

TOPICAL SCIENTIFIC ISSUES

DOI <https://doi.org/10.51647/kelm.2021.4.41>

KONTROLA FISKALNA: POJĘCIE, ISTOTA I WŁAŚCIWOŚCI

Tetiana Tatarova

kandydat nauk prawnych,
*docent Katedry Administracji Publicznej i Administrowania
 Narodowej Akademii Spraw Wewnętrznych (Kijów, Ukraina)*
 ORCID ID: 0000-0002-9575-7940
 tatyana_tatarova@ukr.net

Adnotacja. Przedmiotem tego badania naukowego jest kontrola fiskalna. Celem badania jest określenie cech kontroli fiskalnej, ujawnienie jej istoty i zbadanie właściwości. W artykule zauważono, że właściwa definicja i stosowanie pojęć kontroli ma dość duże znaczenie, ponieważ to od ich treści zależą podmioty, przedmioty i przedmiot kontroli, definicja odpowiednich organów, struktur, które powinny sprawować kontrolę, zakres ich uprawnień. W wyniku badań sformułowano autorską definicję pojęcia „kontrola fiskalna”, ujawniono jej istotę i właściwości. Kontrolę fiskalną proponuje się rozumieć jako integralną część kontroli państwowej przeprowadzanej przez specjalnie utworzone organy kontrolne, zgodnie z normami obowiązującego prawa, w odniesieniu do administracji podatkami i opłatami, w celu realizacji państwowej polityki fiskalnej, i mającej na celu terminowość, rzetelność, kompletność naliczania i płacenia podatków, opłat, płatności do budżetu, a także zapewnienie interesów państwa i podmiotów gospodarczych w zakresie tworzenia funduszy finansów publicznych.

Słowa kluczowe: kontrola, kontrola państwa, kontrola fiskalna, organy kontroli.

FISCAL CONTROL: CONCEPT, ESSENCE AND PROPERTIES

Tatyana Tatarova

associate professor of the department of public management and
 administration National academy of internal affairs,
 candidate of legal sciences (Kyiv, Ukraine)
 ORCID ID: 0000-0002-9575-7940
 tatyana_tatarova@ukr.net

Annotation. The subject of this research is fiscal control. The purpose of the study is to determine the features of fiscal control, the disclosure of its essence and the study of properties. The article emphasizes that the proper definition and application of terms for control is very important because their content will depend on the subjects, objects and subject of control, the definition of relevant bodies, structures to exercise control, the scope of their powers. As a result of the research the author's definition of the concept "fiscal control", disclosure of its essence and properties is formulated. It is proposed to understand fiscal control as an integral part of state control, which is carried out by specially created controlling bodies, in accordance with current legislation on administration of taxes and fees, in order to implement state fiscal policy, and aimed at timeliness, reliability, completeness of tax collection, fees, payments to the budget, as well as ensuring the interests of the state and business entities in the field of formation of public finance funds.

Key words: control, state control, fiscal control, controlling bodies.

ФІСКАЛЬНИЙ КОНТРОЛЬ: ПОНЯТТЯ, СУТНІСТЬ ТА ВЛАСТИВОСТІ

Тетяна Татарова

доцент кафедри публічного управління та адміністрування
 Національної академії внутрішніх справ,
 кандидат юридичних наук (Київ, Україна)
 ORCID ID: 0000-0002-9575-7940
 tatyana_tatarova@ukr.net

Анотація. Предметом цього наукового дослідження обрано фіскальний контроль. Метою дослідження є визначення особливостей фіскального контролю, розкриття його сутності та вивчення властивостей. У статті наголошується, що належне визначення та застосування поняття контролю, має досить велике значення, адже саме від їх змісту залежать суб'єкти, об'єкти та предмет контролю, визначення відповідних органів, структур, які мають

здійснювати контроль, обсяг їх повноважень. В результаті дослідження сформульовано авторське визначення поняття «фіскальний контроль», розкрито його сутність та властивості. Під фіскальним контролем запропоновано розуміти складову частину державного контролю, що здійснюється спеціально створеними контролюючими органами, відповідно до норм чинного законодавства, щодо адміністрування податків та зборів, з метою реалізації державної фіскальної політики, та спрямований на своєчасність, достовірність, повноту нарахування та сплати податків, зборів, платежів до бюджету, а також забезпечення інтересів держави та суб'єктів господарювання у сфері формування фондів публічних фінансів.

Ключові слова: контроль, державний контроль, фіскальний контроль, органи контролю.

Relevance of the article. Today, Ukraine faces many acute and important challenges. It should be noted that armed aggression by the Russian Federation is only one of them. Other, no less significant, factors of influence are associated with risks in the economic sphere. Among them: the consequences of the global financial crisis; economic damage caused by the coronavirus disease (Covid-19) epidemic; dependence of Ukraine on external financial loans; government budget deficit, etc. Our state can solve such vital issues only by developing and pursuing a consistent and balanced foreign and domestic policy.

It should be noted that ensuring «the social orientation of the economy of Ukraine and the sustainable socio-economic development of Ukraine, the rule of law, the economic and political independence of the state ...» (Закон України «Про засади внутрішньої і зовнішньої політики», 2010) proclaimed one of the main principles of domestic and foreign policy of Ukraine.

It is quite clear that for the implementation of these principles in life, only political will is not enough, but certain resources are needed - human, scientific, financial. The main source of the formation of the latter is the state budget of Ukraine. It is extremely important to ensure this source of funding is the provisions enshrined in national legislation: at the level of the basic law of Ukraine - the obligation of everyone «to pay taxes and fees in the manner and amount established by law» (Конституція України, 1996); and in the Tax Code of Ukraine, according to which the payer is obliged «to pay taxes and fees within the time limits and in the amounts established by this Code and laws on customs matters» (Податковий кодекс України, 2010).

The purpose of the scientific article is to, based on the generalization of scientific works of scientists in the field of tax, financial and administrative law, as well as the analysis of the current national legislation and the practice of its application, define the concept of fiscal control, establish its essence and highlight the features of the implementation of fiscal control.

Presenting main material. Since the state budget is a source of financing for all state bodies without exception, then, like any other country, Ukraine exercises appropriate control over financial management, education and spending money. Directions and implementation of purposeful activities of the state in this direction can be called fiscal policy, and control, respectively, fiscal control. However, it is worth emphasizing that these terms are not fixed by law, and their interpretation and perception by scientists, politicians and officials is diverse.

On this occasion, A. Aleinikova rightly notes that “every scientist has a personal interpretation of the concept of fiscal policy, paying attention to the decisive role of certain types and instruments of the state's fiscal policy. In modern economic literature, special attention is paid to the problems of forming an effective fiscal policy of the state, which, on the one hand, determines the main directions for the distribution and use of the financial resources of the state, and on the other hand, the methods of financing and the main sources of replenishment of the state budget (Алейнікова, 2013). Thus, there are grounds to identify, to a certain extent, fiscal policy with tax policy. Accordingly, V. Belotserkovets notes: «as identical concepts, fiscal policy and tax policy can only be considered in the everyday sense, but in the scientific sense, these concepts are far from identical and cover quite different sets of phenomena. At the same time, with regard to the specific relationship between fiscal and tax policy, their content in modern economic science, a sharp discourse continues, a number of original and mutually contradictory approaches have been formed. ... Understanding tax policy solely as part of fiscal policy seems to be somewhat incorrect from a theoretical point of view. Rather, the semantic load of these concepts should be considered as certain sets of state measures covering areas that do not completely coincide with each other. That is, the area of tax policy is not a special case of fiscal policy, but there is only a certain plane of intersection, where the content of fiscal and tax policies coincide. At the same time, the scientist emphasizes that the problems of the meaningful correlation of tax policy and fiscal policy, their role in ensuring the accelerated development of the national economy in the context of globalization transformations are extremely relevant» (Білоцерковець, 2015).

The analysis of fiscal and tax mechanisms is carried out primarily by researchers in the financial and economic spheres. However, the conclusions of P. Kolomoys, made by him in the field of financial law in the study of domestic scientific thought on issues of tax and fiscal policy, deserve attention. So, the scientist claims: «The results of an analytical review of recent studies and publications indicate the following: 1) today there is no legislatively fixed definition of the concept of «fiscal policy» and «fiscal authorities»; 2) specialists in the field of national finance, at their own discretion, use the definitions of «tax policy» and «fiscal policy», «tax authorities» and «fiscal authorities» in modern studies and legislative acts; 3) the active use and identification of these phrases further deepens the existing inconsistency in tax terminology 4) the main task of the policy of the state of Ukraine is to build a fundamentally new tax system and, accordingly, the main task of fiscal policy is the rational optimization of budget revenues and expenditures» (Коломоєць, 2017).

Studying the features of the formation and implementation of fiscal policy, E. Duleba rightly notes, “Ukraine seeks to build an effective system of public financial management in accordance with the best practices of the states

of the Organization for Economic Cooperation and Development, introduce effective state strategic planning, adapt the legislation of Ukraine to the legislation of the European Union and the World trade, strengthen financial and budgetary discipline, improve the efficiency of local budget spending. And all this is possible with an effective fiscal policy, it will be based on the development and implementation of effective tax legislation and an effective mechanism for generating budget revenues ... (at the same time, the researcher notes that fiscal policy) "... representing state measures to regulate revenues and spending, (yet) does not realize its full potential..." (Дуліба, 2018).

Based on the above data, we can reasonably state that in the absence of a clear definition of the concept of fiscal policy itself, even more confusion arises with the use of related terms «fiscal control» and «tax control». On this occasion, K. Proskura notes: «The amount of financial resources coming to the budget depends on the organization of tax relations, administrative regulation of tax relations, effective tax control, administration of tax debt, which the state can then dispose of to fulfill its tasks and functions» (Проскура, 2014).

So, the proper definition and application of the specified terms for control is of great importance, because the subjects, objects and subject of control, the definition of the relevant bodies, structures that should exercise control, the scope of their powers depend on their content.

Many scientists devoted their research to the study of the content of the basic concepts of national fiscal and tax policy, as well as state control exercised in these areas. It should be noted that most of the scientific developments relate to the sphere of economics, finance, public administration, international relations and joint industries with them. However, practicing lawyers, politicians, lawmakers and legal scholars have also made efforts to develop the conceptual apparatus and terminology related to the fiscal and tax spheres.

In the context of the problematic filling of budgets and state trust funds, and despite the fact that almost 70% of the budget revenues consist of tax revenues, the issue of control over the collection of taxes is especially acute (Корогун, 2014). It should be noted that in our country, one of the main problems of fiscal policy is inefficient and inflexible spending, weak fiscal management, constant excess and rapid growth of obligations in relation to budgetary resources, which causes constant correction of the budget and tax legislation and complicates the administration and forecasting of taxes. This fact is confirmed by the reports of the Accounts Chamber of Ukraine, which controls the allocation of funds to the State Budget of Ukraine and their use (Дуліба, 2018). Therefore, the leading role in solving this problem is given to the regulatory authorities that ensure the implementation of the fiscal policy of the state, and whose main task is to monitor compliance with tax laws, the correctness of the calculation, the completeness and timeliness of paying taxes and fees (mandatory payments) to the budgets (Корогун, 2014).

Additional relevance to this study is provided by the intensive changes that tax legislation is undergoing. For example, the Tax Code of Ukraine, which defines the functions and legal framework for the activities of regulatory authorities, the central executive authority that ensures the formation and implementation of the state financial policy (Податковий кодекс України, 2010), during the nine years of its existence has received more than 130 changes. As T. Bugay notes, while studying the reform of the tax system of Ukraine, the desire to reform the domestic tax system was a priority for each government (Бугай, 2014). Tax reform is still among the top priorities in the implementation of the Ukraine-2020 Sustainable Development Strategy, which directs the entire society to build a tax system that is simple, economically fair, with minimal time spent on calculating and paying taxes, creates the necessary conditions for a sustainable development of the national economy, ensures sufficient filling of the State budget of Ukraine and local budgets (Указ Президента України «Про Стратегію сталого розвитку «Україна – 2020», 2015).

At the same time, it is worth mentioning the main causes of violations and shortcomings in the administration of the revenue part of the state budget, which in turn indicates the need for the introduction and implementation of fiscal control by regulatory authorities in this part:

- 1) the imperfection of the legislation, it has the ability for business entities to apply schemes for minimizing payments to the budget;
- 2) underpayments to the budget based on the results of financial and economic activities;
- 3) budget losses as a result of making unreasonable management decisions;
- 4) inefficient management of funds, as a result of which they were returned to the budget;
- 5) inefficient property management by maintaining it without using (Дуліба, 2018).

Thus, today the development and implementation of an effective fiscal policy, the introduction of an effective fiscal control mechanism for the administration of taxes and fees and the formation of budget revenues, as well as an effective mechanism for the distribution and direction of public funds for public spending in order to fully exercise powers and functions, remain a priority. state to provide public goods and services (Дуліба, 2018).

Relevant is the position of I. Litvinchuk, who notes the lack of a generally unified concept of state control in Ukraine, the development of the main directions for the formation of a methodological base and methodological support for fiscal control, the implementation of its individual procedures, the unsettledness of many organizational issues of interaction and coordination of regulatory authorities, the lack of a unified approach to the basic concepts of fiscal control and much more allows us to provide regulatory support for fiscal control in the system of executive power of a holistic, systematic and complete nature (Литвинчук, 2016).

In turn, S. Vasilenko draws attention to the fact that the lack of a common methodological support does not allow to provide the system of fiscal control bodies with a finished look. To improve the efficiency of control activities, it is necessary to create a unified methodological basis for fiscal control, which will allow fiscal control authorities to carry out coordinated control activities that are scientifically based and practically understandable

to society. The only methodological base of control should have three levels, namely: the first level should be the provisions of legislative and by-laws, which contain general fundamental norms of the methodology of fiscal control; the second level should be rules (standards) affecting the basic issues of control activities in the country; third level - internal standards of fiscal control bodies (Василенко, 2019).

Based on the foregoing, it is necessary to highlight the main features of fiscal control, which is carried out by regulatory authorities: 1) it is an integral part of state control carried out by the relevant regulatory authorities; 2) this is a separate function of the state aimed at the administration of taxes and fees; 3) aimed at the timeliness, reliability, completeness of the calculation and payment of taxes, fees and payments; 4) ensures the interests of the state and business entities in the field of formation of public finance funds; 5) is a special component of the state fiscal policy, which determines the main directions for the use of centralized financial resources of the state.

Thus, under fiscal control we will understand an integral part of state control, carried out by specially created regulatory bodies, in accordance with the norms of the current legislation, regarding the administration of taxes and fees, in order to implement state fiscal policy, and is aimed at the timeliness, reliability, completeness of accrual and payment taxes, fees, payments to the budget, as well as ensuring the interests of the state and business entities in the field of formation of public finance funds.

Список використаних джерел:

1. Алейнікова О.В. Еволюція теоретичних підходів щодо формування ефективної фіскальної політики держави. *Економіка та держава*. 2013. № 4. С. 25-28.
2. Білоцерковець В.В. Роль податкової та фіскальної політики в забезпеченні розвитку національної економіки: таксономічний ракурс. *Економіка. Управління. Інновації*. 2015. № 1.
3. Бугай Т.В. Концепція реформування податкової системи України: наукові та практичні аспекти. *Збірник наукових праць Національного університету державної податкової служби України*. 2014. № 2. С. 32-46.
4. Дуліба С.В. Особливості формування та реалізації фіскальної політики держави. *Інтернаука. Серія: «Юридичні науки»*. 2018. № 4 (9). С. 18-23.
5. Коломоєць П. Податкова та фіскальна політика: аналітичний огляд вітчизняної наукової думки. *Публічне право*. 2017. № 2 (26). С. 98-105.
6. Конституція України від 28.06.1996 р. № 254к/96-ВР.
7. Коротун В.І. Руйнування схем ухилень від сплати податків в Україні. 2014. URL: http://ir.nusta.edu.ua/bitstream/doc/185/1/152_IR.pdf.
8. Податковий кодекс України від 02.12.2010 р. № 2755-VI.
9. Про засади внутрішньої і зовнішньої політики : Закон України від 01.07.2010 р. № 2411-VI.
10. Про Стратегію сталого розвитку «Україна – 2020» : Указ Президента України від 12.01.2015 № 5/2015.
11. Проскура К.П. Податкове адміністрування в Україні в посткризовий період: ефективність та напрями модернізації. Київ ТОВ «Емкон». 2014. 376 с.

References:

1. Aleinikova, O.V. (2013). Evoliutsiia teoretychnykh pidkhodiv shchodo formuvannia efektyvnoi fiskalnoi polityky derzhavy [The evolution of theoretical approaches to the formation of an effective fiscal policy of the state]. *Ekonomika ta derzhava*. № 4. pp. 25-28. [in Ukrainian].
2. Biloserkovets, V.V. (2015). Rol podatkovoi ta fiskalnoi polityky v zabezpechenni rozvytku natsionalnoi ekonomiky: taksonomichniy rakurs [The role of tax and fiscal policy in ensuring the development of the national economy: a taxonomic perspective]. *Ekonomika. Upravlinnia. Innovatsii*. № 1. [in Ukrainian].
3. Buhai, T.V. (2014). Kontseptsiiia reformuvannia podatkovoi systemy Ukrainy: naukovy ta praktychni aspekty [The concept of reforming the tax system of Ukraine: scientific and practical aspects]. *Zbirnyk naukovykh prats Natsionalnoho universytetu derzhavnoi podatkovoi sluzhby Ukrainy*. № 2. pp. 32-46. [in Ukrainian].
4. Duliba, Ye.V. (2018). Osoblyvosti formuvannia ta realizatsii fiskalnoi polityky derzhavy [Peculiarities of the formation and implementation of the fiscal policy of the state]. *Internauka. Serii: «Iurydychni nauky»*. 2018. № 4 (9). pp. 18-23. [in Ukrainian].
5. Kolomoiets, P. (2017). Podatkova ta fiskalna polityka: analitychnyi ohliad vitchyznianoї naukovoi dumky [Tax and fiscal policy: an analytical review of domestic scientific opinion]. *Publichne pravo*. № 2 (26). pp. 98-105. [in Ukrainian].
6. Konstytutsiia Ukrainy [Constitution of Ukraine] vid 28.06.1996 r. № 254k/96-VR. [in Ukrainian].
7. Korotun, V.I. (2014). Ruinuvannia skhem ukhylen vid splaty podatkov v Ukraini [Destruction of tax evasion schemes in Ukraine]. URL: http://ir.nusta.edu.ua/bitstream/doc/185/1/152_IR.pdf. [in Ukrainian].
8. Podatkovyi kodeks Ukrainy [Tax Code of Ukraine] vid 02.12.2010 r. № 2755-VI. [in Ukrainian].
9. Pro zasady vnutrishnoi i zovnishnoi polityky [On the principles of domestic and foreign policy]: Zakon Ukrainy vid 01.07.2010 r. № 2411-VI. [in Ukrainian].
10. Pro Stratehiu staloho rozvytku «Ukraina – 2020» [About the Sustainable Development Strategy "Ukraine - 2020"]: Ukaz Prezydenta Ukrainy vid 12.01.2015 № 5/2015. [in Ukrainian].
11. Proskura, K.P. (2014). Podatkove administruvannia v Ukraini v postkryzovyi period: efektyvnist ta napriamy modernizatsii [Tax administration in Ukraine in the post-crisis period]. Kyiv TOV «Emkon». 376 p. [in Ukrainian].