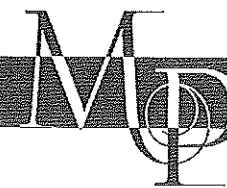


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Local Finances and the Constitution of Ukraine

Igor Babin*

According to the European Charter of Local Self-Government, "Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population. This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute"¹. The most significant idea of this concept is that rights and abilities must be closely linked, namely that all rights pertaining to self-government should be reflected in the real capacity to perform state tasks.

Adoption of the Constitution of Ukraine in 1996, consolidation of the institute of local self-government and its material and financial basis necessitated urgent practical solution of the problems of formation of local finances, organization of the financial system on a fundamentally new basis, which should be emphasized especially. After all, local finance is only available in countries that have adopted the "relative autonomy" model, that is, if the state recognizes the right to autonomy of local authorities, if it differentiates between the functions and tasks assigned to the center and territories².

Article 142 of the Constitution of Ukraine establishes that the material and financial basis of local self-government is movable and immovable property, local

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¹ Article 3 of European Charter of Local Self-Government [online]. 15.X.1985 [cit. 2019.08.15]. Available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007a088>

² Євдокімова М.О. Місцеві фінанси: навч. посібник / М.О. Євдокімова; ХНАУ імені В.В. Докучаєва. – Х., 2014. С.12–13.

budget revenues, other funds, land, natural resources owned by territorial communities of villages, towns, cities, districts in cities, as well as objects of their joint ownership, which are under the management of district and regional councils. The territorial community has the right to form its own budget, create extra-budgetary, currency, reserve funds.

The effectiveness of local self-government depends largely on the adequacy of its financial resources. The implementation of the constitutional principle of financial autonomy of territorial communities is one of the main tasks of the modern Ukrainian state.

The European Charter of Local Self-Government has determined that local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law. The financial systems on which resources available to local authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks. Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers³. Today, as a result of numerous budget reforms, the revenue part of the budgets of territorial communities consists of own, fixed and regulatory revenues. Own revenues are generated in the territory of the respective territorial community based on decisions of local governments. Own revenues include: 1) local taxes and fees imposed by local governments; 2) revenues of utility companies; 3) income from property belonging to the territorial community.

Fixed revenues are nationwide taxes, levies, fees, and other payments that is fully or partially fixed by law on a long-term basis at the relevant local budget. These are personal income tax, income tax, excise tax, environmental tax and others⁴.

Regulatory revenues are revenues that are determined annually by the Verkhovna Rada of Ukraine or the representative body of local self-government when approving their budgetary acts. The legal basis for the inclusion of regulatory revenues in each lower-level budget is a higher-level budget act. Regulatory revenues make it possible to ensure consistency between the powers to execute the expenditures enshrined in the legislation of Ukraine on local budgets and the financial resources that must ensure the fulfillment of these powers. Regulatory revenues of local budgets include intergovernmental transfers: subsidies and subventions.

The Constitution of Ukraine provides territorial communities with the opportunity to unite on a contractual basis communal property, budget funds for joint projects or for joint financing (maintenance) of communal enterprises, organizations and institutions. Important is the provision of the Basic Law that the state fi-

³ Article 9 of European Charter of Local Self-Government [online]. 15.X.1985 [cit. 2019.08.15]. Available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007a088>

⁴ Бабін І.І. Бюджетне право України: навч. посібник // І.І. Бабін. – Чернівці: Чернівецький нац. ун-т, 2010. – С. 111–121.

nancially supports local self-government, participates in the formation of revenues of the respective budgets. In addition, it was determined that the expenditures of local self-government bodies arising from the decisions of public authorities are compensated by the state. The Constitution of Ukraine also states that local self-government bodies may be empowered by law with executive powers⁵. The state finances the exercise of these powers in full at the expense of the state budget of Ukraine or by allocating to the local budget in the manner prescribed by law separate national taxes, transfers to the local self-government bodies the relevant objects of state property.

At the same time, the implementation of the constitutional guarantees of autonomy of local self-government bodies depends to a large extent on the consolidation of sufficient stable own sources of local budget revenues in the legislation, since for them local self-government bodies are vested with real powers of establishment and administration. The European Charter of Local Self-Government does not specify how much own revenues should be in the local government's budget. This issue is solved in each country on its own. For example, in economically developed countries, the share of own revenues in local budgets averages from 40% to 60%, whereas in Ukraine this figure does not exceed 5%–10%, although the dynamics of growth of these indicators is traced⁶.

In the structure of local budgets' own revenues, a significant share should be attributable to local taxes and fees. According to N.Y. Prishva, "Local taxation is an integral and defining element of local self-government. The introduction of local taxes and fees as one of the sources of local budget revenues is, first and foremost, in the interests of local self-government. Strengthening the latter, the realization of the tasks set before it are impossible without a perfect and sufficient system of local taxes and fees"⁷. In 1992, when the introduction of the local taxes and fees system began, only 0.2% of the revenues of the local budgets of Ukraine were formed at their expense, but within a year after the adoption of the Decree of the Cabinet of Ministers of Ukraine "On local taxes and fees" their share increased to 1%⁸. However, despite the constant dynamics of the increase in the share of local tax revenues and levies in the structure of local budgets, the lion's share is still fixed and regulatory revenues, which, of course, cannot be reflected in the autonomy of local self-government, its independence from the state power.

Local taxes and fees are an integral part of Ukraine's tax and fees system and are subject to its general principles and features. However, these payments also have

⁵ Стаття 143 Конституції України// Відомості Верховної Ради України. – 1996. – №30. – ст. 141.

⁶ Музика О.А. Неподаткові доходи місцевих бюджетів України (фінансово-правове дослідження): Монографія. – К.: Атака, 2006. – С. 45.

⁷ Пришва Н.Ю. Правові проблеми регулювання обов'язкових платежів. Монографія. – К.: "ЕксОб", 2003. – С. 215.

⁸ Кириленко О.П. Місцеві бюджети України (історія, теорія, практика). – К.: Видавництво ТОВ "НІОС", 2000. – С. 224.

their own peculiarities related to the constitutional status of local governments and their taxing powers. This concerns:

- the procedure for establishing local taxes;
- the order of their introduction;
- the procedure for budgeting;
- the mandatory implementation.

According to Article 92 (2) of the Constitution of Ukraine, taxes are established exclusively by the laws of Ukraine. Regardless of whether the tax is national or local, it is established by the adoption of the relevant law of Ukraine. Article 67 of the Constitution of Ukraine states that everyone is obliged to pay taxes and fees in the manner and in the amounts prescribed by law. This means that local taxes and fees are set by law and no one is obliged to pay local taxes and fees that are not prescribed by law. On the other hand, article 143 of the Constitution of Ukraine stipulates that territorial communities of villages, settlements, cities, directly or through their local self-government bodies ... establish local taxes and fees in accordance with the law. This in turn means that the imposition of local taxes and fees by law does not yet mean that they are automatically levied on the territory of a particular territorial community. This requires the appropriate decision of the territorial community or the local self-government body formed by it. Taken together, these two constitutional rules stipulate that a person will be obliged to pay a local tax or fee only if there are two legal bases – a law and a decision of a territorial community (local government) to establish it. That is, the procedure for establishing local taxes and fees consists of two stages – national and local. In the science of tax law, they are called – definition and establishment⁹.

Thus, local governments are not entitled to impose additional local taxes and fees not provided for by law. These constitutional provisions significantly limited the tax initiative and lawmaking in the field of taxation of local self-government bodies, which was widespread prior to the entry into force of the Constitution of Ukraine. As an example of such an initiative, numerous decisions of local self-government bodies to set fees for: temporary stay of Russian citizens in the city; issuance of certificates; violation of the improvement and sanitary condition of the village territory; from owners of unattached dogs; issuing decisions on the permit for housing and construction of garages; the act of accepting a dwelling house into operation; crossing the border; passenger car used for business trips; grazing cattle in the summer; cottages and recreation centers; section of property of spouses; contributions to the share of legal entities in the improvement of the city and others¹⁰.

⁹ Кофлан В.М. Правові основи місцевого оподаткування. – Автореф. дис. ... канд. юрид. наук. – Ірпінь, 2002. – С. 8.

¹⁰ Бабін І.І. Презумпції та фікції в податковому праві. – Навчальний посібник. – Чернівці: Рута, 2009. – С. 133.

Today, the limits of competence of representative bodies of local self-government in the field of taxation are limited only by such actions as the choice from the established at the level of the law of the list of local taxes and fees of a specific tax or fee, development and specification of the content of clearly defined elements of the legal structure of the selected local tax, or fee also the process of making the appropriate decision to impose a local tax or fee in its jurisdiction¹¹.

National and local taxes and fees also differ in the order in which they are introduced. The introduction of national taxes is carried out simultaneously on the territory of the whole state through the adoption of the relevant law (the Tax Code of Ukraine). Local taxes are imposed based on the decision of the local government. The obligation to charge them applies only to the territory of the village, town or city, depending on the authority that made the payment. National taxes and fees can be sent to both the State Budget of Ukraine and the local budget. Local taxes and fees are payments that are made exclusively to the local community budget. The type of budget to which the tax or fee is received depends on the type of local government whose decision it was introduced in the relevant territory.

Article 10 of the Tax Code of Ukraine defines the following list of local taxes and fees:

- 1) property tax;
- 2) a single tax;
- 3) parking fee for vehicles;
- 4) tourist fee¹².

As a result of the tax reform at the end of 2014, a list of local taxes and fees resulted in a property tax that currently combines three virtually independent payments: 1) a real estate tax other than land; 2) transport tax; 3) land payment. If the real estate tax other than land was envisaged by the Tax Code of Ukraine in 2010, the innovation was the introduction of a transport tax and the transfer of land payment from the list of national taxes to local ones. As for the latter, justice was finally restored here, since from the outset the introduction of land payments was, in its essence, a local tax rather than a national tax. Since the rates of this payment are regulated within the limits set by the local self-government bodies, the same bodies have the right to establish payment privileges, the money from the payment for land is credited to the local budgets.

Unlike national taxes and fees that are mandatory for the installation and commissioning throughout Ukraine, local taxes and fees on the introduction of the obligation can be both mandatory and optional. Thus, in accordance with paragraph

¹¹ Бабін І.І. Современная система местных налогов и сборов Украины // *Societas et Iurisprudencia*. – 2016. – Volume IV, Issue 3. – P. 24–25.

¹² Податковий кодекс України // *Відомості Верховної Ради України*. – 2011, No.13-14, No.15-16, No. 17, ст. 112.

10.3, Article 10 of the Tax Code of Ukraine, local councils are obliged to establish a single tax and property tax (in a part of transport tax and land payments). The optional ones include a real estate tax other than land, a parking fee for vehicles and a tourist fee, the issue of the mandatory introduction of which is decided by each local council, depending on the feasibility of their introduction.

The exclusive powers of local self-government bodies, established by the Tax Code of Ukraine for establishing local taxes and fees, derive directly from the Constitution of Ukraine. Accordingly, these powers do not have the right to take over any other state bodies, including the Verkhovna Rada of Ukraine.

In this context, the question arises as to the constitutionality of the provision of subparagraph 12.3.5 of paragraph 12.3 of Article 12 of the Tax Code of Ukraine, which allows fiscal authorities to charge the local taxes provided by the code even in the absence of a relevant decision of the local council.

Yes, local governments may impose local taxes in accordance with the law. This law can be regarded as the Tax Code of Ukraine. Moreover, the Verkhovna Rada of Ukraine may stipulate in the Code the peculiarities of the entry into force of decisions of local councils on the establishment of local taxes, other peculiarities of their application, etc.

However, can the Verkhovna Rada of Ukraine ignore the competence of local self-government bodies established by the Constitution of Ukraine to establish local taxes and independently, in the absence of a relevant decision of the local council, oblige the fiscal authorities to collect local taxes? Because to such a legal situation leads the application of the subparagraph 12.3.5 of paragraph 12.3 of Article 12 of the Tax Code of Ukraine. This rule completely negates the functions of local self-government bodies in establishing local taxes, since it actually provides for taxation that has not been established by the local council. Instead, the local tax in such a situation is established directly by the Verkhovna Rada of Ukraine. In 2015, taxpayers directly faced this situation, having received from tax inspector's tax notices-decisions on payment of transport tax and real estate tax other than land, in the absence of appropriate decisions on their establishment by local governments. This, in turn, has led to a massive judicial appeal against these tax notices-decisions not only in the courts of first instance, but also in the courts of appeal of Ukraine. For example, an analysis of the Register of Judgments shows that in courts of first instance taxpayers challenged notices-decisions on payment of transport tax in approximately 40% of cases, and in appellate courts approximately 50–60% of such claims were subject to satisfaction¹³. The point in this situation was laid by the Supreme Administrative Court of Ukraine, which declared illegal the calculation to the owner of the transport tax in 2015 and by its decision canceled the court refusals of the first instance and the appeal in the case. The Court argued its position that, firstly, the transport tax does not appear in the list of compulsory taxes and fees, and accord-

¹³ Шаренко М.С. Правове регулювання транспортного податку в Україні/ М.С. Шаренко// Право і суспільство. – 2016. – №5. – С. 145.

ing to the Tax Code of Ukraine it is forbidden to establish national taxes and fees not provided by this Code, secondly, the transport tax applies to local taxes and fees that are set by the local council. That is, it must be an obligatory decision of the City Council to pay this tax and published no later than the fifteenth of July before the new budget period. If such a decision of the city, town and village council is not available or it is published after the fifteenth of July, then the transport tax can not be paid¹⁴.

To prevent such a situation, introducing a modified transport tax in 2016, the legislator limited the effect of subparagraph 12.3.4 of paragraph 12.3 of Article 12 of the Tax Code of Ukraine, providing that this rule does not apply to decisions of local councils on the establishment of local taxes for 2016. Thus, the Verkhovna Rada of Ukraine changed the legal regulation of the issue of introduction of local taxes, and in particular, the transport tax. Accordingly, all the consequences of subparagraph 12.3.4 of paragraph 12.3 of Article 12, including the sequence of actions of local councils in making and publishing decisions on the establishment of local taxes, shall not apply. Thus, the legislator consciously attempted to correct the legal conflict that was an obstacle to the payment of transport tax in a short time. In fact, the Verkhovna Rada of Ukraine has established that in 2016 the collection of transport tax is due to the effect of the provisions of the Tax Code regardless of the decision taken by local councils¹⁵. This practice was repeated in 2017.

Based on the above, we believe that the content of subparagraph 12.3.5 of paragraph 12.3 of Article 12 of the Tax Code of Ukraine does not take into account the provisions of Article 143 of the Constitution of Ukraine, and therefore there is every reason to initiate the issue of its unconstitutionality. For this purpose, in particular, the constitutional complaint legal institute provided for in Article 155-1 of the Constitution of Ukraine may be used.

Regarding the tax on real estate other than land, apart from the above-mentioned problems, there are a number of other related to the implementation of constitutional provisions. Of course, tax on real estate other than land, is one of the most ancient types of taxes known to financial and legal science. Such properties of structures as visual clarity, permanence of location, duration of existence, the need for state registration make them a convenient object of taxation, and the introduction of tax encourages the owner to make the most effective use of such property, preventing the accumulation of real estate by individual owners. Real estate in any social structure is an object of economic and state interest, therefore state registration is obligatory for this category of property, which allows one to identify the prop-

¹⁴ Постанова Вищого адміністративного суду України "Про визнання протиправним та відміну податкового повідомлення-рішення" №826/22028/15, К/800/8077/16 [online]. 30.08.2016 [cit. 2019.08.15]. Available at: http://search.ligazakon.ua/l_doc2.nsf/link1/AS160241.html

¹⁵ Нечитайло О., Полянничко А. Транспортний податок 2015-2016: справляти не можна ігнорувати/ О. Нечитайло, А. Полянничко// Юрліга [online]. [cit. 2019.08.15]. Available at: <http://jurliga.ligazakon.ua/news/2016/12/9/153878.htm>

erty and the subject that has rights to it, because the connection them is invisible, and the transfer of real estate through physical moving is impossible.

Tax on real estate, other than land: 1) relatively simple and transparent in administration; 2) it is fixed and does not depend on the results of payer's economic activity; 3) it encourages the property redistribution from a less efficient to a more efficient owner; 4) it facilitates a better assessment of own assets by payers-legal entities; 5) it allows to bring to taxation the income received as a result of shadow activity; 6) it provides relatively stable and predictable proceedings to the budget. In case of tax evasion, there always is a "ready" object of a tax pledge that can be seized and from the sale of which it is possible to obtain the funds necessary to repay the tax debt. At the same time, on the one hand, tax lien does not extend to all the property of the payer, but only to the property on which the tax is not paid, and on the other hand, the owner does not make sense to hide behind the offshore, individuals, fictitious firms, because the object are proprietary rights, actually real estate, no matter who it belongs¹⁶. The said makes this tax attractive as a means of meeting the needs of local communities in filling the revenues of local budgets. In fact, the land payment and tax on real estate, other than land are those local taxes, the taxation object of which exists in each territorial community.

However, the imposition of this tax should in no way infringe the right of a person to housing. The right to housing is one of the most important and an inalienable right of a person, proclaimed by Article 47 of the Constitution of Ukraine, is a guarantee of inviolability and observance of his other constitutional rights. This inalienable human right operates regardless of the productivity of its labor and the ability to use housing effectively, unlike legal persons. For a person, housing (if used specifically for living) is a measure of income (sometimes past) rather than their source. In addition, humanitarian factors, such as protection of the rights of the elderly, disabled, minors, etc., must be taken into account when taxing of residential real estate. Finally, when taxation of real estate tax leads to the displacement of inefficient businesses from the market or their relocation to a cheaper value, it has mostly positive effects on the quality of life of people. Instead, the migration of residents under pressure from the cost of housing (which includes the size of the tax) leads to property geographic segregation, which has rather ambiguous social consequences. Progressive in this context is the differentiation of the object of taxation on residential and non-residential real estate, a system of privileges for payment of this tax, but there is no effective mechanism for the protection of the constitutional right to housing.

The most effective in the system of local taxes and fees is the single tax. The principles of the single taxation are: a) the simplicity of calculating and paying taxes; b) minimization of tax reporting; c) harmonization of accounting and tax accounting; d) minimizing the number of penalties; e) reduction of administrative

¹⁶ Babin Igor, Vakaryuk Lyudmila. The Tax on Immovable Property, Different from the Land Plot: Theory and Practice of Application/ I. Babin, L. Vakaryuk// European Journal of Law and Public Administration. – 2018. – Volume 5, Issue 1, pp. 2–3.

expenses¹⁷. The essence of a single tax is disclosed through its signs: 1) consistency; 2) alternativeness; 3) voluntariness of election of its payment; 4) scope of application.

The consistent nature of the single tax is manifested through the association in it of a certain set of mandatory payments, the collection of which is provided by the current tax legislation. Thus, Article 297 of the Tax Code of Ukraine provides for the exemption of single tax payers from the obligation to charge, pay and submit tax reports on such taxes and fees: 1) corporate profit tax; 2) tax on personal income; 3) value-added tax (except for payers of Group III, who chose a 3% tax rate and payers of Group IV); 4) land tax; 5) rent for special use of water by payers of Group IV.

The alternativeness of a single tax provides that it is an alternative to a certain set of existing mandatory payments, from which the payer of the single tax is exempted, and the taxpayer can choose the mechanism for taxing his income from business activity either by paying one (single) tax, or in accordance with general practice¹⁸. In addition, the payers of the single tax of Group III have the right to choose the tax rate.

Voluntariness of choosing of single tax payment is that the legislator grants to subjects of small business in the presence of corresponding bases independently to choose it with the purpose of simplification of the taxation of their incomes from business activity. On the basis of this right there arises the obligation to pay a single tax. This tax becomes mandatory only after the fact of voluntary taking by a small business entity the responsibility to pay it.

The scope of application of the single tax is determined by a limited range of small business entities. One of the fundamentally new norms for determining restrictions for the application of a simplified system was the inability to apply it to non-residents. But such a prohibition is contrary to the basic principles of tax law to prevent any acts of tax discrimination and the constitutional principle of equality. The prohibition of the choice by non-residents of the simplified taxation system, which is contained in Art. 291 of the Tax Code of Ukraine, may be regarded as discrimination of legal entities and individuals-non-residents by nationality or citizenship of an individual. The impossibility of choosing a simplified system of taxation for non-residents discourages the flow of foreign investment into the economy and the entry of foreign companies to domestic markets, constrained by the complexity of applying the general taxation system¹⁹.

The subjects of small business for the availability of their choice of a simplified taxation system must meet three types of requirements. The combination of these

¹⁷ Бабін І.І. Податкове право: Навчальний посібник. – Вид. 2-ге, виправл. та доповн. – Чернівці: Чернівецький національний університет імені Юрія Федьковича, 2013. С. 478.

¹⁸ Пожидаєва М.А. Правове регулювання єдиного податку для суб'єктів малого підприємництва [Текст]: Дис... канд. юрид. наук: 12.00.07/Пожидаєва Марія Анатоліївна; НАН України, Інститут держави і права ім. В.М.Корецького. – К., 2005. – С. 28.

¹⁹ Маріхін К.В. Правове регулювання спрощеної системи оподаткування, обліку та звітності/ К.В. Маріхін// Держава та регіони. – Серія: Право. – 2015. – №4 (50). – С. 18.

three requirements (type of activity, the amount of income and the number of employees) allows to determine the right of the payer to pay a single tax with the use of a particular group²⁰. In addition, an important condition for the transition to a single tax is the absence of tax debt for the previous reporting (tax) period. To date, single tax payers are divided into 4 groups. The single tax rates for payers of Groups I and II are established by local governments within up to 10% of the minimum wage for Group I and up to 20% of the minimum wage for Group II. Therefore, local governments within their powers have a flexible tax tool that they can use to develop small businesses on their territory²¹. For the third group of tax payers, the rate is 3% of the income – in the case of the payment of value added tax and 5% of income – if the value added tax is included in the single tax. The size of the tax for payers of Group IV is set as a percentage of the normative monetary assessment of agricultural land and depends on the category of land and type of activity (from 0.16% to 5.4%).

Conclusions

Summarizing the above, it can be noted that the role of the Constitution of Ukraine for financial law, as well as for other branches and institutions, is not limited to the fact that as the Basic Law it contains the norms of the relevant branch and institutional content. Equally important is the fact that the Constitution of Ukraine is a kind of benchmark, a criterion for evaluating the whole system of norms and institutions of financial law for their conformity with the higher values that have received constitutional recognition. The current state of financial legislation shows that until now, when drafting and adopting financial and legal acts, the provisions of the Constitution are not sufficiently taken into account, often constitutional principles and norms are evaluated and interpreted erroneously, and the practice of non-compliance with a number of constitutional norms continues.

Awareness of the role of the Constitution in the process of regulating financial law is possible only through the process of “penetration” of its normative potential in the sectoral financial legislation, its transformation and submission to fundamental constitutional requirements. It is a mechanism of bringing the norms and institutions of financial law in line with the Constitution, which is the process of constitutionalization of financial law, which ultimately consists in ensuring a harmonious interaction of the rules of constitutional and financial law with the unconditional

²⁰ Babin I., Vakaryuk L. Features of Legal Regulation of Tax Incentives for Small Business in Post-socialist Countries/ I. Babin, L. Vakaryuk// *Societas et Iuruspudentia*. – 2018. – Volume VI., Issue 1. – P. 34.

²¹ У Чернівцях для підприємців ставки єдиного податку зменшили удвічі. [online]. 2017 [cit. 2019.08.15]. Available at: <http://chernivtsy.eu/portal/4/u-chernivtsyah-dlya-pidpryyemtsiv-stavky-yedynogo-podatku-zmenshyly-udvichi-95372.html>

priority of the former over the second, legal methodology for optimization of the financial system of the state.

The current system of local finances in Ukraine is the result of many reforms, one of the goals of which is budget decentralization and financial autonomy of territorial communities. The procedure of introduction and the list of local taxes and fees provided by the Constitution of Ukraine and Tax Code of Ukraine envisage the protection of taxpayers from excessive initiative of local governments in the field of taxation, as they are exhaustive. But, on the other hand, they do not allow to fully take into account the various economic features of territorial communities. The administration of a large part of local taxes and fees in many territorial communities is not economically justified. In addition, the share of revenues from local taxes and fees in the structure of budgets of territorial communities continues to remain insignificant. The main sources of local budget revenues are fixed and regulatory revenues.

Abstract

Local finances and the Constitution of Ukraine

The Constitution of Ukraine defines the principles that underlie the content of the financial activity of the state and local self-government bodies reflect the nature of the constitutional regulation of financial relations and are fundamental to financial law as a whole. The consolidation in the Constitution of Ukraine of the institute of local self-government and its material and financial basis necessitated the urgent practical solution of the problems of formation of local finances, organization of the financial system on a fundamentally new basis. After all, local finance is only available in countries that have adopted the model of “relative autonomy”.

The implementation of the constitutional guarantees of autonomy of local self-government bodies largely depends on the enshrining in the legislation of sufficient stable own sources of local budget revenues, since for them local self-government bodies are vested with real powers of establishment and administration. In the structure of local budgets' own revenues, a significant share should be attributed precisely from local taxes and fees.

The procedure of introduction and the list of local taxes and fees provided by the Constitution of Ukraine and Tax Code of Ukraine envisage the protection of taxpayers from excessive initiative of local governments in the field of taxation, as they are exhaustive. But, on the other hand, they do not allow to fully take into account the various economic features of territorial communities. The administration of a large part of local taxes and fees in many territorial communities is not economically justified. In addition, the share of revenues from local taxes and fees in the structure of budgets of territorial communities continues to remain insignificant. The main sources of local budget revenues are fixed and regulatory revenues.

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