

GUARANTEE OF PROTECTION OF RIGHTS AND INTERESTS OF TAXPAYERS IN TAX DISPUTES

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Abstract. In the article, the author proposes under the protection of the rights of the taxpayer to understand his actions (in some cases inaction), which he commits in accordance with the norms of tax legislation, on the one hand, and law enforcement activities of the authorized subjects of state power and their officials (in case the subject appeals by force of state enforcement), on the other hand, to stop violations of rights, restore violated rights, eliminating the threat of their violation. The main subjects authorized by the state to protect the rights of the taxpayer are the tax and judicial authorities. It is with the violation of subjective right legislator associates the use of remedies, enshrining in the Tax Code of Ukraine the right of taxpayers or tax agents to appeal the actions, inaction and decision of the tax authorities and their officials. Appeal of an interested person for protection of his rights implies the emergence of a substantive legal claim against the defendant for the implementation of his violated material interests. The substantive legal claim arises from a subjective substantive right arising in a substantive legal relationship. The plaintiff (taxpayer) believes that in order to exercise his subjective right, he has the right to demand from the defendant (tax authority), which is in a material legal relationship with him, the commission of certain actions or refraining from actions consistent with the right of the plaintiff. Appeal of an interested person for protection of his/her rights is aimed not only at realization of guarantees of their realization, but also at resolution of the arisen conflict. The need to have certain legal means of resolving a legal conflict is an integral element of legal regulation, since it ensures the implementation of a legal norm and its stability. Protection of violated rights and legitimate interests of the subjects of public-law relations is carried out by controlling the legality of actions (inaction) of the subjects of powers and acts adopted by them. Current tax legislation as a way to protect rights provides for the possibility to recognize an act of a tax authority as invalid, and its actions (inaction) – as not complying with the law. Legislator, by regulating the administrative and judicial procedure for resolving a tax dispute, thereby protects private interests from possible disfigured state interference. In this case, the administrative court, resolving a tax dispute, does not examine the conduct of the parties as such, but establishes how it complies with the norms of current tax legislation. It is on this basis the task of administrative court and its purpose of jurisdictional activity in resolving a dispute in the field of public-law relations is based, namely on the balance of rights of the state with the counter rights of a person (taxpayer) to ensure its protection of rights and legitimate interests, as applied for such protection. Dispute in relations regulated by the norms of tax law acts as a mechanism to guarantee the realization of subjective rights of taxpayers and balancing public and private interests, because it is aimed at protecting and restoring the violated (disputed) right.

Key words: conflict, tax dispute, protection of rights, taxpayer, subject of power, court, appeal.

JEL Classification: H20, K34

1. Introduction

Protection and observance of human rights is proclaimed as a duty of the state in the Constitution. Protection of taxpayer's rights should not be an exception. Protection of the rights of taxpayers and its guarantee is the key to the development of Ukraine, attracting domestic and foreign investment. Tax policy in Ukraine plays an extremely important role in the formation of civil society, the formation of the rule

of law, creating the proper economic foundations for the development of society, because the tax revenues of the state budget of Ukraine and the economic progress of our state are linked to it. Payment of taxes is the primary obligation of taxpayers, which is enshrined in the Constitution of Ukraine. However, the media report that arbitrary treatment of taxpayers by tax authorities occurs, which is also confirmed by the relevant judicial practice in Ukraine, which

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has already been formed for certain categories of tax disputes. Given the increase in the number of tax disputes resolved both administratively and judicially, nowadays the protection of taxpayers' rights acquires special importance. In fact, the solvency of the population, competitiveness of economic entities, the welfare of our country depend directly on its effectiveness.

The degree of public confidence in the state is determined by the observance by officials of state bodies of the norms of law and its fundamental principles. In relations of tax control, in which the employees of the tax authority are vested with powers of authority, the issue of trust is the most acute.

Tax control to a much greater extent than other types of state control affects the interests of individuals and legal entities, especially business entities. It is less limited in the grounds for conducting, the timing and a list of measures of control over the controlled object, and its results can result in serious financial losses for the taxpayer (forcible recovery of tax payments and the application of financial penalties) and criminal prosecution.

In practice, the tax authority is constantly improving the forms and methods of tax control in order to increase its effectiveness (with the observance of the rights and interests of the taxpayer often takes second place), and the legislation governing relations in the field of protection of the rights of the taxpayer is developing slower. The Tax Code of Ukraine allows during inspections to request information from the taxpayer, its counterparties and third parties.

Despite the possibility of the authorities during the tax control to influence the behavior and freedom of the controlled party, the tax authority has no right to change the procedure of inspection established by law. In the legal relations of tax control the parties are equal before the law. The tax authority is obliged to respect the rights of a taxpayer and ensure the possibility of their implementation, which will allow to balance the private and public interest. The issue of protecting the rights of a taxpayer in the course of tax control is of interest to both legal science and legal practice.

Issues of tax disputes resolution are relevant and studied issue in the domestic literature, in particular by such lawyers as O. M. Bondarenko, O. O. Dmytryk, V. O. Kurylo, M. P. Kucheriavenko, O. M. Minaieva, K. V. Minaieva, A. O. Monaienko, V. V. Tylchuk, Ye. A. Usenko.

Tax control as a component of the system of public finance is implemented within legal relations, i.e., relations between subjects of law – participants (in this case the taxpayer and the tax authority) with respect to the object, in connection with which arise subjective rights and legal in this case on the execution of the obligation to calculate and pay tax. In the

course of tax control, there is mainly direct interaction between the taxpayer and the tax authority.

2. Conflict during tax audits

When conducting tax audits, in most cases, there is already a potential conflict between the supervisory authority and the taxpayer, which could lead to a violation of the taxpayer's rights. When no errors, contradictions and/or inconsistencies are found, the tax control remains unnoticed by the taxpayer.

Thus, of interest is tax control in the aspect of interaction between the taxpayer and the tax authority, which should be carried out on condition of full observance of the taxpayer's rights stipulated by tax legislation.

A distinctive feature of the norms of law from other social norms is the direct intervention of the state in the mechanism of implementation of legal norms. The existence of special state institutions designed to enforce the generally binding rules of conduct in cases where the subjects of legal relations do not follow the proposed model of behavior, provides law and order in society.

Thus, the law enforcement function of the state is manifested, directly affecting the authority of the institution of the state in society. The implementation of this function of the state is designed to ensure the enforcement of the rules of conduct established by the state. This function is one of the main internal functions of the country.

The implementation of any function of the country is carried out in certain legal forms. The law enforcement function is implemented by the state, first of all, by enshrining the guarantees of the rights and freedoms of citizens, creating and ensuring the functioning of mechanisms for the protection and restoration of violated rights. At the same time, state functions cannot be found realized otherwise than through the functions of the subjects of power.

One of the functions of state bodies that carry out law enforcement activities of the state is a jurisdictional function, which can be understood as the activity to resolve conflicts of a legal nature that arise in society. This function is carried out in the form of justice and pre-trial (administrative), as well as extrajudicial procedures of conflict resolution. In general, there are organizational and ideological ways to implement this function of state bodies.

At the same time, ideological ways, the content of which describes the ideology of the country in the legal sphere, are mediated in normative-legal acts regulating material and procedural cases. Organizational ways are implemented through the creation and logistical support of special subjects of jurisdictional activity and activities to implement the acts of jurisdictional authorities.

Legal relations that develop between the parties on the basis of substantive legal norms, by their nature are regulatory legal relations, because they arise on the basis of regulatory norms – norms that define the nature and content of the rights and obligations of the participants of regulated public relations, the order of acquisition and implementation of their rights and obligations.

In particular, the current tax legislation of Ukraine determines the persons obliged to pay taxes, the grounds of debt on payment, the procedure for its execution, establishes mechanisms for monitoring the proper execution of tax obligations by taxpayers, as well as special authorities empowered to take coercive measures in case of non-compliance of the obliged person with the established rules.

For example, according to article 15 of the Tax Code of Ukraine dated December 2, 2010 № 2755-VI taxpayers are individuals (residents and non-residents of Ukraine), legal entities (residents and non-residents of Ukraine) and their separate units, which have, receive (transfer) objects of taxation or carry out activities (operations) that are subject to taxation under this Code or tax laws, and which are obliged to pay taxes and fees under this Code (Podatkovi kodeks Ukrainy vid 2 hrudnia 2010 roku № 2755-VI).

According to Art. 16 of the Tax Code of Ukraine, the taxpayer is obliged: to register with the regulatory authorities in the manner prescribed by Ukrainian legislation, to conduct the prescribed manner of accounting for income and expenses, to make statements relating to the calculation and payment of taxes and fees; to submit declarations, statements and other documents related to the calculation and payment of taxes and fees to the controlling bodies in the manner prescribed by the tax and customs legislation; to pay taxes and fees within the time limits and in the amounts established by this Code and the laws on customs affairs; to submit to a duly executed written request of supervisory authorities (in cases determined by legislation) documents on accounting of income, expenses and other indicators related to the definition of objects of taxation (tax liabilities), primary documents, accounting registers, financial statements, other documents related to the calculation and payment of taxes and fees (Podatkovi kodeks Ukrainy vid 2 hrudnia 2010 roku № 2755-VI).

According to paragraph 61.1 of Article 61 of the Tax Code of Ukraine Tax Control – the system of measures taken by the supervisory authorities and coordinated by the central executive body, which ensures the formation and implementation of state financial policy to control the accuracy of charging, completeness and timeliness of payment of taxes and fees, as well as compliance with legislation on the regulation of cash circulation, settlement and cash transactions, patenting, licensing and other legislation,

control over compliance with which is entrusted to the supervisory authorities (Podatkovi kodeks Ukrainy vid 2 hrudnia 2010 roku № 2755-VI).

According to Article 62 of the same Code, tax control is carried out by: keeping records of taxpayers; information and analytical support of the regulatory authorities; verification and reconciliation in accordance with the requirements of this Code, as well as verification of compliance with the law, control over compliance with which is the responsibility of the regulatory authorities, in accordance with the laws of Ukraine governing the relevant area of legal relations; monitoring of controlled transactions and questioning officials, authorized persons and/or employees of the taxpayer in accordance with Article 39 of this Code (Podatkovi kodeks Ukrainy vid 2 hrudnia 2010 roku № 2755-VI).

3. Regulatory function of law and the state in relation to taxpayers

In essence, it is about the presence of a certain rule of conduct in a particular group of social relations, but the regulatory function of law and the state always borders on the protective function, which manifests itself, among other things, in the normatively enshrined mechanism of appealing against actions, inactions, and decisions of authorized government bodies and protection of the rights of citizens and legal entities.

When regulatory legal relations are affected by a negative, not based on the norm of law, behavior of a subject of law, regulatory legal relations undergo changes, since their development in the former form is impossible due to the contradiction between the participants of legal relations. The fact of violation or denial of a right gives rise to protection legal relations, in which exists and is implemented the right of an interested person to protection and the obligation of an authorized body to implement protection. At that, the purpose of law-enforcement legal relations is to apply to the violator a certain sanction in the case of confirmation the illegality of a committed act.

Such a transformation of regulatory legal relations leads to the emergence of substantive protective legal relations, the content of which is the right of claim from the person whose rights are violated and the corresponding obligation to eliminate violations by the person who allowed the offense.

Nevertheless, the state may not be able to force the taxpayer to take certain actions against his will, or vice versa, the taxpayer will not be able to oblige the tax authority to perform an action that led to the violation of his right and interest. Therefore, the enforcement of obligations to remedy violations and the enforcement of remedies stands behind the potential for recourse to the competent authorities of

the state for the protection of the violated right and interest.

The substantive element of the protection legal relations that has arisen gives the person whose interests have been violated the right to appeal to a competent authority of the State for the protection of the violated right in order to actually exercise his right. It will not be an exaggeration to note that recourse to the protection of the right can be considered as one of the ways to implement a subjective right. The property of a subjective right to be exercised in a coercive manner has long drawn attention in the legal literature.

O. S. Ioffe emphasized that the possibility to resort to the coercive force of the state apparatus does not exist in parallel with other opportunities enshrined in subjective law, but is inherent in them, because without it they would not be legal opportunities (Ioffe, 1961).

The above views have been expressed with respect to subjective rights realized in the sphere of civil-law relations. However, in our opinion, they are fair with respect to the institute of right protection in the sphere of tax-legal relations.

Tax law regulates cases involving gratuitous alienation of property of individuals and legal entities for the benefit of the country. It is hardly a controversial thesis that the taxpayer is interested in preserving his property and providing safeguards against its unlawful seizure. The owner's interest in the possession, use and disposal of his/her property is satisfied by granting him/her the subjective civil right – the right of ownership – by the state. In this regard, the right of ownership, as well as any other subjective right, which by its legal nature provides for certain legal means of protection, in the sphere of tax legal relations acts as a subjective right, the realization of which is provided by appealing to the taxpayer actions, inaction and decisions of tax authorities.

4. The concept of protecting the rights of taxpayers

In legal science, there is no unity of opinion on the concept of protection of rights. Some authors speak about the protection of civil and legal interests as a system of measures provided by law to combat offenses, which relies on state coercion and is aimed at ensuring the inviolability of the right and eliminating its violation, or as a set of law enforcement measures aimed at applying coercive influence on the offender in order to recognize or restore the disputed or violated right (Sovetskoe grazhdanskoe pravo).

Other authors see the protection of civil rights and legitimate interests in the activities of authorized bodies and persons to implement subjective rights and legally protected interests in cases where the latter are challenged or violated by someone, in the actions of authorized bodies to prevent violations or

restore violated rights and legally protected interests (Arefev, 1982).

Some authors believe that the protection of rights and interests is a state-coercive activity aimed at the implementation of "restorative" tasks – to restore violated rights, to ensure the performance of legal obligations, it is a coercive way of exercising subjective right, applied in the manner prescribed by law by competent authorities to restore the violated or appealed right (Chechina, 1985).

The differences in the above statements are caused mainly by the different evaluation of scientists about when rights and interests need protection, in what ways and in what forms their protection should be carried out. It is indisputable to assess the conditions of the need for protection in the case of a violation or appeal of a subjective right.

As noted by O. M. Kozhukhar, protection of law is necessary to stop legal "anomalies", to restore normal legal relations and relations by forcing the subjects of law to a certain legal behavior (Kozhuhar, 1989).

In our opinion, the protection of a taxpayer's rights can be understood as his actions (in some cases inaction), which he performs in accordance with the norms of tax legislation, on the one hand, and law enforcement activities of authorized state subjects of power and their officials (in the case where the subject applies by force of state enforcement), on the other, in order to stop violation of rights, restore violated rights, eliminating the threat of their violation. The main state-authorized entities protecting the rights of the taxpayer are the tax and judicial authorities. Other administrative bodies may also act in this capacity, but they are not endowed with such broad powers as those mentioned above.

Depending on the type and nature of the violated rights and the type of tax legal relations, protection of the rights of a taxpayer may represent only his actions (inaction) without recourse to the state-authorized authorities in the protection of taxpayer rights (self-protection).

It is with the violation of subjective right legislator associates the use of remedies, enshrining in the Tax Code of Ukraine the right of taxpayers or tax agents to appeal the actions, inaction and decision of the tax authorities and their officials.

Thus, according to paragraph 54.5 of Article 54 of the Tax Code of Ukraine, if according to the rules of this article the amount of monetary liability is calculated by the supervisory authority, the taxpayer is not responsible for the timeliness, accuracy and completeness of the charge such amount, but is responsible for the timely and full payment of accrued agreed upon obligation and has the right to appeal this amount in the manner prescribed by this Code. According to paragraph 56.18 of Article 56 of the same Code, taking into account the limitation period

defined by Article 102 of this Code, the taxpayer has the right to appeal in court a tax notification – a decision or other decision of the supervisory authority at any time after receiving such a decision (Podatkovyi kodeks Ukrainy vid 2 hrudnia 2010 roku № 2755-VI).

Appeal of an interested person for protection of his rights implies the emergence of a substantive legal claim against the defendant for the implementation of his violated material interests. The substantive legal claim arises from a subjective substantive right arising in a substantive legal relationship. The plaintiff (taxpayer) believes that in order to exercise his subjective right, he has the right to demand from the defendant (tax authority), which is in a material legal relationship with him, the commission of certain actions or refraining from actions consistent with the right of the plaintiff.

However, analyzing the problem of protecting the right in the field of public, in particular tax legal relations, it should be noted that this may take place in respect of the rights of only one party to a legal relationship – the taxpayer as an obliged person to pay tax. It is his subjective right – the right of ownership and his property is claimed by the state, establishing the obligation to pay tax.

From the perspective of the authorized subject of power – the state, it is more appropriate to talk about the presence of not a right, but a public interest – the interest in meeting the needs of money funds necessary to financially meet the needs and functions of the state. The rights of the tax authorities, enshrined in Article 20 of the Tax Code of Ukraine, also should not be considered a right to be protected, because they are not subjective rights, and act as a manifestation of powers of the tax authorities in providing control over the calculation and payment of taxes.

Attention should also be paid to the fact that, despite the common with other branches of law prerequisite of the right to protection, in the sphere of tax legal relations the issue of protection of the right has its own sectorial peculiarities. So, it is hardly possible in tax law protection of rights outside of measures of state coercion by voluntary elimination of an offence by the person who has committed it. In addition, in relations regulated by tax legislation, protection of a subjective right may manifest itself not only in court in connection with the violation by an authorized party of the rights of a taxpayer or the conditions of its implementation, but also in the administrative procedure for appealing against decisions of tax authorities on their legality.

In any case, the need to apply remedies arises at the moment of violation or denial of a right or legally protected interest, which has one of the parties to legal relations, that is, when the intervention of a competent jurisdictional body, which is not a party to

the disputed legal relationship, is required to implement the right or protect the interest.

D. M. Chechot notes that adopting a norm and thereby assuming the possibility of emergence on its basis of subjective rights and legal duties, the State must provide for an appropriate form of protection of rights (Chechot, 1968).

At one time, questions about the forms of protection of rights and their classification were the subject of extensive discussions among proceduralists. At the same time, the problem was considered mainly from the point of view of the protection of rights, which were in the framework of civil law relations. Such an approach determined the specificity of conclusions about the problem of protection of the right and forms of its implementation, which also included non-jurisdictional forms, providing protection of rights directly within the material legal relations, carried out by the parties to the legal relations themselves.

At the same time, the predominant position on the problem was held by views according to which the form of protection of subjective rights and interests is understood as a certain procedure for the protection of rights and interests, carried out by a particular jurisdictional body, depending on its powers.

The common feature of the jurisdictional form of protection of rights and interests is that it is carried out by a body authorized by the state under current legislation to resolve legal conflicts; activities to protect rights and legitimate interests take place in a certain procedural form established by law for this subject of authority; the legal act adopted on the case is binding.

Appeal of an interested person for protection of his/her rights is aimed not only at realization of guarantees of their realization, but also at resolution of the arisen conflict. The need to have certain legal means of resolving a legal conflict is an integral element of legal regulation, since it ensures the implementation of a legal norm and its stability.

5. Mechanism for resolving conflicts in the sphere of tax and legal relations

The mechanism of conflict resolution in the sphere of tax-legal relations has certain features, reflecting the priority of power legal impact on such relations and their public nature. According to Yu. A. Krokhina, potentially the parties to such a conflict can resolve the confrontation between them through informal procedures. However, the participation of the state in the person of authorized bodies of power as a mandatory subject of tax-legal relations in conjunction with the prevailing imperative method of legal regulation of this area of relations does not allow to talk about the widespread use and effectiveness of such procedures (Krokhina, 2003).

Indeed, the protection of violated rights and legitimate interests of the subjects of public-law relations is carried out by controlling the legality of actions (inaction) of the subjects of powers and acts adopted by them. Current tax legislation as a way to protect the rights provides for the possibility of invalidating the act of the tax authority, and its actions (inaction) – not in accordance with the law.

The application of protective measures legislation provides for through the intervention of a third party acting as an arbitrator in resolving the dispute. These are, in accordance with the Tax Code of Ukraine, the tax authority of the highest level or the court, as described above (para. 56.18 of Article 56 of the Tax Code of Ukraine). Thus, according to paragraph 56.2 of Article 56 of the Tax Code of Ukraine, if the taxpayer believes that the supervisory authority incorrectly determined the amount of monetary liability or made any other decision, contrary to law or beyond the powers of the supervisory authority established by this Code or other laws of Ukraine, such taxpayer has the right to appeal for review of this decision to the supervisory authority of the highest level (Podatkovyi kodeks Ukrainy vid 2 hrudnia 2010 roku № 2755-VI).

According to item 56.3 article 56 of the same Code the complaint shall be submitted to a higher level supervisory authority in writing or electronically by means of electronic communication (if necessary – with duly certified copies of documents, calculations and evidence, which the taxpayer considers necessary to provide with the requirements of item 44.6 article 44 of the Code) within 10 working days following the day the taxpayer received the tax notification-decision or other appealed decision of supervisory authority. Complaints against decisions of territorial bodies of the central body of the executive power, which implements the state tax policy, shall be submitted to the central body of the executive power, which implements the state tax policy (Podatkovyi kodeks Ukrainy vid 2 hrudnia 2010 roku № 2755-VI).

However, even at this stage of conflict in the public-law sphere there are inherent features related to the effectiveness of application of protective measures, in particular, in the case of disagreement, when the issue, about which the taxpayer has applied to the tax authority of the highest level, is under consideration of this sub-authority and is decided at its discretion in accordance with the current legislation, applying discretionary powers.

N. H. Pavlenko notes that the actions of the subject of power, protecting the public interests of the state are always presumed lawful. This allows, on the one hand, to consider his actions lawful until they are recognized as unlawful and cancelled, and, on the other hand, allows the subject of power itself to take measures to overcome counteraction. And this situation can be endless, since the claims of a person

addressed directly to the subject of authority, create only an alleged conflict of private and public interests (Pavlenko, 2016). In our opinion, simply establishing a fact, that is, without arguing its legal position, the unlawfulness of the decision, action or inaction of the subject of power cannot be a way to protect the right of the individual.

On the other hand, as evidenced by O. A. Serebriakova, under the administrative procedure of consideration of a dispute objectivity is affected by such a characteristic of the management system as the ability of the system to self-regulation (Serebryakova, 2002).

In this case, this characteristic of the system is an evaluative concept and is derived from many factors that determine the quality of the management system. Obtaining an objective and legitimate result of resolving a dispute considered in an administrative procedure is possible only when this characteristic of the management system is high enough, since the recognition of a decision taken illegal means that at the primary levels of interaction between the relevant tax authority and the taxpayer the system fails and requires changes.

In this situation, the role of the court, which, by making an appropriate decision to restore the violated right, in fact, intervenes in the sphere of direct regulation of relations, in the sphere of relations between the tax authority and the taxpayer, becomes important. The court in this case may go out on the issue of legality of actions (inaction) of the tax authority and oblige the latter to commit certain actions (or refrain from committing them) within its competence. Thus, according to Subparagraphs 3 and 4, the second Part of Article 245 of the Code of Administrative Proceedings of Ukraine, as amended on October 3, 2017 № 2147-VIII in case of satisfaction of the claim, the court may decide to recognize the actions of the subject of power unlawful and obligation to refrain from performing certain actions; recognition of the inaction of the subject of power unlawful and the obligation to perform certain actions (Kodeks administratyvnoho sudochynstva Ukrainy v redaktsii vid 3 zhovtnia 2017 roku № 2147-VIII).

According to Part 3 of Article 245 of this Code, when annulling a normative-legal or individual act, the court may oblige the subject of powers to commit the necessary actions to restore the rights, freedoms or interests of the plaintiff, for the protection of which he appealed to the court (Kodeks administratyvnoho sudochynstva Ukrainy v redaktsii vid 3 zhovtnia 2017 roku № 2147-VIII).

According to Part 4 of Article 245 of the same Code in the case defined by paragraph 4 of Part two of this article, the court may oblige the defendant – the subject of power to take a decision in favor of the plaintiff, if all conditions defined by law are met for

its adoption, and the adoption of such decision does not provide the right of the subject of power to act at its own discretion (Kodeks administratyvnoho sudochynstva Ukrainy v redaktsii vid 3 zhovtnia 2017 roku № 2147-VIII).

According to Part 5 of Article 245 of the above Code, if the court finds a normative legal act unlawful and invalid in whole or in part, and at that insufficient legal regulation of relevant public legal relations, which may entail a violation of rights, freedoms and interests of an uncertain circle of persons is revealed, the court has the right to oblige the subject of powers to adopt a new normative legal act to replace the normative legal act declared illegal in whole or in relevant part (Kodeks administratyvnoho sudochynstva Ukrainy v redaktsii vid 3 zhovtnia 2017 roku № 2147-VIII).

By reserving to the jurisdictional authority a certain share of redistributive rights, the legislator, by regulating the administrative and judicial procedure for resolving a tax dispute, thereby protects private interests from possible disfigured state interference. In this case, the administrative court, resolving a tax dispute, does not examine the conduct of the parties as such, but rather determines how it complies with the norms of current tax law.

It is on this basis that the task of the administrative court and its purpose of jurisdictional activity in resolving a dispute in the field of public-law relations is based, namely on the balance of rights of the state with the counter rights of a person (taxpayer) to ensure its protection of rights and legitimate interests, since he applied for such protection.

Although it is impossible to put the interests of the state as the exponent of public interests on an equal legal footing with an individual or legal entity as a taxpayer, it is necessary to level out the difference between them as much as possible. That is why it is no accident that the principle of priority of human rights and freedoms is enshrined in Article 3 of the Constitution of Ukraine, in particular, the human being, his life and health, honor and dignity, inviolability and safety are recognized in Ukraine as the highest social value. Human rights and freedoms and their guarantees determine the content and focus of state activity. The state is accountable to the individual for its activities. The assertion and guaranteeing of human rights and freedoms is the main responsibility of the state.

In this sense, a dispute in law, and in particular in relations regulated by the norms of tax law, acts as a mechanism to guarantee the realization of subjective rights of taxpayers and balancing public and private interests, because it is aimed at protecting and restoring the violated (disputed) right, as well as preventing its violation in the future; aimed at resolving the legal conflict on the implementation of rights and

obligations; aimed at ensuring the stability of the conditions for the implementation of the legal norm and the optimization of legal regulation; consideration of the dispute by the authorized body of state power ensures the stability of the legal system of society.

6. Conclusions

The application of tax legislation in practice reveals many contradictions in the relationship between tax authorities and taxpayers, with previously adopted regulations and acts of individual action. Due to these circumstances, the conflict of interests in the sphere of tax legal relations lays the basis for the transition of a controversy to another stage, characterized by the emergence of different initial legal positions of the parties in the legal assessment of the essence of disputed tax-legal norms and, accordingly, the scope of their rights and obligations. The arising difference forms the basis for the emergence of a tax dispute, because it requires its resolution, the implementation of which is impossible without recourse to the authorized competent authorities of the state. In this regard, without an application of an interested person to the relevant jurisdictional authority, it is impossible to talk about the presence of a dispute. A tax dispute is a certain situation in the development of a conflict in the sphere of tax legal relations, or rather one of its stages – the stage aimed at resolving this conflict.

In this case, the appeal of an interested person to a jurisdictional authority is aimed not only at resolving a tax dispute, but also pursues the goal of protecting their rights, providing guarantees for their implementation. Therefore, a dispute in the sphere of tax legal relations acts as a mechanism of guaranteeing the realization of subjective rights of interested persons and balancing public and private interests, since it is aimed at protecting and restoring the violated (disputed) right, as well as preventing its violation in the future; aimed at resolving the arisen tax conflict regarding the implementation of rights and obligations; aimed at ensuring the stability of the conditions for the implementation of tax and legal norms and optimization of legal regulation; consideration of the dispute by the authorized body of state power ensures the stability of the legal system.

When regulatory legal relations are affected by negative, not based on the norm of tax law, behavior of the subject of tax law, regulatory legal relations undergo changes, as their development in the former form is impossible because of the contradiction between the participants of tax legal relations. The fact of violation or denial of a right gives rise to a protective legal relationship, in which the right of an interested person to protection and the obligation of the authorized body of the state to implement protection exist and are implemented.

In this regard, under the protection of the rights of a taxpayer it is proposed to understand his actions (in some cases, inaction), which he commits in accordance with the norms of tax legislation, on the one hand, and law enforcement activities of authorized by the state subjects of power and their officials

(in case the subject appeals by force of state enforcement), on the other, in order to stop violation of rights, restore violated rights, eliminating the threat of their violation. The main subjects authorized by the state to protect the rights of the taxpayer are the tax and judicial authorities.

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