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COMPARATIVE LEGAL ANALYSIS OF TAXATION IN ESTONIA, THE NETHERLANDS AND UKRAINE ON THE EXAMPLE OF SELECTED TAXES

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The article deals with the comparative legal analysis of taxation in Ukraine, Estonia and the Netherlands on the example of corporate income tax, value added tax as well as land tax (a type of real estate tax). The author examines current trends in the administration of these taxes in the context of comparison of each of the countries; foreign experience of gradual formation of existing tax systems is considered. The author emphasises that Ukraine's current tax system needs to close all gaps and imperfections by implementing European experience. After all, the development of integrated EU law in the field of tax policy gradually eliminates differences in views on the scope of restrictions on the tax autonomy of Member States. This body of law is recognised as a common heritage of the EU, and more and more member states are incorporating it into their national tax legislation. Ukraine is currently in an active phase of harmonisation with EU legislation, including tax legislation. The research materials of this article will be useful for a better understanding of the key areas of such ongoing process in the field of taxation, as well as certain types of taxes.

Keywords: taxes, taxation, real estate tax, corporate income tax, value added tax, land payment, comparative legal research, European Union, European experience.

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Statement of the problem. In the context of martial law and the total destruction of Ukraine's economy, the issue of updating the existing tax system of Ukraine in accordance with the foreign policy priority of integration into the European Union (hereinafter – referred to as the EU) is particularly crucial. There is no doubt that the key to preserving, and subsequently restoring, Ukraine's economy is integration into the global economic space. At the same time, Ukraine's low positions in international rankings that characterise the country's tax institutions confirm the insufficient efficiency of the current taxation system of our country [1, p. 1]. This indicates the need for a detailed study of European tax legislation and the adoption of the most useful legal experience in order to improve Ukraine's tax system.

Most experts who believe that the experience of European countries should be the basis for the development of the national tax system point out that this experience is valuable, as the European model of the tax system can not only meet the internal needs of the countries – that are members of the European Union, but also contribute to the rapprochement of states and creation of a single European community [4, p. 656]. In agreement with this opinion, we offer a comparative legal analysis of some taxes in the Netherlands and Estonia compared to the same taxes in Ukraine.

Analysis of recent research and publications. The peculiarities and certain aspects of the functioning of the tax systems of Ukraine and the EU countries have been previously

studied in the works of the following leading domestic scholars: Serebryanskyi D. M., Tofan I. M., Bohatyreva E. M., Sokolovska A. M., Nikitishyn A. O., Lunina I. O., Fedosov V. M., Yuriy S. I., and others. The contribution of each of these scholars is outstanding: Sokolovska A.M. in her work "Features of the tax system of Ukraine and directions of its adjustment" describes the positive and negative characteristics of the tax system of Ukraine and directions of its improvement by adjustment; Serebryanskyi D.M. in his article "Vertical specialisation in foreign trade of developing countries: the case of Ukraine" analyses the deepening of vertical specialisation in international trade as a factor of maximising the total volume of world trade, which contributes to economic growth (through Gross Domestic Product growth) of countries; Yuriy S.I. and Fedosov V.M. in one of their joint works, namely in the textbook "Finance", comprehensively study a wide range of issues related to financial policy, financial law, taxes, the tax system, and the international market mechanism in the redistribution of financial resources and capital; Tofan I.M. comprehensively analyses the pan-European experience of reforming tax systems and highlights the problems of individual elements of taxation among the most common payments, this analysis was carried out within the framework of the study "Problems of taxation in the EU countries"; Nikitishyn A.O. researches the theory, essence of taxation, foreign and domestic opinions on the essence and role of taxes, corporate income tax as a source of budget revenues, and tax policy in the context of the global financial crisis, all of which were discussed in his works "Main directions of improving the mechanism of Tax Regulation", and "Tax policy in the context of the global financial crisis: domestic and foreign practice"; Lunina I.O. analyses the formation and functioning of the budget in the context of European trends, particularly in the article "Budget decentralisation in Ukraine in the context of European trends".

The purpose and objectives of the article. The purpose of this article is to make a comparative analysis of some mandatory payments in EU member states such as Estonia and the Netherlands; examining the aspects and features of their functioning for further application of the accumulated experience. This goal has defined the following objectives: to consider the structure of the tax system in some EU countries; the principles of its functioning, using examples of corporate income tax, value added tax, property tax (specifically one of its tax payments), and compare them with similar taxes in Ukraine; to analyse the pan-European experience through the prism of the experience of selected member states as a basis for further improvement of Ukrainian tax legislation; to point out some of the disadvantages and advantages of the Ukrainian tax system and the dynamic process of implementing EU integrated law.

Summary of the main research material.

Introduction. Stable economic growth is the main task of any government. Achieving such growth is impossible without an effective taxation system. It is worth noting that the tax system of Ukraine has always been and remains in the focus of attention of legislators, who have repeatedly reviewed and improved it. Unfortunately, the domestic tax system remains one of the least favourable both for conducting and developing business and for the everyday life of citizens [1, p. 2].

Ukraine's course towards European integration is a strategic task of state policy in the field of the economy at the current stage of its development. The implementation of this task is possible only if Ukrainian legislation, including tax legislation, is adapted to the requirements of the European Union (hereinafter – the EU). This may result in a legal environment close to that already existing in the EU member states. A prerequisite for such adaptation is, in particular, the study of the experience and practice of EU member states [2, p. 163].

Improving the taxation system in Ukraine using the experience of EU countries is important because tax administration in Ukraine is a very complicated procedure, and the tax system itself is complex. This, in turn, creates preconditions for various abuses in the tax sphere, generating a lack of mutual understanding between the state and taxpayers [4, p. 657].

The formation of the tax policy of Ukraine, in the current conditions, should provide for the creation of positive changes in the development of the socio-economic system, ensuring a reliable financial basis for the functioning of the state, amending tax legislation in order to implement the Association Agreement with the EU, as well as the gradual implementation of other measures of the EU tax policy with progress in economic development and de-shadowing of the economy [7, p. 11]. These goals can be achieved by studying the legal experience of European countries and using the best practices in the field of tax law to improve the current legislation of Ukraine.

In view of the above, it is extremely interesting to compare certain taxes in Ukraine and such EU countries as the Netherlands and Estonia.

1. General characteristics of tax systems and classification of taxes.

The Netherlands. In the twentieth century, the Netherlands became one of the six founding states of the European Union [3, p. 74]. The tax system of the Netherlands (the so-called Dutch tax system) includes, like Ukraine, the following types of taxes: direct and indirect. The direct taxes levied by the national government are: income tax; corporate tax; inheritance and gift tax; and transfer tax. Indirect taxes include: value added tax (BTW); excise duty; transaction taxes; environmental taxes; tax on cars and motorcycles; import duties; tax on soft drinks and other products; tax on heavy vehicles. Some studies affirmatively label the Netherlands as a country with a reputation as a tax haven, even though it has tax rates that are typical for European countries. The explanation for this phenomenon is that large multinational companies based in the country enter into special agreements with the Dutch tax authorities to reduce their taxable profits [10].

Estonia. The next country to be analysed in this article is Estonia. This country has been the leader of the International Tax Competitiveness Index for 10 years in a row.

The Estonian tax system consists of state and local taxes. Taxpayers are obliged to pay only those national and local taxes that are established by law.

National taxes are paid to the state budget. A portion of personal income tax and land tax is fully transferred to local budgets. Local taxes are paid to the budgets of local governments. The national taxes include income tax, social tax, gambling tax, value added tax, customs duties, excise tax, and tax on heavy vehicles. Local taxes include the following types of taxes: land tax; advertising tax; road and street closure tax; vehicle tax; animal tax; entertainment tax; parking fee [11].

The Estonian tax system is characterised by some peculiarities:

1. a 20% corporate income tax rate that applies only to distributed profits;
2. a fixed 20% personal income tax, which does not apply to dividend income;
3. land is taxed based on its value, which is determined by the Land Council;
4. territorial taxation system that excludes 100% of foreign profits earned by domestic corporations from national taxation, with minor restrictions [12].

One of the many peculiarities of the Estonian tax system is the so-called "flat taxation scale". From the point of view of tax theory, there are two approaches to income taxation in the world:

- 1) flat taxation scale, which means a tax levied at a single rate at any income level – a single income tax rate, which is considered as an alternative to progressive taxation;

2) progressive taxation scale – based on the principle of increasing tax rates depending on the growth of the taxpayer's taxable income [14].

The flat taxation scale is used in countries that can hardly be attributed to the leaders of the modern economy, in particular, in Georgia, Iceland, Latvia, Lithuania, Macedonia, Mongolia, Romania, Ukraine, the Czech Republic and Estonia [16, p. 658].

Ukraine. Apart from being classified as a flat income tax system, the Ukrainian tax system is characterised by its rapid development over the past few years, which has been driven by changes in the taxation legislation. The flip side of this development is a certain instability in the area of relevant legislation. This instability is due to the fact that social and economic development constantly requires improvement of the taxation mechanism and determination of its forms and methods that would best suit the solvency of taxpayers, their tax culture, and fiscal psychology. Constant legislative changes hinder the effective tax management process [30, p.166].

Analysing the publications of Ryaboi O., Honcharuk N. and Nikitishyn A. we can highlight the following main shortcomings of the tax system of Ukraine: high tax pressure on business structures; uneven and unfair distribution of the tax burden; transformation of the tax system into a factor of suppression of economic growth and investment activity, stimulation of tax evasion and capital outflow abroad; unresolved legal guarantees for participants in tax relations, lack of transparent and effective mechanisms for systematic and reasonable provision of benefits [5, p. 213; 6, p. 187].

2. Corporate income tax.

The Netherlands. The Dutch tax system divides different types of taxable income into three groups, each with its own rate:

I: taxable income from profits, employment and property ownership (wages, pensions, social benefits and the value of owner-occupied real estate). The income specified in this item is taxed at a progressive rate: 37.07% for income between EUR 0 and EUR 69,397; if the amount of income is higher, the tax rate is 49.5%;

II: taxable interest income. The tax rate is 25%;

III: taxable income from savings and investments. For this type of tax, the rate is 30% [8].

The Dutch tax legislation is characterised by incentives to attract foreign capital to the country. There is a favourable tax regime for foreign entrepreneurs. Businesses are provided with favourable taxation conditions for profits, dividends and royalties, and there is a favourable tax regime for foreign entrepreneurs. A special tax regime has been established for innovations: profits from intangible assets are taxed at a rate of 5 % [3, p. 85].

The artificially calculated tax base can differ greatly from the actual profit of a company. This applies to such well-known brands as Boeing, US Steel, Fiat and others that have a taxable presence in the Netherlands. Such tax treaties are interpreted by the European Commission as illegal state aid [3, p. 79-80].

Estonia. The peculiarity of profit taxation in Estonia is the timing of its payment: companies do not pay profit tax when they earn it, but only when it is distributed as dividends.

This unique characteristic of the tax system in Estonia greatly encourages reinvestment of profits in the development of the enterprise. The standard corporate tax rate is 20%. A lower rate of 14% is applied by Estonian law to dividends paid regularly and as an exception for credit institutions [27].

Ukraine. Attracting foreign capital is an important process in shaping and strengthening a state's economy, but in Ukraine it is rather unstable and almost inefficient. The main reason for this is the substantial tax burden [18]. This burden is

objectified, in particular, in the complexity of corporate income tax administration. In accordance with clause 136.1 of Article 136 of the Tax Code, the basic (main) corporate income tax rate is 18%. Rates of 0%, 4%, 5%, 6%, 12%, 15%, 18% and 20% are applied to the income of non-residents and persons equated to them with their source of origin in Ukraine in cases established by clause 141.4 of Article 141 of the Tax Code (clause 136.3 of Article 136 of the Tax Code).

The tax mentioned is supposed to regulate entrepreneurial activity, create favourable conditions for doing business, and promote the development of investment processes in Ukraine. However, corporate income taxation currently does not sufficiently fulfil these objectives. High corporate tax rates reduce the inflow of foreign direct investment. Together, these factors contribute to a slowdown in the country's economic development and depreciate its investment attractiveness in the international market [19].

It is worth noting that in Ukraine, among the analysed countries, the corporate income tax rate is not high, but rather remains somewhere in the middle. However, with regard to this tax as one of the factors of functioning and conducting of foreign enterprises, it is rather inflexible, and the taxation process itself is complex and confusing.

3. Value added tax.

The Netherlands. In the Netherlands, the standard VAT rate is 21%. However, there are two additional special rates established by current legislation:

- 0% – applies to transactions in international trade (transfer of goods or provision of services outside the EU);
- 9% – reduced rate applies to the sale of everyday consumer goods (food, beverages, medicines, books) [3, p. 79-80].

It is worth noting that, in addition to the general aspects of VAT taxation, when analysing foreign scientific materials, there is a need to analyse the process of controlling its administration and payment.

The application of VAT in EU countries, as in other countries, is associated with the complexity of its administration and control over the completeness of payment. This is primarily due to the possibility of tax refunds and exemption from VAT on export transactions, which creates conditions for avoiding tax obligations and receiving reimbursement of unpaid tax from the budget.

In general, the imperfection of the VAT refund mechanism is a common problem for all EU countries. However, effective measures are being taken to address its shortcomings in order to ensure transparency of taxation and comprehensive control during the implementation of this complex process:

1. adoption of a unified legislation on combating VAT fraud, with clear rules on information exchange and administrative cooperation between tax authorities of EU member countries;
2. obligation of tax authorities to provide necessary information to other authorities in other countries in cases where it can help prevent the registration or operation of fictitious enterprises;
3. improvement of software to enable electronic taxpayer audits;
4. minimisation of tax privileges, limiting the period of their application to certain spheres of the economic activity [1, p. 3-4].

Estonia. It is worth noting that Estonia is a member of the EU with a standard value-added tax (VAT) rate of 20%, which is also applied in five other EU countries: Austria, Bulgaria, Romania, Slovakia, and France. The same rate is set in Ukraine. However, in some EU countries, the VAT rate is lower. For example, the lowest VAT rates are in Luxembourg (17%), Malta (18%), and Germany (19%). The highest VAT

rate is in Hungary – 27%, but a reduced rate of 5% applies to items such as textbooks, newspapers, notes, medicines and medical devices, dairy products, and some others. High rates are also set in 4 other countries: 25% in Croatia, Sweden, Denmark, and 24% in Finland [13, p. 58].

Ukraine. According to Ukrainian tax legislation, VAT is levied at a rate of 20%, 14% for certain agricultural products, 7% for medicines, medicinal devices, screenings of original works and adapted films [20]. There are certain peculiarities in the calculation of VAT in Ukraine:

1. transactions subject to zero-rate taxation. First of all, the export of goods, international transportation of passengers or cargo, refuelling of ships and aircraft operating outside Ukraine;

2. transactions that are not subject to taxation (e.g. in Ukraine, the issue (emission) and placement of securities, payment of wages, etc. are exempt from VAT) – provide for full and permanent exemption from VAT for such operations;

3. transactions exempted from taxation (e.g. supply of baby food products and children's goods, education of children in preschool educational institutions, services for obtaining higher, secondary, vocational-technical and preschool education by educational institutions licensed to provide such services) – provide for temporary and possible partial exemption of certain transactions from VAT.

In order to simplify the procedure of administration and control of VAT payment, an electronic VAT administration system (E-VAT) was developed and implemented, a system that provides automatic accounting of the tax by VAT payers, in particular, the system accounts for: amounts of tax contained in issued and received tax invoices registered in the Unified Register of Tax Invoices (URTIs) and adjustments to them; amounts of tax paid by taxpayers on imports; amounts of replenishment and balance of funds on the electronic VAT account. This is a kind of ecosystem that allows for continuous monitoring and payment of VAT [21].

As a result, Ukraine operates a more advanced system of VAT control than the EU. This system ensures the fiscal role of VAT and simplifies its administration. It is not surprising that it can be firmly stated that the EU needs to borrow such experience from Ukraine. Comparing VAT in Estonia, the Netherlands, and Ukraine, we did not find any excessive rates or unreasonable tax burden in Ukraine. Furthermore, the VAT rate in Ukraine (20%) is lower than in the Netherlands (21%), and there are not only special rates, but also transactions that are not subject to taxation and transactions that are exempt from taxation. The integration processes of Ukraine's accession to the EU envisage joint formation of the foundation of indirect taxation, the unification of VAT [32, p. 76], but Ukrainian tax legislation in the field of regulation and control, adapting to the circumstances and social urgent needs of the state and society, has already created decent conditions for the progressive development of such processes.

4. Land tax

The Netherlands. The Dutch tax system does not provide a specific land tax. It is an integral part of the real estate tax. The real estate tax in the Netherlands is divided into two main types – a tax that must be paid by the property owner, and a tax that must be paid by the property user [28]. It is worth noting that municipalities (local government bodies) can impose either one, both or none of the two taxes – on the owner and on the user (most impose both taxes). Such procedure for establishing the tax logically leads us to classify it as a local tax [29, p.16-17].

Estonia. Land tax in Estonia is another important aspect that makes it a leader in tax competitiveness. Unlike other EU countries where it is levied as a part of property tax

(Bulgaria, the Czech Republic, Slovakia, Latvia, Canada, Finland, Japan, Cyprus, Germany, the Netherlands, Ireland) or even as a part of multiple taxes (China, Poland, France), Estonia has a separate land tax. Today, about 30 countries in the world use land taxation as an effective option for property tax.

The share of land tax in the composition of periodic real estate taxes in Estonia is 100%. Land tax is levied on all land, except where economic activity is prohibited by law. Land tax is fully paid to the local government budget. In 2023, the tax rates ranged from 0.1% to 2.5%, and from 2024 – from 0.1% to 1.0% [17].

Ukraine. According to Ukrainian tax legislation, property tax consists of three tax payments: tax on immovable property other than land, vehicle tax, and land payment [26]. In Ukraine, land payment accounts for a significant share of property tax (over 80%) [22]. Land payment in Ukraine is collected in the form of land tax and rent [25].

Land payment is one of the most reliable sources of revenue for local budgets, which has numerous advantages [23]: taxation of land payment stimulates rational land use; levelling the business environment for enterprises operating in different conditions; accumulation of funds for financing land conservation needs and developing social infrastructure of territorial communities that own agricultural land [24, p. 18]. We can observe some similarities in the analysed taxes between Estonia and Ukraine, namely their significant role in filling local budgets.

Conclusion. Economic instability, in the conditions of war, creates the need for scholars to painstakingly study ways to overcome the negative features and gaps of the domestic tax system, in order to ensure its effective functioning, which will provide financial stability and support for the implementation of priority strategic objectives. This need is also due to the European integration course of Ukraine, which provides for bringing one of the vectors of its activities, such as taxation (indirect and direct), under a common denominator with the European Union. The analysis of corporate income taxation, based on the example of the above-mentioned countries, allows us to affirmatively state that the establishment of a special tax regime (as in the Dutch tax system) and its payment during the distribution of dividends (as in the Estonian tax system) will be able to eliminate some of the shortcomings of the Ukrainian tax system: the transformation of the tax system into a factor of suppression of economic growth and investment activity; capital outflow abroad. In addition, in the process of comparing the value added tax, namely the control of payment and administration, the article refutes such drawback of the Ukrainian tax system as the lack of transparent and effective mechanisms for protecting the rights of taxpayers, since the electronic administration system is such a mechanism.

The research in this article is, in a way, an impetus for putting the unification processes into a dynamic mode, as it clarifies the differences and similarities, positive and negative features of the elements of the tax system of Ukraine and the EU member states (Estonia and the Netherlands).

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ПОРІВНЯЛЬНО-ПРАВОВИЙ АНАЛІЗ ОПОДАТКУВАННЯ В ЕСТОНІЇ, НІДЕРЛАНДАХ ТА УКРАЇНІ НА ПРИКЛАДІ ОКРЕМИХ ПОДАТКІВ

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Сьогодні Україна, її громадяни, підприємства та організації проходять, через складні випробування, які стали результатом накопичення законодавчих недоопрацювань, об'єктивованих у вигляді прогалін, а також війни, яка створила новий напрям для забезпечення реалізації стратегічних завдань. У ході дослідження висвітлено позитивні аспекти оподаткування податку на прибуток: у Нідерландах, він характеризується створенням сприятливого податкового режиму, що передбачає оподаткування прибутку від нематеріальних активів за ставкою 5 %, а також в Естонії, законодавство якої зобов'язує сплатити підприємству цей податок у момент його розподілу як дивідендів. Такі аспекти оподаткування, сприяють залученню в діяльність економіки іноземних підприємств, але насамперед іноземного капіталу, інвестицій. Іноземні інвестиції є неабияким показником, гнучкості податкової системи будь-якої держави, адже дозволяє одразу встановити рівень податкового навантаження.

Наступним проаналізованим елементом податкових систем згаданих країн є податок на додану вартість. Цікавим моментом при дослідженні цього податку стало те, що процес контролю за сплатою та його адмініструванням в Україні, на відміну від ЄС, є досконаліший. Ця якісна риса виникла завдяки оптимізації цих процесів шляхом діджиталізації, тобто виведення їх у віртуально-реальний інноваційний простір. Система електронного адміністрування (СЕА) податку на додану вартість, яка функціонує саме в цьому просторі, суттєво спрощує процес оподаткування.

Земельний податок відіграє важливу роль у наповненні місцевого бюджету. Наповнення місцевих бюджетів через цей податок відбувається і в Україні, і Нідерландах, Естонії. На відміну від Естонії, в Нідерландах він є частиною податку на нерухомість, а в Україні – частиною податку на майно (а саме, плата за землю). Спільним для естонської та української систем є те, що земля як об'єкт нерухомості виокремлюється при оподаткуванні. Земельний податок забезпечує Естонії лідерство в рейтингу податкової конкурентоспроможності, таке місце в рейтингах зумовлене самостійністю (або ж автономністю) цього податку у складі податкової системи. Завдяки цьому податку можливим

є раціональне використання землі; рівність у діяльності підприємств, незалежно від умов функціонування; розвиток територіальних громад, шляхом акумулювання бюджетних надходжень.

Ключові слова: податки, оподаткування, податок на нерухомість, податок на дохід, податок на додану вартість, плата за землю, порівняльно-правове дослідження, Європейський Союз, європейський досвід.

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