

DEVELOPMENT AND STRENGTHENING THE INSTITUTE OF TAX CONSULTANTS IN THE TAX SYSTEM OF UKRAINE

Nataliia Holovchenko¹, Oleksand Holovchenko²

Abstract. *The purpose* of this article is to formulate the main prerequisites and economic consequences of strengthening the institute of tax consultants in the tax system of Ukraine, to substantiate the importance of tax counseling as a separate profession, as well as to determine the cross-functional role of tax consultants in interaction with taxpayers, fiscal authorities and the government, according to the world trends in tax consulting. *Methodology.* The research is based on the analysis of specialized scientific sources of international researchers and practitioners who have been studying the issues of tax consulting as a separate type of professional activity for the last 30 years. Based on the analysis, using general scientific methods – analysis, synthesis, generalization, abstraction – the conclusions of the study were made, which can be interpolated into the Ukrainian business environment. *Results* of research showed the importance and role of tax advisers in modern tax systems. Based on the research, it is proved that tax advisers can perform different functions (acting in different roles) on the interaction between taxpayers, fiscal authorities and the government. They are qualified representatives for taxpayers in solving certain problems in the field of taxation, including in matters of tax planning and optimization of tax payments. At the same time, tax advisers are important as intermediaries, arbitrators, regulators in relations between taxpayers and the government, as well as they act as agents of fiscal bodies on tax compliance of taxpayers. The importance of tax counseling for different subjects of the tax system is determined for: taxpayers, fiscal authorities and the government. Further research in the field of tax consulting is proposed to focus on the formulation of ethical principles of tax consultants, which, according to world practice, have a great importance in their activities. It is also proposed at the legislative level to consolidate the legal status and responsibility of tax advisers. This is proposed to be done by establishing the procedure for documenting the consultations provided, establishing the legal responsibility of the consultant for poor-quality services, which is a separate important area of further research. *Practical implications.* In the article the necessity of development of tax consulting institute in Ukraine on the basis of implementation of relevant international standards and practices is substantiated. The functions (roles) of tax consultants in the tax system of the country and their interaction with taxpayers, fiscal authorities and the government are defined. *Value/originality.* The correspondence between the world practice of tax consulting and the Ukrainian legal framework allowed to show serious gaps in local legislation and tax awareness of taxpayers, which should be corrected ASAP.

Key words: tax consulting, tax agent, tax consultant, taxpayers, tax legislation, tax system, tax compliance, tax culture.

JEL Classification: H26, H30, H32, H39

1. Introduction

The complexity of tax legislation and its periodic changes require systematic attention from taxpayers. Ignoring legislative changes can have negative financial consequences and seriously damage the reputation of a business. For most

small and medium taxpayers, it is quite problematic to understand all the intricacies of the tax system. The Tax Codes of the world are not simple and Ukraine in this sense is no exception. The possibility of misreading of tax legislation is a problem for both taxpayers and the state

Corresponding author:

¹ Central Ukrainian National Technical University, Ukraine

E-mail: natali.holovchenko@gmail.com

ORCID: <https://orcid.org/0000-0002-9742-1703>

ResearcherID: AHD-2300-2022

² Central Ukrainian National Technical University, Ukraine

E-mail: gaa211177@gmail.com

ORCID: <https://orcid.org/0000-0002-7420-3797>

authorities. Taxpayers are required to pay taxes, and complications and frequent changes in tax laws mean that they may not keep up with the changes or they may lack the experience, time and confidence that they are doing everything right. It is important for the state authorities that taxes have to be received in a timely manner and in full in order to provide the necessary attributes of a modern country, such as: education, health care, social security, public transport, etc. It also enables the state authorities to maintain a healthy economy in society.

Due to the absence of the institute of tax consulting in Ukraine as an element of the tax system, it is especially important to define the essence of tax consulting at the legislative level and study the role of professional tax consultants as tax agents of taxpayers and the Government.

2. Review of research by world scientists and practitioners

The issue of compliance with tax legislation is traditionally given a lot of attention by tax authorities, economists, practitioners, scientists. Some efforts of the expert community (primarily government and legislative committees) are aimed at helping the government increase tax revenues by liberalizing tax rules, improving payment discipline of taxpayers and reducing the amount of tax-free (shadow) transactions. However, research on the place and role of tax consultants (tax consultants) by domestic researchers has not been conducted. At the same time, the analysis of foreign literature sources showed that research in this area has been conducted for at least the last 30 years, starting from about 1988.

Researchers A. Hite and Gary A. McGill (1992) looked at the demand for tax filing services and related cost of tax consulting, quality of service, and the impact of tax specialists on taxpayer compliance.

The specifics of the relationship between taxpayers and professionals who help compile tax returns, as well as the study of the impact of tax audits (audit / audit of the US IRS) on the level of responsibility of tax advisers and the possibility of further cooperation with them were researched by Dan L. Schisler and Susan Coomer Galbreath (2020).

D. Jordan Lowe, Philip M. J. Reckers and Robert W. Wyndelts. (1993) in their research examined how tax consultants who prepare

tax reporting, decide on the correctness of tax payments, the factors that affect it and investigated the role of experience, client conditions and mutual obligations of the parties to tax consulting (1993).

A number of studies by domestic authors have contributed to the study of applied issues of tax consulting (tax clarifications), as well as to the disclosure of problems of interaction between taxpayers and tax authorities. However, important issues of prerequisites for the development of consulting services, the formation of standards for the work of tax consultants, the development of methodological concepts have been studied by domestic scientists insufficiently.

The work of A.Y. Voronkova (2010) is devoted to the issues of management consulting as a basis for tax consulting.

The work by Shuvalova E.B., Yefymova T.A. (2011) is devoted to the problems of legal aspects of professional activity in the field of tax consulting. International experience in organizational and legal regulation of tax consulting is described in the research of Smirnova O.M. (2010) and Tkachyk F. (2014).

The study of ways to solve institutional problems of tax consulting in Ukraine using the experience of foreign countries was carried out in the works of Izmailov Y.O. and Yehorova I.H. (2020).

3. Challenges in Ukraine targeted by the research

The purpose of the article is to formulate the main prerequisites and economic consequences of strengthening the institution of tax consultants in the tax system of Ukraine, substantiate the importance of tax consulting as a separate profession, and determine the cross-functional role of tax consultants in cooperation with taxpayers, government and fiscal authorities, taking into account global trends in tax consulting.

4. Methodology of research

The research is based on the analysis of specialized scientific sources of international researchers and practitioners who have been studying the issues of tax consulting as a separate type of professional activity for the last 30 years. Based on the analysis, using general scientific methods – analysis, synthesis, generalization, abstraction – the conclusions of the study were

made, which can be interpolated into the Ukrainian business environment.

All comparisons and generalizations are made on the basis of the tax legislation of Ukraine as of 2022. For the same methodological purpose, tax explanations of the State Tax Service of Ukraine were taken, which have legislative force in terms of interpretation of legislative gaps.

5. Findings

Tax consulting services are a special type among the wide range of consulting services provided in the world. This is primarily due to the fact that many companies have difficulties with the application of tax law, understanding of some of tax rules, the variability of interpretation of certain fiscal requirements by members of the tax system.

Thus, according to the United States Internal Revenue Service (IRS), as of 2014, 90% of taxpayers sought help with tax reporting in different cases. Of these, 56% of the total number of filed returns were made by tax consultants, another 34% of taxpayers used software to prepare returns (CNSnews, 2014).

The report of the Source Global Research (an organization that analyzes how economic, business, technological and behavioral changes affect how organizations use professional services and the implications for professional service firms) In 2017 showed, that the global market of tax consulting services was estimated at 20.3 billion US dollars and increased by 8.6% year on year (Source Global Research, 2018).

As a result of Covid-19 in 2020 there was a reduction in the global market of tax consulting by 9% – more than 3 billion US dollars, resulting in a market size of 33.4 billion US dollars. At the same time, the report predicts a rapid recovery of the global market of tax consulting with an expected growth rate of 7% (Source Global Research, 2021). Thus, the demand for tax consulting services in the world is growing every year and tends to increase.

The main purpose of tax consultants is to protect the interests of taxpayers. Practical experience shows that the main requirement when applying to tax consultants is the preparation of tax returns. But the study of the international experience of tax consulting determines the multifunctional role of tax advisors in the tax system of countries. With the help of tax consulting services, taxpayers

can make informed decisions on taxation, receive recommendations for starting a new business in compliance with tax legislation, advice on choosing a tax system and tax accounting, optimizing operating costs to reduce the tax burden, the possibility of using preferential tax regimes for individual operations, etc. Using their experience and knowledge, tax consultants help clients comply with tax rules and regulations, as well as save clients financial resources by optimizing tax payments and minimizing taxes.

Tax consultants act as intermediaries and "balancers" of relations between taxpayers and fiscal authorities. In this case, each party has its own goals, interests and tools to achieve them. This model of interaction leads to certain difficulties, because tax consultants are forced to balance, on the one hand, the requirements of the state and tax authorities, and, on the other hand, to fulfill obligations to their clients – taxpayers.

The tax advisor, whose activities are regulated by the state and who is a representative of the profession, has a list of responsibilities and obligations (including legal), defined by law. At the same time, he must adhere to the ethical principles and culture of tax behavior.

At the same time, the consultant advises the client – the taxpayer and assists in his activities on tax issues and, in particular, in the optimization of tax payments and tax minimization. An important reason for attracting tax advisors to taxpayers is the criterion of cost effectiveness in terms of time and cost of services. However, the main lever to use consulting services is the lack of awareness of taxpayers on tax issues, because for them the rules of tax law seem too complicated and confusing. And the tax advisor should help taxpayers avoid possible misunderstandings about the definition and payment of tax liabilities.

Such a two-directed focus of the services of tax advisers means that they must facilitate, on the one hand, the proper amount of tax payments, which will increase state budget revenues, and on the other hand, must comply with agreements and save the customer's tax payments. That requires to keep at the attention both parties and to be in the median of interests of all stakeholders.

Thus, considering the multifaceted interaction of tax advisors with taxpayers, tax (fiscal) authorities, government, professional associations, etc., we can identify the following functions (roles) of tax advisors (Figure 1):

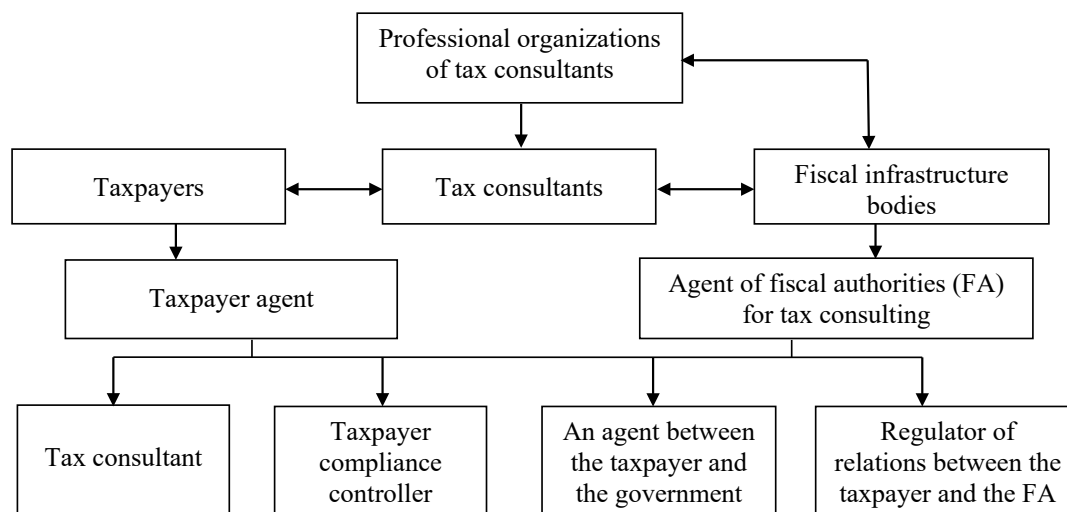


Figure 1. Roles (functions) of tax advisors in interaction with other subjects of the tax system

As mentioned above, a tax consultant, on the one hand, is an agent of the client (taxpayer), and on the other – acts as an agent of fiscal infrastructure bodies (in Ukraine – the State Tax Service of Ukraine) on tax compliance, assisting the state in building and improving tax legislation. Another entity involved in improving tax legislation is the professional organizations (associations) of tax consultants. In Ukraine, professional organizations of tax consultants are represented by the Chamber of Tax Consultants and the Union of Tax Consultants.

The purpose of the activities of professional organizations of tax consultants, which are public, is the development of the institution of tax advice, as well as protection of legitimate social and economic rights and interests of members of organizations and other taxpayers. And one of the main tasks of such organizations is the development of tax culture, both taxpayers and representatives of the executive branch, the impact on improving the efficiency of the tax system, assisting in the preparation of draft regulations on tax legislation, etc. (Chamber of tax advisor, 2013, Union of Tax Advisors, 2016).

Thus, based on the goals and objectives of professional organizations of tax consultants, both tax advisers and the government are interested in their effective work. The mentioned organizations take part in discussions of bills, can address requests to tax bodies, be active in transformational processes which occur in the tax legislation. On the other hand, they contribute to the establishment of dialogue between taxpayers

and public authorities, the development of partnerships between business and government (Chamber of tax advisor, 2013, Union of Tax Advisors, 2016).

In Europe, professional organizations of tax advisers are represented by the European Confederation of Tax Advisers (Confédération Fiscale Européenne, CFE) and the European Federation of Tax Advisers (ETAF), based in Brussels.

In the United States, the largest professional organizations are (www.irs.gov):

- American Academy of Attorney-CPAs (AAA-CPA – the only organization consisting of people with dual qualifications: attorneys and certified public accountants);
- American Institute of Certified Public Accountants (AICPA – the world's largest association representing the accounting profession. Participants bring a high level of knowledge, experience and understanding of the process of tax planning and processes' development);
- National Association of Enrolled Agents (NAEA is a professional organization representing enrolled agents (EAs), American tax experts);
- National Association of Tax Professionals (NATP – the largest non-profit organization, that unified all 50 states as co-members which are specializing in the federal taxes development);
- The National Conference of CPA Practitioners (NCCPAP is a professional organization that deals with issues important to practicing accountants and their clients throughout the United States);
- National Society of Accountants (NSAN and its state branches represent independent practitioners

who provide accounting, tax, auditing, financial and property planning services);

– National Society of Tax Professionals (NSTP helps to achieve the highest level of knowledge, skills and competencies in all areas of tax compliance, as well as in preparation for a high level of qualification for the effective provision of professional services for tax returns).

In order to establish a dialogue between taxpayers and the government, the state should regulate the role of tax advisors in the market, which, in turn, contributes to ensuring quality relations between the parties.

Acting as a taxpayer agent, a tax advisor is able to weaken compliance. The practice of other countries shows that there are some obstacles to the independence of tax advisers. Taxpayers can evade taxes, thus gaining tax savings and increasing their profits. A tax consultant, as a subject of a competitive market, can assist to an interested party through accumulated experience in ambiguous interpretation or in different cases non-compliance with the law. For a particular group of clients, tax advisers may understand the risks involved in using the ambiguity of tax regulations to avoid tax evasion.

Compliance is a common practice in the world and is used in various fields. The institute of compliance in Ukraine is being implemented and is increasingly used in the banking sector and among large companies with foreign investment, as one of the components of control over their activities.

The concept of "compliance" in Ukraine was firstly defined in 2007 by the Resolution of the Board of the National Bank of Ukraine of March 28, 2007 № 98 "On Approval of Methodological Recommendations for Improving Corporate Governance in Ukrainian Banks", where it was determined as "compliance with legislation and internal procedures (compliance) – the necessity to know, understand and comply with all requirements of Ukrainian legislation, regulations, provisions and rules, internal policies, standards and codes of the bank" (National Bank of Ukraine, 2007).

Later, the interpretation of the term "compliance" appeared in other Resolutions of the National Bank of Ukraine, which have expired now. For example, in the Resolution of the Board of the National Bank of Ukraine of December 29, 2014 № 867 "On approval of the Regulation on the organization of internal control in banks of

Ukraine", compliance was defined as compliance with legislation, market standards and internal standards, procedures and documents in banks of Ukraine (National Bank of Ukraine, 2014).

The concept of "tax compliance" and its application is quite new in the tax system of Ukraine. It was firstly defined in the official publication of the State Tax Service of Ukraine in 2019 and states that compliance is a duty to ensure compliance with legislation and international norms by developing and adhering to certain domestic policies and procedures (Visnyk, 2019).

In our opinion, the concept of compliance should be considered as an act of implementation or observance of laws and regulations, which is a consequence of trust the government and recognition of laws. Tax compliance means that taxpayers have fulfilled their legal obligations under tax law, and includes fulfilling their obligations to submit all tax returns (declarations) and paying tax payments. However, tax compliance is a mandatory requirement for all taxpayers without exception.

In Ukraine in 2019, the State Tax Service began preparing a compliance strategy – "Promotion strategy of voluntary compliance with tax legislation", as the first step towards positive changes in tax administration and interaction between fiscal authorities and taxpayers. In 2021, it was made a decision to introduce a system of tax compliance, which defines that tax compliance is a set of motives and incentives for taxpayers that encourage them to comply with tax law, legislation on the payment of a single social contribution and payment of state and local taxes (EVP, 2021).

Thus, tax consultants, professionally knowledgeable in the field of taxation, have a unique position in the market of relevant services, because they interact and work for both the government and taxpayers. They act as agents of fiscal authorities on tax compliance between the taxpayer and the government and a regulator of relations between the taxpayer and the fiscal authorities (FA).

The complexity of tax legislation may be the reason for the violation of taxpayers' control over it. Taxpayers do not have the desire and time to understand the intricacies of the law. As a result, they may act passively, referring all matters relating to tax liabilities to a tax advisor. Thus, all decisions can be made by consultants themselves, which can lead to abuse and control of taxpayers' behavior. That means, that taxpayers will do everything that the tax consultant offers.

The role of the tax advisor as a taxpayer compliance controller can be seen in the context of changing the behavior of taxpayers under the tax burden. This can lead to tax evasion (legal and illegal) and fraud. In turn, tax advisors can also be quite "creative" and use their expert status to have some motivation to abuse. And this, in turn, can lead to loss of revenue by the state and harm the country's tax system.

As noted above, tax advisers as independent professionals can act as intermediaries between taxpayers and fiscal authorities. After all, the government is interested in improving relations with taxpayers and preventing or changing the opinion of taxpayers that taxes are a burden for them. In such a situation, for positive and high-quality cooperation between taxpayers and the government, it is important to have an independent party to reconcile such a relationship, which can be a tax advisor (consultant).

Complicated tax regulations that make it difficult for taxpayers can create a negative perception and resistance of taxpayers to tax obligations, which can lead to conflicts between them and the fiscal authorities. Tax consultants in this situation act as intermediaries, they can also be useful in challenging (arbitrating) the results of tax audits.

The role of tax advisers as a regulator of the relationship between the tax-payer and the fiscal authorities in the context of ethical standards is also important, because the Code of Ethics is one of the basic documents of tax advisors. We noted above that due to certain circumstances, taxpayers may influence the behavior of consultants in order to evade taxes. The desire to minimize tax-payers' tax payments and the responsibilities of tax advisers as agents of the government and fiscal authorities to comply with the law requires strict adherence to the code of professional ethics.

6. Conclusions

The conclusions and generalizations made in this article prove the necessity of consolidation and further development of the institution of tax consulting in the tax system of Ukraine. The experience of foreign tax systems proves that it is impossible to achieve sufficient efficiency of the tax system without the services of tax consultants, because the most taxpayers do not have the necessary (expert) knowledge of tax law. In turn, tax advisors can help businesses determine reliable tax liabilities by optimally linking tax discipline to the financial interests of a particular business.

Based on the research, it is proved that tax advisors can perform different functions (act in different roles) in the interaction between taxpayers, fiscal authorities and the government. They are qualified representatives for taxpayers in solving certain tasks in the field of taxation, including in matters of tax planning and optimization of tax payments. At the same time, tax advisers are important as intermediaries, arbitrators, regulators in the relationship between taxpayers and the government, and they act as agents of fiscal authorities on tax compliance of taxpayers.

In our opinion, further research in the field of tax consulting should additionally focus on the formulation of ethical principles of conduct of tax consultants, which according to world practice are of great importance in their activities. In addition, the state needs to consolidate the legal status and registration of tax advisers at the legislative level. This is possible, including through the establishment of the procedure for documenting the advice provided, the responsibility of the consultant for poor quality services, which is a separate important area of further research.

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