

CONFLICT IN THE SPHERE OF TAX RELATIONS AS A PRECONDITION FOR THE EMERGENCE OF A TAX DISPUTE

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Abstract. In the article, the author notes that the relations arising between the subjects of public and private law in the process of financial activity of the state, are multidimensional in nature and in their social, political and legal content are conflicting. And these conflicts are caused primarily by contradictions between private and public property interests. Conditioned by the implementation and enforcement of public-law interests, the desire of an authority subject to seize the financial means of a private subject becomes a consequence of the objectively existing contradiction between public and private interests.

The taxpayer counteracts his subjective right – the right of ownership, which mediates the realization of his legitimate interest – the interest of owning, using and disposing of his property – to the demands of public authorities. Resolution of such conflict is possible through legalization of financial claims of public authorities on the basis of legislative consolidation of strictly defined conditions, grounds and procedure for the recovery of private funds.

The law for objective and subjective reasons is not free from gaps, which the legislator is objectively unable to provide. In addition, the reality is that in the Ukrainian conditions the process of building a tax system is largely haphazard, with the absence of a definite program and direct dependence on the needs of the state budget.

Application of tax legislation in practice reveals the presence of contradictions with previously adopted acts of tax legislation. 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 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 occurrence forms the basis for the emergence of a tax dispute, because it requires a solution, the implementation of which is impossible without recourse to the competent authorities of the state. In this regard, before the application of an interested person to a jurisdictional body, 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 – a stage aimed at resolving a conflict.

Key words: tax dispute, balance of interests, taxpayer, tax authority, tax law, public and private interests, conflict.

JEL Classification: H20, K34

1. Introduction

Interest in taxation as one of the institutions of social life was manifested practically at all stages of the development of human civilization. It is noteworthy that with the development of social relations and the strengthening of the role of taxes as one of the essential sources of public revenue, the question of the right of the state to levy taxes has lost its relevance and debatability. The question of the right of the state to levy taxes and the obligation of citizens to pay them can be left without consideration; we are left with the rationale for taxes which derives from the sovereignty of the state.

Development of market relations in Ukraine is aimed at building an independent and autonomous state.

They require socio-economic and legal reforms to create an effective tax system capable of ensuring the tax security of the state.

Given the particular importance for the state of compliance with the public interest in the field of taxation and the need to protect the rights and legitimate interests of taxpayers in the field of public-law relations, the issue of establishing the causes and resolution of conflicts in the field of tax relations requires proper attention.

It should be noted that a special place among legal conflicts is occupied exactly by conflicts in the sphere of tax relations, as they relate to the defining for the state and private subjects sphere – financial. Tax legal relations, by all accounts, are the most conflictual

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among others. Implementation of tax-legal norms is accompanied by a significant number of legal conflicts due to different reasons. So, in particular, due to inefficient administration of taxes and fees, there are conflicts between tax authorities and taxpayers.

Timely identification of the causes of tax conflicts, forecasting their development and the use of effective ways of legal regulation can significantly reduce social tension in the tax sphere and the burden on the administrative courts to resolve tax disputes.

Proper execution by taxpayers of duties on payment of taxes and appropriate implementation by tax authorities of their powers ensure the balance of private and public interests in the tax sphere and prevent the emergence of conflicts. Unfortunately, the practice of tax law enforcement in recent years shows the growth of tax conflicts.

The above arguments show that today there is a need for rethinking the essence of tax conflicts and the development on this basis of new scientific-theoretical and practical provisions aimed at preventing and reducing them.

2. Analysis of recent research and publications

The issue of resolving tax disputes is relevant and studied in the literature of the country, in particular by such lawyers as O. M. Bondarenko, O. O. Dmytryk, V. O. Kurylo, M. P. Kucheriavenko, K. V. Minaieva, A. O. Monaienko, Ye. A. Usenko.

The ratio of rights and obligations of taxpayers and the state, represented by the tax authorities, is the criterion that determines not only the legal status of the taxpayer, but also the freedom and openness of doing business in the state as a whole. Unfortunately, there is an obvious imbalance of rights and obligations of taxpayers and the state in favor of the latter.

The tax system reflects the contradictory nature of the country's economic and political development. On the one hand, the tasks facing the public authorities need to maximize tax revenues. Besides, there is an obvious need to develop the priority branches of economy, to support private business, which implies a liberal tax policy; reduction of tax rates, first of all, in the real sector of the national economy.

Taxation is predominantly aimed at current increases in tax revenues, resulting in an actually inflated aggregate burden of assessed taxes that average taxpayers cannot bear.

It is true that the right to levy taxes is a partial manifestation in the state's power over its citizens. However, the fact that taxes are necessary in a modern state in no way means that each tax is justified in content, proportionality, and scope, nor that the overall tax burden imposed on taxpayers is justified.

It is this circumstance that leads to many contradictions arising in the sphere of relations related to

the calculation and payment of taxes and fees. As rightly points out Yu. A. Krokhhina, relations and public relations arising between private and public entities in the process of financial activity of the state, are multidimensional, complex in nature, and in their social, political and legal content – at first, a conflictual nature. And these conflicts are caused primarily by contradictions between private and public property interests. The state as an exponent of public interests expresses group interests, always coinciding with the interests of an individual (Krokhhina, 2003).

According to M. V. Karasova, if existing at the level of society as a whole, the objective need for financial support of the state is transformed into a political interest and is realized by the whole society, then at the level of an individual such transformation is objectively absent. That is why each individual is not interested in paying taxes to the state budget, as it is associated with a direct restriction of his personal interests (Karasova, 2003).

3. Regulatory and legal framework for tax relations

Public interest, which directly determines the degree of normative regulation of these tax relations, forces the state to introduce these relations in a rigid legal framework in order to eliminate the discretion of the parties or to minimize it in the payment of obligatory payments. Objectives of legal regulation are achieved by enshrining positive obligations and legal prohibitions.

However, it is important to note that in a state governed by the rule of law, this method of legal regulation, in turn, dictates the need to provide certain legislative conditions for the implementation of the requirements of public authority, as well as define and legislate mechanisms to make tax collection arbitrary. In this connection, one of the important guarantees for taxpayers against unjustified deprivation of their property, developed at the present stage of development of the theory of tax law, is the establishment by law of the types and bases of mandatory payment, the order of its payment, the limits of legitimate requirements of the state, as well as the limits of power competence of the state represented by the relevant authorized government bodies.

In the process of formation and development of tax legislation, it can be argued that legally established tax can be considered only when its collection is provided by the relevant general legal bases of legislation by an act of tax legislation, adopted and enacted in the prescribed manner, which defines all the essential elements of taxation and provides legal guarantees to taxpayers against arbitrary deprivation of their property.

Thus, in particular, according to Item 4.1.9 of Article 4 of the Tax Code of Ukraine, the principle of

stability of legislation, according to which changes in any elements of taxes and fees cannot be introduced later than six months before the beginning of a new budget period in which new rules and rates will be in effect, is enshrined. Taxes and fees, their rates as well as tax benefits may not be changed during the budget year (Tax Code of Ukraine).

According to the decision of the Supreme Court of Cassation Administrative Court of March 17, 2021 in case No. 816/846/16, the special principles of tax law are aimed, among other things, at specifying one of the aspects of the principle of legal certainty – the requirement of reasonable stability of law, which predetermines the need for permanence of legal prescriptions over time. Similar legal conclusions have already been made by the Supreme Court in its ruling of September 7, 2018 in case No. 826/18755/15.

In the context of the established circumstances of the case and disputed legal relations of the parties, the Supreme Court considers it necessary to note that subparagraph 4.1.9 of paragraph 4.1 of Article 4 of the Tax Code of Ukraine stability principle clearly states that changes in any elements of taxes and fees may not be introduced until six months before the new budget period in which the new rules and rates will be valid. Taxes and fees, their rates, as well as tax exemptions may not be changed during the budget year.

According to the same decision of the Administrative Court of Cassation in the Supreme Court, the principle of stability of tax law provides for the mandatory observance of two prohibitions:

- 1) prohibition of changes to any elements of taxes and fees later than six months before the start of the new fiscal period in which the new rules and rates will apply;
- 2) prohibition of changes in taxes and fees, their rates, and tax incentives during the fiscal year.

Thus, the historical (in historical development) and normative approach to understanding the provisions of Article 252 of the Tax Code of Ukraine, in particular paragraph 252.20, gives reasons to argue that the changes in the tax (fee) rates, introduced by the Laws No. 1621-VII and No. 71-VIII in 2014 less than six months before the new budget period (2015), can be applied in accordance with the principle of tax stability only for the new budget period – that is from 2016.

It is in this case the condition of subparagraph 4.1.9 of paragraph 4.1 of Article 4 of the Tax Code of Ukraine, according to which changes to any elements of taxes and fees may not be introduced later than six months before the beginning of a new fiscal period in which the new rules and rates will operate, that is, the principle of stability of tax relations will be met. The specified principle not only determines the rules of norm-setting in the sphere of taxation, but also determines the scope of rights and obligations in this sphere. In particular, based on the principle of stability, the taxpayer has the right to the invariability of the

tax regime, elements of the tax and predictability of the introduction (establishment) of the tax obligation by the state, due, among other things, to the advance introduction of appropriate changes clearly defined time limits.

On these grounds, the appellant's arguments for deviation from the legal position of the Supreme Court in the rulings on cases No. 804/1473/17, No. 806/622/16, No. 820/1198/16 are unfounded, because the subject of the dispute in these cases was the definition of real estate tax. At the same time, the courts in these cases proceeded from the application of the principle of tax stability due to the invariability of the taxation regime and the establishment of tax rates beyond the six-month period before the beginning of the new fiscal period.

The Supreme Court states that the stability principle stated in Article 4 of the Tax Code of Ukraine as one of the key principles on which the tax legislation is based is applicable regardless of the type of tax (levy): national or local. This principle is recognized by the legislator as one of the basic principles of tax legislation. The provision of paragraph 4.1.9 of paragraph 4.1 of Article 4 of the Tax Code of Ukraine, defining the general basis for the stability of tax legislation, resulting from the need to ensure legal certainty in the performance of a person's tax obligations has a general meaning in the regulation of tax legal relations by acts of tax legislation.

However, the legislative form of regulation of relations in the tax-legal sphere is not able to timely and adequately reflect the changes taking place in public life.

4. The legal nature of conflict in tax relations

The process of improving the system of tax legislation cannot completely eliminate collisions of legal norms or contradictions between separate normative-legal acts. Moreover, the desire of state authorities to increase the volume of public financial activity and, as a consequence, the natural response of the subject of private law, seeking to preserve their property, inevitably leads to conflict situations in the sphere of tax legal relations. The taxpayer opposes the demands of public authorities to his subjective right – the right of ownership, which mediates the realization of his legitimate interest – the interest of owning, using and disposing of his property.

Generalization and study of the features of the conflict from the standpoint of law is carried out by legal conflictology. In this case a legal conflict should be recognized as any conflict in which the dispute is somehow connected with the legal relations of the parties (their legal significant actions or states) and, therefore, the subjects or motivation of their behavior, or the object of the conflict have legal characteristics, and the conflict entails legal consequences.

The specified system of signs shows that arising conflicts in the sphere of relations, regulated by tax legislation, by their legal nature are legal conflicts. The sphere of emergence of these conflicts is the financial activity of the state, and the content of conflicts are different interests of participants and their confrontation on realization of their interests.

However, the presence of opposing interests of the subjects of tax legal relations does not yet mean the transformation of social-legal connection between them into a legal conflict. Legal conflict will take place in case of committing by its parties diametrically opposed actions (or inaction of one of the parties), the main motive of which is unwillingness to respect the rights and interests (or requirements) of the opposite subject.

However, despite the fact that contradictions in the tax-legal sphere are of potential nature, they do not always entail the emergence of conflict situations. The initial possibility of contradictions to develop into legal conflicts, according to Yu. A. Krokhnina, determines the need for imperative influence of the state on the behavior of subjects of financial law through appropriate legal means (Krokhnina, 2003).

V. V. Tylchik notes that a tax dispute is a form of conflict resolution (conflict of interests) in the field of tax legal relations, which is public in nature, occurs between the state and taxpayers or other participants of tax legal relations on the application of tax law norms, resolved by an authorized jurisdictional body in a procedural order (Tylchik, 2010).

In the proper performance by the obliged subjects of their duties and the appropriate implementation by the state of its financial competence, the conflict does not develop into a conflict, because adequately chosen legal mechanisms will maintain the necessary level of financial discipline. However, with the unwillingness of one party to comply with the legal prescriptions of the other and disagreement of the other party with the inaction of the first, there is a legal conflict in the financial and legal sphere.

It is interesting to note the inverse relationship that exists between the legal conflict as a clash of contradictions and the effectiveness of legal regulation of relations in which the conflict occurs. Timely identification of contradictions arising in the law enforcement activity, analysis, forecasting of their development should contribute to the choice of adequate legal means and optimization of legislation.

It is in this regard, the studies devoted to the problems associated with the study of conflicts point to the positive nature of the latter, consisting in the function of stimulating the adaptation of the social system or its individual elements, including actors in a changing environment. Conflicts are seen as a driving mechanism of social change, the processes of development, modernization and disintegration

of exhaustible formations, and on this basis, in stable situations, conflicts identify problems, contribute to the formation of new needs and development trends, play an important role in the formation of interests.

The positive role of conflicts is noted in legal science. So A. M. Kurinnyi and V. I. Myronov on the problem of conflicts point out that the conflict is a kind of springboard on which the effectiveness of legal norms and the ability of the state and society to really guarantee the implementation of human rights (Kurinnyi, Myronov, 1997).

Indeed, the conflict in law, being closely connected with the processes of lawmaking and law enforcement, thus, in the words of V. M. Kudriavtsev, reflects its kind of internal cycle and life of law, the technology of its development and functioning (Kudriavtsev, 1995).

Arising in relation to different legal acts and legal norms, contradictions are exacerbated due to the unequal attitude of subjects of law to one and the same legal norm, their different understanding of the meaning of the norm, the scope and limits of its action, the circle of persons to whom it applies. Often there is selectivity in the choice of the norm of law to apply in a particular situation, related to those or other advantages, false starting position of one of the parties.

The desire of one subject to seize financial means contrary to the wishes of the other party, conditioned by the implementation and ensuring of public-law interests, becomes a consequence of objectively existing contradiction between public and private interests. At the same time, the conflict of interests in the field of tax legal relations lays the foundation for the transition of the contradiction to another stage, characterized by the emergence of different initial 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.

At this stage, the tax conflict acquires a so-called cognitive nature, due to the presence of a legal dispute and based on different understanding and interpretation of the relevant legal norm.

At that, it is necessary to agree with the opinion of Yu. A. Krokhnina, who believes that a cognitive conflict develops simultaneously with the conflict of financial interests or somewhat later – in the process of implementation of financial responsibility; however, in any case a cognitive conflict accompanies and develops a conflict of interests (Krokhnina, 2003).

5. Causes of tax conflicts

The essence of this type of conflict is the desire of each of the parties to the disputed tax-legal relationship to justify their own, often diametrically opposed position.

Conflict as a reality of social life is a consequence of a number of causes and conditions, and causality

in the social sphere is characterized by considerable complexity and confusion. It is hardly possible to agree with the opinion of V. M. Kudriavtsev that every social action entails a variety of different and even contradictory consequences; a conflict can ultimately be caused by completely innocent actions of individuals or groups in a fairly distant relationship with the opposing parties (Kudriavtsev, 1992).

However, the most complete picture of the causes of a particular legal conflict can be given by assessing the sphere of relations in which the corresponding conflict arises. Such a feature of tax-legal relations as a high level of normative-legal regulation, based on the prevalence of legal prescriptions and prohibitions and due to the need to ensure both stable economic conditions for taxpayers, and guarantees against unreasonable requirements of public authorities. Given this, the legal norm, being, on the one hand, a guide to the action of the subjects of legal relations, on the other hand, acts as a kind of source of contradiction.

Laws and regulations and the process of their implementation are constant indicators of legal conflicts. Some conflicts are caused by regulations of poor quality, untimely or hastily adopted. Conflict is also evident in the case of latent or apparent contradictions in one legal act or several acts regulating a certain issue. At the same time, the conditions with which a conflict may be associated can be both subjective and objective in nature. Any legal conflict based on a norm of law is generated by a legal understanding – erroneous, ambiguous, etc. At the same time, for objective reasons, imbalances arise in the legal system due to either a delay in the adoption of a particular normative legal act, or a violation of the competence of the subjects of norm formation, or different legal regulation of the same issue.

These reasons were most clearly identified at the beginning of the formation of the tax system. The tax law of Ukraine was created hastily, in the new conditions of economic management, without any proper quality of the legislative and practical base. It was necessary to respond quickly to the revolutionary economic processes, to urgently replenish the respective budgets, and this could not but affect the level of legal technique of the adopted tax legal acts. As a result, the Ukrainian tax system received the following legal problems:

- contradiction of the tax legislation to the Constitution of Ukraine (decision of the Constitutional Court of Ukraine of February 27, 2018 No. 1-p/2018 on the case of constitutional submissions of 48 people's deputies of Ukraine on compliance with the Constitution of Ukraine (constitutionality) of provisions of paragraphs 13, 14 of paragraph 32 of section one of the Law of Ukraine "On Amendments to the Tax Code of Ukraine and Some Legislative Acts of Ukraine on Tax Reform" and the Supreme Court

of Ukraine on the compliance with the Constitution of Ukraine (constitutionality) of the first paragraph of subparagraph 164.2.19 paragraph 164.2 article 164 of the Tax Code of Ukraine (the case of taxation of pensions) and monthly maintenance and principles of tax law (The decision of the Constitutional Court of Ukraine of February 27, 2018);

- contradictions of certain provisions of the Tax Code of Ukraine. For example, the decision of the Constitutional Court of Ukraine of June 5, 2019 No. 3-p(I)/2019 on the case on the constitutional complaint of Limited Liability Company "METRO CASH & CARRY" on the compliance with the Constitution of Ukraine (constitutionality) of the provisions of paragraphs twenty-fourth, twenty-p' fifth, twenty-sixth section I of the Law of Ukraine "On Amendments to the Tax Code of Ukraine" to clarify certain provisions and eliminate contradictions arising from the adoption of the Law of Ukraine "On Amendments to the Tax Code of Ukraine on improvement of the investment climate in Ukraine" of March 23, 2017 No. 1989-VIII. The Court finds that although the prescription concerning the non-application of limitation periods to these amounts of overpaid monetary obligations contributes to the continued maintenance of taxpayers' legitimate expectations of the possible return of overpaid land payment amounts, the provisions of the first sentence of paragraph twenty-six of Section I No. 1989 prohibit the return of such land payment amounts. The Constitutional Court of Ukraine concluded that there is a contradiction between the first and second sentences of paragraph twenty-six of Section I of Law № 1989, which led to legal uncertainty (The decision of the Constitutional Court of Ukraine of June 5);
- violation of the procedure for the adoption and entry into force of a legal and regulatory tax act;
- inconsistency of subordinate acts with the Tax Code of Ukraine.

At the same time, to date, tax law, as noted by many experts in the field of tax law, remains one of the conflicting branches of the Ukrainian system of law.

6. Problems of law review and law enforcement in the sphere of tax legal relations

The number of tax disputes arising between the state and taxpayers indicates, in particular, the unequal interpretation of tax law norms, which is the main cause of conflict situations in the sphere of tax legal relations. So, for example, 2020 was marked as the year without documentary tax audits, but the courts have considered thousands of tax disputes. In 2020 the courts considered 24.3 thousand cases totaling 79.1 billion UAH. General statistics shows that about 58% of cases have been considered in favor of the State Tax Service. However, the statistics of the

statements of claim for the recognition of illegal and the cancellation of tax notifications-decisions are still in favor of taxpayers, since from 9.8 thousand cases examined, in 5.7 thousand cases the decisions were made in favor of the taxpayers in the total amount of 22.52 billion UAH (Liga Zakon).

In addition to various other reasons, the effect of the introduction of a codified tax legal act was reduced by the fact that such an important basic document was adopted hastily, and along with it continued to operate both the previous tax laws and other sectoral acts containing the norms of tax legislation.

Further reform of the tax legislation was also carried out in a hurry, as a result of which the legislator often directly violated the principle of stability of the tax legislation, enshrining the temporary requirements for the adoption of acts of tax legislation. The mentioned circumstances led not only to internal contradictions and unwieldiness of the tax legislation, but also resulted, simply, in the irrelevance of some provisions of the Tax Code of Ukraine.

Unfortunately, the current tax legislation is characterized by such phenomena as instability, complexity and inconsistency. Contradictions in the acts of tax legislation between themselves or within the document are manifested both in the substance of tax requirements and formal features, which may provoke disagreement.

A number of key concepts in tax and legal regulation have either received a truncated definition compared to other sectoral legislation that uses these concepts, or have different legal regulation by text.

Significant contradictions in the tax legislation are inherent in the provisions relating to the establishment of objects of taxation, extremely unacceptable, since it is these provisions that secure the emergence of tax debt.

Problems of legal understanding and law enforcement in the sphere of tax legal relations are also worsened by a rather high volume of departmental non-regulation. The Ministry of Finance of Ukraine, the State Tax Service of Ukraine as interested parties disputable norms are interpreted not in favor of taxpayers. At the same time, often departmental acts of these subjects of power from the clarification of the acts of tax legislation often establish rules of conduct, providing a binding obligation for taxpayers.

And according to paragraph 4.1.4 of Article 4 of the Tax Code of Ukraine, the presumption of legitimacy of decisions of the taxpayer in the case, if the norm of the law or other regulatory legal act issued on the basis of law, or if the rules of different laws or different regulatory legal acts suggest ambiguous (multiple) interpretation of rights and obligations of taxpayers or regulatory authorities, due to which there is an opportunity to decide in favor of both the taxpayer and the controlling body (Tax Code of Ukraine).

In addition, in overcoming the conflicting nature of the current tax legislation a significant role can be played by the rule on the priority of the norm with the most favorable for the person interpretation, applied by the European Court of Human Rights in its practice. Here the final judgment of the ECtHR of 14 January 2011 in the case "Shchokin vs. Ukraine" is telling, in which the Court found a violation of the applicant's rights guaranteed by Article 1 of the First Protocol to the Convention, firstly, due to the fact that the relevant national legislation was not clear and consistent and therefore did not meet the requirement of "quality" of law and did not provide adequate protection against arbitrary interference in the property rights of the applicant; second, the national authorities have not complied with the legal requirement to apply the approach that would be most favorable to the applicant – a taxpayer, when in his case the national law implied ambiguous interpretation.

Unfortunately, the taxpayers do not always give proper legal assessment of such acts. Often, the regulatory instructions of the tax authorities are disguised in documents not formally addressed to the taxpayers (methodological recommendations), such as the order of the State Tax Service of Ukraine "On Approval of Methodological Recommendations on Organization and Conduct of Counter-Checks by Controlling Authorities, on Exchange of Tax Information during the Tax Control" of January 29, 2020 No. 47 (Order of the State Tax Service of Ukraine).

If in its relations with the taxpayer the tax authority its refusal to meet the requirements of the taxpayer when appealing, for example, tax notice-decision can be justified by reference to methodological recommendations, the judicial practice goes by the recognition that the relevant part of the recommendations acquires the features of normativity and can be appealed in court under the rules of the Code of Administrative Procedure of Ukraine.

However, often the tax authorities justify their claims on such methodological recommendations, and taxpayers often accept this position of the tax authorities. The formation of such a trend is largely due to the position of taxpayers, which is based on an error in the legal nature of methodological recommendations.

Inconsistency, inconsistency, gaps, vagueness of the tax legislation are now noted by many experts in the field of tax law. This is due to the fact that among the priorities of the tax reform its developers see only economic effect by reducing the tax burden. Meanwhile, the tax reform has an important legal component, the development of which has been delayed. The state of legal tools in tax law is characterized by an extremely low level, which ultimately affects the economic results of the tax reform, because the problems of law enforcement require additional

involvement of material, labor, organizational resources.

These circumstances dictate the urgent need for the intervention of law, due to its normativity and ability to be a binding measure of freedom for all and everyone is able to express the coordinated will of various social groups of society, to establish, maintain, protect and defend a certain balance of interests of the individual, society and the state.

The task of the law is to enshrine legal procedures for overcoming conflicts in the sphere of tax legal relations, because without their presence legal relations are without guarantee of implementation, and the arisen disagreements will not receive a mechanism for legal implementation.

Moreover, the lack of conflict resolution mechanisms makes it impossible to implement the legally granted rights of one of the parties to legal relations, in particular of a publicly obliged person – taxpayer, since the use of means of self-protection of the right in the field of public legal relations is significantly limited, and failure to comply with the legitimate requirements of the tax authority is associated with the possibility of liability measures in the form of penalties and/or fines.

Therefore, when the potential danger of violation of the rights of taxpayers is inevitable, the task of the state is to provide guarantees for the protection of rights on the basis of mechanisms to ensure compliance with the law by subjects of authority.

7. Conclusions

Relations arising between the subjects of public and private law in the process of financial activity of the state are of multidimensional nature and in their social, political and legal content are conflicting. And these conflicts are caused primarily by contradictions between private and public property interests. The desire of a powerful subject to seize the financial means

of a private subject, caused by the implementation and enforcement of public law interests, becomes a consequence of the objectively existing contradiction between public and private interests.

The taxpayer counteracts his subjective right – the right of ownership, which mediates the realization of his legitimate interest – the interest of owning, using and disposing of his property – to the demands of public authorities. Resolution of such conflict is possible through legalization of financial claims of public authorities on the basis of legislative consolidation of strictly defined conditions, grounds and procedure for the recovery of private funds.

The law for objective and subjective reasons is not free from loopholes, which the legislator is objectively unable to provide. In addition, the reality is that in the Ukrainian conditions the process of building a tax system is largely unsystematic, with the absence of a definite program and direct dependence on the needs of the state budget.

Application of tax legislation in practice reveals the presence of contradictions with previously adopted acts of tax legislation. 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 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 occurrence forms the basis for the emergence of a tax dispute, because it requires a solution, the implementation of which is impossible without recourse to the competent authorities of the state. In this regard, before the application of an interested person to a jurisdictional body, 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 – a stage aimed at resolving a conflict.

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