax privileges are quite effective in overcoming income inequality among citizens. But the study shows that such tools can be very effective only in the industrially developed countries²². The developing countries cannot use the tax privileges and the transfer policy effectively.

Therefore, when developing and implementing tax policy, the state should make a real effort to create the legal and economic conditions for a voluntary and conscientious payment of taxes and fees by the taxpayers. This can be possible with a gradual improvement of a tax culture of the taxpayers in Ukraine.

Creating a tax culture that ensures voluntary payment of taxes requires a long time and purposeful actions of the state. Such actions can include²³:

1) first of all, transparent targeted use of collected taxes to satisfy the public interest of the citizens of Ukraine, meeting socially important public needs of the population;

2) stability of tax legislation;

3) simplicity of mechanisms for payment of taxes and tax reporting;

4) government public policy and public campaigns to explain the purpose and a target use of the tax proceeds which meets the public needs of society - protection of the integrity of the state, free public education, social protection programs, etc.;

5) introduction of transparent public control over the use of public monetary funds, which will gradually create and maintain public confidence in the government;

6) the functioning of the state on the basis of the paradigm of "a state for people" instead of the paradigm "people for a state": the focus and functioning of the state authorities are the needs and interests of citizens, their welfare, ability to work, create economic public goods and freely use the results of their work.

Transparent targeted use of the tax proceeds to meet the public interest of citizens and socially important public needs of the population is, in our opinion, the key to enhancing the culture of voluntary tax payment. Insufficient transparency in the use of public funds is the basis for a corruption in the government authorities. Lack of transparency regarding using of the public funds, combined with the lack of accessible public control at all stages of the formation, distribution and use of the public monetary funds, leads to misuse and covert embezzlement of these funds.

²¹ Alm J., McClelland G., Schulze W. «Why do people pay taxes?» *Journal of Public Economics*. Vol. 48, Issue 1, (June 1992): 21-38.

²² Ke-young Chu, et al. «Income Distribution and Tax and Government Social Spending Policies in Developing Countries»: IMF. WP/00/62 : 47

²³ Karmalita M.V. «Private and public interest in th system of tax relation: monograph», Khmelnytsky: FOP Melnyk A.A., 2019, Series "Tax and Customs in Ukraine", 139

For the last twenty or more years, transparency has been associated with good governance (Hood²⁴; Hansen and other²⁵). It is also associated with enhanced democracy (Neyland²⁶). But in most cases researches of transparency in the tax relations are concentrated on the legal rules and requirement set by the state (legislation) for the private corporation to comply with. The wide range of issues regarding the transparency that has been discussed includes mythical status of the transparency in the modern society,²⁷ the different dimensions of the financial transparency of the private corporations, its influence on the trust in organization-stakeholder relationships,²⁸ influence of the legal requirement of the information disclosure on the tax payers' behavior and other important issues.²⁹ Some authors discuss transparency from the point of view of a modern additional burden on the governments bodies which must process huge amount of information submitted by the tax payers to comply with the rules of transparency.³⁰

But in our case, we talk about transparency of the use of tax proceeds received by the state and local budgets. Such transparency of public funds should increase the accountability of the state and local governments in front of the taxpayers – individuals and all forms of legal entities.

And while the lack of transparency of the use of public funds was not properly addressed in the Ukrainian legislation, the state has introduced a number of laws with heavy legal requirements and administrative and criminal punishments in order to increase the transparency of formation, distributing, and use of private funds of citizens as well as of private corporations. These unpopular for the private sector enterprises and self-employed individuals' measures have been gradually introduced since 2012 until current days following international changes in the legislation. The main purpose of these changes was to address the tax avoidance which has been a matter of considerable public attention across the world.

²⁴ Hood, C., «What happens when transparency meets blame-avoidance?». *Public Management Review*, 9 (2), (2007):191–210, [https://doi: 10.1080/14719030701340275](https://doi.org/10.1080/14719030701340275).

²⁵ Hansen, H., et al. «Introduction: logics of transparency in late modernity: paradoxes, mediation and governance». *European Journal of Social Theory*, 18 (2), (2015): 117-131, [https://doi: 10.1177/1368431014555254](https://doi.org/10.1177/1368431014555254).

²⁶ Neyland, D., «Achieving transparency: the visible, invisible and divisible in academic accountability networks». *Organization*, 14 (4), (2007): 499-516, [https://doi: 10.1177/1350508407078050](https://doi.org/10.1177/1350508407078050).

²⁷ Christensen, L.T. and Cornelissen, J., «Organizational transparency as myth and metaphor?», *European Journal of Social Theory*, 18 (2), (2015): 132-149, [https://doi: 10.1177/1368431014555256](https://doi.org/10.1177/1368431014555256).

²⁸ Schnackenberg, A.K. and Tomlinson, E.C. «Organizational transparency: a new perspective on managing trust in organization-stakeholder relationships». *Journal of Management*, 42 (7), (2016): 1784-1810. [https://doi: 10.1177/0149206314525202](https://doi.org/10.1177/0149206314525202).

²⁹ Lynne Oats & Penelope Tuck. «Corporate tax avoidance: is tax transparency the solution?». *Accounting and Business Research*, 49:5, (2019): 565-583, [https://doi: 10.1080/00014788.2019.1611726](https://doi.org/10.1080/00014788.2019.1611726).

³⁰ Freedman, J., «Restoring trust in the 'fairness' of corporate taxation: increased transparency and the need for institutional reform». in: S. Goslinga et al. (eds.), *Trust and Taxation. The Hague: Eleven*, (2018): 121-141.

This asymmetric behavior of the state legislative bodies to address lack of transparency regarding the public and private finance one more time stipulates the disbalance of the legal protection for the private and public tax interests. And this results even in a greater tax avoidance behavior of the taxpayers.

Poor performance of the state and local government functions, in our opinion, is the second factor that destroys the willingness of the population to pay taxes voluntarily. Indeed, the failure of public authorities to fulfill their obligations and promises to the population increases the desire of the population to ignore and to dodge their tax obligations to the state. This, in turn, destroys the mutual trust between an individual and the state.

The third important factor influencing the willingness to pay taxes voluntarily is unstable tax legislation. Constant changes in tax legislation lead to confusion of the population, which cannot quickly adapt their activities to the new requirements of the law, and in many cases allows violations of tax laws simply because of their ignorance or complexity of legal norms. In such cases, small businesses, "family" and "micro" businesses start to evade taxes and move to the "shadow economy".

A. Smith in an "Inquiry into the Nature and Causes of the Wealth of Nations" calls the first duty of the sovereign, that of protecting the society from the violence and invasion of other independent societies, it can be performed only by means of a military force. The second duty of the sovereign, that of protecting, as far as possible, every member of the society from the injustice or oppression of every other member of it, or the duty of establishing an exact administration of justice. The third and last duty of the sovereign or commonwealth is that of erecting and maintaining those public institutions and those public works, which, though they may be in the highest degree advantageous to a great society (A. Smith writes about roads, bridges, navigable canals, harbours, etc., forts and garrisons, institutions for the education). In addition to the expenses necessary for the sovereign to fully perform his various duties, a certain amount must cover the costs of maintaining wealth and greatness.³¹

The state is an institution that must ensure comprehensive security for the population. It performs its functions through the legislative, executive and judicial authorities. Today, taxation should be seen not only as the right of the state to provide its functions with adequate financial resources. It is also the taxpayer's right to know to what and with what efficiency the tax revenues paid by her/him are used.³² Neglect of this interest of citizens undermines the foundations of the state. Thus, an absolutization of the tax public interest of the state create a dangerous disbalance between public and private interests in the tax sphere. Huge tax proceeds should not be a goal of the state or local governments but should be seen as a financial tool for quality performance of their functions.

³¹ Smith A., *An Inquiry into the Nature and Causes of the Wealth of Nation*. Kyiv: *Our format*, (2018): 533, 545, 554, 621, <https://www.gutenberg.org/files/3300/3300-h/3300-h.htm> (date of access: 24/03/2020).

³² Alm J., et al. «Why do people pay taxes?». *Journal of Public Economics*. Vol. 48, Issue 1, (June 1992): 21-38.

Ukraine has a strong potential for economic development, but the Ukrainian state ranks 64th in one of the most important international rankings, which shows how close a country is to the liberal rules of doing business - Doing Business-2020³³. And in taxation system Ukraine has only 65th place. The indicators are the number of payments per year, time spent on tax compliance, the total tax rate and the index of procedures after reporting and payment of taxes. Similar results were shown by the survey "Tax Index" conducted by the European Business Association³⁴. It is noted that the tax index has remained in the negative zone: from November 2018 to March 2019, it was 2.98 points out of 5 possible. In addition, the rating position of Ukraine, which reflects the ratio of private and public interest in the process of financial and legal regulation of public relations, is as follows: according to the index of economic freedoms - 134th place out of 186 countries in 2020³⁵, the human development index - 88th place out of 189 countries in 2018³⁶, the social mobility index - 46th place out of 82 countries in 2020³⁷.

The history of the development of socio-economic transformations shows that they bring a change of proportion of private and public interest reflected in the law. Increased legal protection of the public interest inevitably reduces the legal protection of the private interest. And dissatisfaction with state policy in the field of taxation intensifies the confrontation between the government and the population.

Only a society where public and private interests are addressed with a reasonable balance, has a chance to be harmoniously developed. Public interests are ensured by defining in a regulatory legal act the rules of conduct of the taxpayer. And the tax policy of the state should protect a private interest and to encourage the population to do business actively and straight in order to minimize the shadow business structures.

3. Conclusions

The balance of public and private interest in tax relations is the basis for ensuring the tax security of the state. First of all, it is reflected at the constitutional level and affects economic and political processes, socio-cultural and economic behavior of the population, as well as affects the development of business activities and technological progress overall.

Taxes are one of the main sources of financial resources of the state, ensuring its functioning. The public interest in tax relations should be seen as an aspiration of society to have stable and sufficient tax proceeds (tax and fees

³³ «Doing Business 2020». *Comparing Business Regulation in 190 Economies*.

<http://openknowledge.worldbank.org>. (date of access: 14.01.2020).

³⁴ Business does not feel the changes in the tax system. *European Business Association*,

<https://eba.com.ua/biznes-ne-vidchuvaye-zmin-u-podatkovij-systemi/> (date of access: 14.01.2020).

³⁵ «Index of Economic Freedom», <https://www.heritage.org/index> (date of access: 10/10/2020).

³⁶ World Economic Forum. Reports, <https://www.weforum.org/reports> (date of access: 15.10.2020).

³⁷ «United Nations Development Program». *Human Development Reports*, <http://hdr.undp.org/> (date of access: 15/10/2020).

revenues to the budgets), ensured by the rule of law, as a financial resource to finance basic public needs and to guarantee the existence and development of the safe independent state.

Private interest in tax relations should be seen as an aspiration of the taxpayers to have sufficient income after taxes, ensured by the rule of law, to satisfy his/her own needs in sufficient volume, as well as to have the resources for the further development of their own business and to increase capital gain.

By a rational balance of private and public interest in taxation, we understand an effective ratio: 1) on the one hand, the stable functioning of government authorities at all levels and the high-quality fulfillment of their legislatively established duties, 2) and, on the other hand, proper satisfaction of the economic and social needs of a particular taxpayer.

Achieving a balance of public and private interests in the tax sphere is an endless process. Its purpose is to ensure the transition from the paradigm of forced collection of taxes and mandatory payments from the population of the country to voluntary, conscientious payment of taxes by the population of the country, which is based on the paradigm of voluntary self-taxation with the necessary public control over the process of formation, accounting, distributing and using public monetary funds.

At the same time, tax legislation should contain mandatory rules aimed at:

- 1) establishing simple, transparent rules and procedures for paying taxes;
- 2) protection of private interest from an abuse by the governments bodies which have right to create and implement tax legislation with neglect of the private tax interest;
- 3) satisfaction of the private tax interest in having a high-quality targeted use of the public monetary funds;
- 4) protection of the public interest from an abuse by individuals and legal entities involved into the business activities, which may arise from a misuse of the legal freedom to pay mandatory taxes voluntarily granted by the law.

Thus, one of the important components of the conflict-free existence of the state and civil society is the balance of the public and private interest in the tax sphere.

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