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Possibilities of implementation of foreign experience of administrative and legal support of fiscal control in domestic realities (Canadian example)

Можливості імплементації зарубіжного досвіду адміністративно-правового забезпечення організації фіскального контролю у вітчизняні реалії (на прикладі Канади)

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Abstract

The purpose of the article is to summarize Canada's experience in providing administrative and legal support for fiscal control. The subject matter of the study is fiscal control in Canada. The methodological basis for the article is a number of modern methods of scientific knowledge, such as: dialectical, logical, monographic, system and structural, methods of modeling and forecasting, documentary analysis, etc. The results of the study can be used to conduct further research on improving fiscal control in Ukraine on the example of leading countries. The scientific novelty of the article is that a comprehensive analysis of Canada's experience in the field of administrative and legal support for fiscal control is carried out for the first time, as well as the possibility of its implementation in domestic realities is considered. Value / originality. The proposals to improve the system of fiscal control of Ukraine by borrowing certain provisions of the Canadian experience on this issue are formulated.

Анотація

Метою статті є узагальнення досвіду Канади щодо адміністративно-правового забезпечення організації фіскального контролю. Предметом дослідження є фіскальний контроль у Канаді. Методологічну основу статті складає низка сучасних методів наукового пізнання, наприклад: діалектичний, логічний, монографічний, системно-структурний методи, методи моделювання та прогнозування, документального аналізу тощо. Результати дослідження можуть бути використані з метою проведення подальших наукових досліджень, присвячених вдосконаленню фіскального контролю в Україні на прикладі провідних країн світу. Наукова новизна статті полягає у тому, що в ній вперше здійснено комплексний аналіз досвіду Канади у сфері адміністративно-правового забезпечення організації фіскального контролю, а також опрацьовано можливості його імплементації у вітчизняні реалії. Цінність/оригінальність. Сформульовано пропозиції щодо вдосконалення системи фіскального контролю України шляхом запозичення окремих положень канадського досвіду з цього питання.

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Keywords: administrative and legal support, Canada, fiscal control, foreign experience, implementation.

Introduction

The stability of the State and sustainable development of all its institutions in general and financial sphere in particular, largely depend on the timeliness of the collection and payment of mandatory taxes and charges. However, speaking about the State in general, we should not forget that taxes are an integral part of the financial and economic activities of enterprises, institutions and organizations, regardless of their form of ownership, for which they spend a significant part of their income. That is why quite often the heads of the relevant business entities wish to show the wrong results of financial and economic activities in order to reduce taxes or even evade any payment of taxes and fees and to increase the profitability and viability of their organization. And there is an interconnected trend where, because of these schemes, the State budget does not receive significant sums of money (i.e. there is a budget deficit), and the result is an increase in the shadow economy, which in general has a devastating effect on economic security and vulnerability to external financial and political influence. The solution for the State is to introduce additional tax burden, which, again, will be borne by law-abiding taxpayers. This order reduces competitiveness and provokes social tensions, which in turn leads to increased tax evasion, and the State is losing even more of its financial resources. This problem can be solved only through high-quality, effective and transparent fiscal control, which should be based on deep theoretical and practical knowledge. In particular, it is important to conduct comprehensive research on the study of foreign experience in administrative and legal support for the organization of fiscal control.

In view of the above, the purpose of the presented research is to study the possibilities of implementing foreign experience of administrative and legal support for the organization of fiscal control in the Ukrainian realities, in particular on the example of Canada.

Given this goal, the objectives of the article are:

- to analyze the scientific views of those scientists, who have studied the Canadian tax system;
- to consider and characterize the tax legislation of the specified country.

Ключові слова: адміністративно-правове забезпечення, Канада, фіскальний контроль, зарубіжний досвід, імплементація.

Methodology

The methodological basis for this article are both general and special methods of scientific knowledge. Thus, monography method is used to consider the researches by foreign and Ukrainian scholars, who have examined Canadian experience in budget process and fiscal control.

The method of documentary analysis is applied to characterize Canadian tax law.

Dialectical method along with logical method make it possible to analyze the features of legal status of the Canadian Revenue Agency, to study its system and authority.

System and structural method is useful for outlining the structure elements of the Office of the Tax Ombudsman, as well as their functions and powers.

Modeling and forecasting methods help to develop the possibilities and directions for implementing Canada's experience in administrative and legal support for the organization of fiscal control in the domestic realities.

Literature Review

Problematic issues related to the analysis of foreign experience in fiscal control have been considered by a number of scholars. Thus, for example, Melnyk and Leshchuk (2015) paid attention to the problem of institutional distortions of the tax control system in Ukraine, among which they highlighted regulatory and legal issues, as well as corruption problems of tax control. As a result of establishing a range of problematic issues and based on the analysis of tax systems of foreign countries, the authors formulated proposals to use the experience of leading countries to improve the control and verification work of domestic tax authorities.

The work by Galai and Yavorska (2014) also deserves attention. The Authors note that public administration and local government were considered as two completely unrelated phenomena in legal science and management science, as well as in domestic law. They analyzed the theory and practice of fiscal control in a number of developed countries, based on

which a number of significant proposals and recommendations were made.

Stepanenko and Rudenko (2020), having analyzed the relevant foreign experience, found that the main problems of tax control in Ukraine are: corruption in solving “problematic” issues based on the control results by tax authorities; often unjustified objectives and methods of tax control; lack of tax awareness of taxpayers, aimed at self-proper calculation of tax liabilities, their voluntary payment; low level of tax culture of taxpayers, mainly due to constant and numerous innovations in the domestic legislation, lack of prior awareness of taxpayers about the expected changes in it.

Some issues of public finances control in Canada were considered by Domingue and Salvail (1992). In particular, the authors studied the features of budget process and the authority of the bodies managing and controlling the public finances.

Blöndal (2001) examined the peculiarities of budgeting in Canada.

Ruggeri and McMullin (2004) compared the current situation and future prospects of fiscal systems of the USA and Canada and came to the conclusion that the Canadian one has a fiscal advantage because it has a sustainable fiscal structure.

There are also some researches of multidimensional nature. For example, Alonso et al. (2010) presented a comprehensive study on strengthening the fiscal capacity of developing countries. This includes, first of all, promoting fiscal systems and administrations of these States; and secondly, improving international cooperation on tax matter, which helps to combat fraud, unlawful money transactions and withdrawal of capital.

Gallegos Zúñiga (2018), in his turn, examined the fiscal rules in the countries of the Pacific Alliance (Mexico, Colombia, Peru and Chile). The Author investigated the tax regulations of these States, the agencies authorized to perform tax control and allocated some problems and gaps that need to be eliminated.

However, these works do not fully reveal the possibilities of implementation of positive foreign experience in the realities of Ukrainian legal system, what has led to the need and relevance of our research.

Results and Discussion

Fiscal control in Canada is handled by the Canadian Revenue Agency (CRA). The agency manages taxes, benefits, and related programs and enforces fiscal requirements on behalf of the government throughout Canada, thereby contributing to the sustainable economic and social well-being of Canadians. (Justice Laws Website, 1999).

According to the Canada’s tax system the taxpayers, which include both legal and natural persons-entrepreneurs, should submit an annual income tax form to identify whether they are liable to pay taxes or are reimbursed part of the taxes paid. Such a tax system is considered the most economical and effective way of collecting income tax (Government of Canada, 2020).

For natural persons usually tax returns for the previous tax year must be filed by April 30. For various types of legal persons, the deadline for paying taxes can vary greatly. Due to failures caused by COVID-19 (as Kharytonov et al., 2021, p. 158)) correctly point out, the COVID-19 pandemic has been going on for two years now, threatening the lives and health of people, the stable functioning of economic mechanisms, and the social existence of society), in 2019 the CRA extended the deadline for filing an individual tax return for 2 months (Government of Canada, 2020).

The Canadian Tax Agency regulates tax law for the Government of Canada and most provinces and territories. It is responsible for collecting taxes and fees, such as: federal, provincial and territorial income taxes; tax on goods and services / harmonized sales tax; contributions to Canada’s pension scheme; insurance contributions for working citizens. The agency also provides Canadians with various concessional and credit programs through the tax system (Government of Canada, 2020).

Operational management of the CRA is entrusted to the head of the agency, who is responsible for organizing the tax process, the results of tax administration, the effectiveness of the agency as a whole. The head is accountable to the board of directors. In addition, the duties of the head of the agency include informing and advising the Minister of Finance on tax administration. When allocating a single tax unit within the national Ministry of Finance, the functions of tax administration are performed by this unit, and all administrative and managerial functions (personnel policy, logistics, finance, etc.) are

concentrated at the level of the Ministry of Finance. The work of tax authorities in Austria, France, Switzerland (at the level of the federal government) is similarly organized.

The management of the tax process in the CRA is carried out within the functional units, which include the following divisions: appeals; evaluations and benefits services; reconciliation and dispute resolution programs; inspections of legal entities; risk management; work with taxpayers and debt management; analysis of legislation. Besides, the structure of the CRA includes the units that serve its operations: finance, human resources, information technology, etc.

Outside of its headquarters in Canada, CRA operates in 4 regions, helping to perform the tasks of the Agency in each part of the State. The assistant commissioner leads each region and monitors tax centers and services in their area of responsibility (Government of Canada, 2020).

Tax centers receive and consider income tax forms of individuals and enterprisers. There are 4 tax centers throughout Canada, each with its own area of concern, which varies on the form of declaration. Tax offices are sometimes divided into branches for organizational purposes (Government of Canada, 2020). Disputes and procedural activities are carried out by commissions of inquiry set up by the governor for a comprehensive and impartial investigation of matters of national importance. Commissions are chaired by prominent people, experts or judges and have the right to call witnesses, take evidence under oath and request documents. Conclusions and recommendations of commissions of inquiry are not binding. However, most of them have a significant impact on public opinion and public policy.

The Office of the Tax Ombudsman (Commissioner for Taxpayers' Rights) is an interesting institution in the area of fiscal control in Canada. It is established to strengthen Canada Revenue Authority service accountability and treatment of taxpayers through independent and objective review of complaints related to services and system problems.

The Office of the Commissioner consists of 3 joint working groups: Reception Group, Individual Analysis Group, and System Expertise Group.

Reception Group members are the first contact persons when contacting citizens. They help

taxpayers and recipients of benefits in the areas of:

- providing information on the Taxpayer's Bill of Rights;
- assisting them in accessing compensation mechanisms at the Canadian Tax Agency or other government agencies;
- processing of complaints and appeals received by the Office of the Ombudsman.

The Individual Analysis Group handles the taxpayer complaints about the service or fairness of decision. Its main powers are as follows:

- conducting an objective examination of the received complaints;
- assessing the level of service and treatment of the Canadian Tax Agency with individual taxpayers;
- drawing sound conclusions based on evidence.

The System Expertise Group is studying issues that could negatively affect a large number of taxpayers or part of the population. The main powers of this group are the following:

- identification of systemic problems in the area of service or fairness of decisions;
- gathering information from applicants, CRAs and other stakeholders;
- generalization of analysis results and preparation of recommendations.

Thus, it can be concluded that each of the groups responsible performs its powers in a clearly defined area using a specific arsenal of administrative and legal forms and methods (legal tools).

It should be noted that each taxpayer has eight rights in the provision of services set forth in the Taxpayer's Bill of Rights, which governs relations with the CRA. The Ombudsman is responsible for the Agency's compliance with these rights in its relations with taxpayers.

It should be noted that the mission of the Tax Ombudsman is to raise public awareness of taxpayers' rights, influence positive changes in the CRA, strengthen or improve the accountability of the CRA and ensure that complaints about CRA services are fair. The activities of the Taxpayer's Commissioner are based on the following principles: independence (the Ombudsman works separately from the CRA); objectivity (the Ombudsman does not represent or take the side of either the

complainant or the Canadian Tax Agency. In considering a complaint or question, the Ombudsman takes into account the position and point of view of both the taxpayer and the CRA); honesty (Ombudsman acts impartially and fairly); Confidentiality (Ombudsman keeps all data of persons requesting assistance in strict secrecy and does not disclose the content of confidential communications unless authorized to do so) (Government of Canada, 2016).

Another fact that proves the focus of the Tax Ombudsman on people's interests are the ways of submitting citizens' appeals, including: in person, when visiting the office; by telephone / fax; by postal service; by e-mail; by filling out the application form on the website. Besides, the access to the Ombudsman is facilitated by the location of his / her office – it is right next to the Canadian Tax Agency building to ensure maximum convenience and accessibility for citizens.

In our opinion, the activity of such an institute is extremely useful and effective. We believe that, on the one hand, the very fact of its existence contributes to the maximum realization of human rights in the areas of filing appeals of citizens, the realization of rights in the tax sphere, the right to protection, etc. On the other hand, the existence of such a structure reduces the burden on the fiscal control authorities in the consideration of citizens' appeals related to taxes, as it acts as a kind of "filter", which allows only appeals that are reasonable and lawful. That is why, in our opinion, it is appropriate to establish the institution of the Commissioner for the Rights of Taxpayers in Ukraine.

Conclusion

Thus, as a result of the analysis of certain organizational aspects of the functioning of fiscal control bodies in foreign countries, namely in Canada, we consider it appropriate to formulate proposals for improving the fiscal control system by borrowing from individual provisions, namely:

- improving the system of monitoring tax risks by updating the Register of dishonest taxpayers;
- introduction of the system of random selection of controlling persons authorized to conduct tax audits;
- implementation in national legislation of the world principles of fiscal control transparency.

As for the expediency of implementing global principles of fiscal control transparency into national legislation, thus, as a result of the analysis of foreign experience of administrative and legal support for fiscal control, we consider it appropriate to include the following:

- key compliance of fiscal data with data quality standards;
- internal oversight and safeguarding of fiscal activities;
- the need for careful verification of the provided fiscal information.

Therefore, summarizing the above, we consider it necessary to emphasize the expediency of taking into account international standards, recommendations of international organizations to improve national legislation and use the experience of foreign countries, in particular in:

- 1) elimination of certain contradictions and gaps in the legislation (legislative support of certain forms of fiscal services; upgrading the capacity of the fiscal service; review of potential capabilities of controlling entities; avoiding the abuse of fiscal discretion);
- 2) development of mechanisms for adequate response of fiscal control actors to the threats arising in the area of their competence;
- 3) review of the format of monitoring and oversight activities.

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