

COLLECTION OF TAX ON PROPERTY OTHER THAN LAND PLOTS: CURRENT STATE AND PROSPECTS FOR IMPROVEMENT

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Abstract. The *purpose* of the article is to study the historical and theoretical foundations of levying the tax on immovable property other than a land plot, to develop proposals for eliminating gaps in legislation and to expand the scientific basis for studying the above tax. *Methodology.* The study is based on the analysis of tax legislation in the field of levying tax on immovable property other than a land plot. The article outlines the historical stages of formation and development of taxation of immovable property other than a land plot. This paper analyses the current changes in legislation and establishes that the adjustments to legal regulation have affected the provisions of the list of objects and tax rates, the tax period, and the mechanism of forming a tax decision-notification. It is found that the formation of a scientific basis for the study of taxation other than land is relevant. Recent research in the field of real estate taxation is reviewed and analysed. The main doctrines and scientific positions are presented, and the analysis of domestic legislation is carried out. The imperfection of tax legislation is substantiated. The authors analyse the conceptual framework of the Tax Code of Ukraine. It is also determined that the term "tax collection" is an independent and highly specialised term, which means a set of actions of controlling authorities in the field of tax collection on real estate other than a land plot. A detailed analysis of real estate objects that are not subject to the tax under study was carried out. The research reveals abuses by taxpayers in determining the tax base for real estate objects for which the ownership is not registered. It is proposed to amend the list of taxable real estate owned by spouses in joint ownership. Positive changes in tax legislation under martial law are outlined. The difficulty of effective collection of tax on immovable property other than a land plot is substantiated. *Results.* In the course of the study of the theoretical foundations of taxation of immovable property other than a land plot, the authors concludes that the legislative framework for taxation has gone through its historical path and continues to evolve. Over the period of validity of the TC of Ukraine, Article 266 has undergone numerous changes, both positive and negative, however, this indicates that the legislator is looking for the best ways to ensure the quality of the tax under study. The article reveals discrepancies in the categorical apparatus of the Tax Code of Ukraine, the legislator uses the terms "administration" and "collection". This paper considers it appropriate to use the concept of levying tax on real property other than a land plot. The authors substantiate the imperfection of legal provisions regulating the collection of tax other than land, which contributes to the abuse of taxpayers. A positive novelty of the legislation is the inclusion of those objects that are not subject to taxation that are destroyed, damaged (requiring major repairs) and destroyed during the period of hostilities. *Practical implications.* The article provides proposals according to which amendments to the TC of Ukraine will facilitate more efficient collection of tax on immovable property other than land plots. *Value/originality.* The article provides proposals for amendments to the TC of Ukraine in terms of taxpayers' obligations, clarification of the preferential category of the tax base and jointly owned property.

Key words: tax on immovable property other than a land plot, administration, tax paid, tax base, immovable property.

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1. Introduction

The issue of determining taxpayers, tax base, taxable object, tax rate, tax benefits, collection and administration of taxes is always relevant, as a coherent and lawful policy in this area guarantees the filling of budgets at all levels. The tax on immovable property other than a land plot has passed its historical stage of development and is currently classified as a local tax. The formation of a culture of collection of the above tax by local governments began with the adoption of the Tax Code of Ukraine (hereinafter – the TC of Ukraine). However, the procedure for collecting this tax has undergone numerous changes over the past 11 years (Article 266 of the TC of Ukraine has been amended thirteen times, which has significantly changed its content) (Tax Code of Ukraine, 2010). The adjustments affected the legal regulation of taxable objects (in particular, the exclusion of certain objects from taxation), tax rates, tax period, and the procedure for accruing a monetary obligation to individual taxpayers using tax assessment notices. The relevant changes have significantly affected the mechanism of levying tax on immovable property other than a land plot, which makes this research relevant.

The peculiarities of levying tax on real estate other than a land plot were addressed by the following authors: O. Bahrii, N. Bobokh, S. Savchenko, V. Stipakhno, N. Flissak. Particularly noteworthy are the studies of A. Duilko (Duilko, 2017), who analysed the theoretical foundations of real estate taxation in her dissertation, noted the current state and prospects for improving the tax legislation of Ukraine. V. Dmytriv (2021) reveals the economic nature and role of property taxes in Ukraine. A. Melnik (2014) studied the evolution of real estate taxation in Ukraine and the world. T. Brzezicki (Brzezicki, 2021) and O. Rieznik (Rieznik, 2017) in their scientific works provided a general description of the tax on real estate other than land. M. Dumchikov (Dumchikov, 2015) investigated the theoretical foundations of the historical aspect of the development and formation of the system of local taxes and fees. However, the mechanism for levying tax on immovable property other than a land plot requires a comprehensive study.

The purpose of the article is to study the historical and theoretical foundations of levying the tax on immovable property other than a land plot, to develop proposals for eliminating gaps in legislation and to expand the scientific basis for studying the above tax.

2. Current Status of Taxation of Immovable Property Other Than Land Plots in Ukraine

The property tax has many positive aspects; it is fairly simple and transparent in its administration; it is relatively fixed in the short term, which can ensure

stable budget revenues. Taxation of real estate will facilitate better valuation of their assets by enterprises and lead to a redistribution of funds from less efficient to more efficient owners, which is currently extremely important for the Ukrainian economy, given the non-transparent and often inefficient distribution of property in the privatisation process. In addition, the amount of real estate tax and the procedure for its collection may significantly affect the pricing policy of real estate market participants by increasing the costs of property maintenance for owners or tenants. By setting appropriate taxation rates, the authorities influence the areas of activity related to the use and construction of real estate, stimulating the development of a particular sector of the real estate market.

Currently, real estate tax exists in about 130 countries around the world, but its importance in budgeting varies. The possibility of introducing a real estate tax in Ukraine was first discussed in the early 1990s. The first step in introducing a real estate tax was taken during the implementation of projects in Ivano-Frankivsk and Luhansk oblasts, where a simplified form of taxation was modelled based on very low tax rates per square metre of building area (0.1 UAH for residential and 2.9 UAH for commercial buildings). Even so, additional revenues from this tax accounted for an average of 25% of the revenues of the lowest level budgets from their own sources (Maistrenko, 2010).

Real estate tax is an exclusively local tax in the EU. The share of this tax in local budget revenues ranges from 10% in Denmark, Finland, Greece, and Luxembourg to 50% in Belgium, Latvia, Lithuania, Poland, Slovakia, Slovenia, Spain, and almost 100% in the UK, Estonia, and Ireland. In addition, the experience of Central and Eastern European countries shows that tax administration can be greatly facilitated by setting the tax rate depending on the area and location of the taxable object rather than on its value (Maistrenko, 2010).

Today, the tax on immovable property other than land plots ranks third in the structure of local budget revenues (Table 1, Figure 1), and there are annual trends towards an increase in its share in the overall structure.

The analysis of the structure of tax revenues made it possible to conclude that the largest level of revenues is accounted for by the single tax (51.5% in 2021) and land tax (39.2% in 2021). Tax revenues from property other than land in 2021 amounted to 8.7%, which is more than 1.1% more than in the previous year and 2.7% more than in 2018.

Land tax revenues in 2022 amounted to 29.6 billion UAH, which is 16.2% less than in 2021. Unfortunately, local budgets did not receive 5.7 billion UAH in land payments. Property tax was under-received by

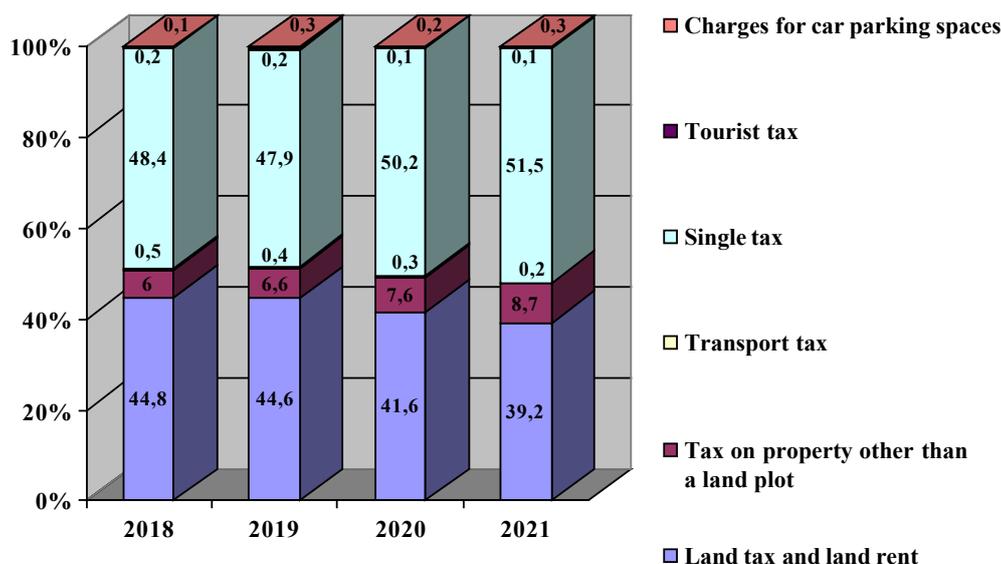


Figure 1. Structure of tax revenues to local budgets

Source: (Budget of Ukraine 2020: Statistical collection, 2021; Budget of Ukraine 2021: Statistical collection, 2022)

Table 1

Tax revenues of the consolidated budget of Ukraine, million UAH

	2018	2019	2020	2021
Tax revenues	986 348,50	1 070 321,80	1 136 687,20	1 453 804,10
Local taxes and fees	61 025,70	73 575,60	75 686,30	89 896,60
Property tax	31 272,00	37 993,90	37 433,40	43 242,70
Land tax and land rent	27 321,10	32 835,70	31 471,70	35 263,30
Tax on property other than a land plot	3 636,00	4 882,20	5 758,90	7 821,10
Transport tax	314,90	276,00	202,80	158,30
Single tax	29 564,20	35 270,20	38 031,00	46 282,40
Tourist tax	90,70	196,20	130,60	244
Charges for car parking spaces	99,90	114,90	91,20	99,3

Source: (Budget of Ukraine 2020: Statistical collection, 2021; Budget of Ukraine 2021: Statistical collection, 2022)

Table 2

Tax revenues to local budgets

Indicator	Kyiv			Zaporizhzhia			Odesa			Lviv		
	2020	2021	2022	2020	2021	2022	2020	2021	2022	2020	2021	2022
Personal income tax, million UAH	4294	20358	31528,4	3772,6	4376,7	5212,8	4675,5	5638,9	6474,7	4644	5379	7570,4
Single tax, million UAH	2198	9824	11236,2	191,8	1006,0	945,6	1292,6	1611	1600	1402,1	1913,9	2332,6
Land tax and land rent, million UAH	706	4439	3739,4	839	970,6	794,8	623,9	623,9	598,7	438	605,1	582,8
Tax on property other than land plots, million UAH	536	1774	1805,8	62,2	94,1	70,4	276,5	276,5	324,9	209,6	300,5	488,5
Excise tax on sales of excisable goods by retailers, million UAH	431	901	1988,2	337,7	372,3	291,6	536,2	642,6	904	349,4	513,7	531,8

Source: based on (information from the official websites of Kyiv City Council, Zaporizhzhia City Council, Odesa City Council, Lviv City Council, 2023)

0.7 billion UAH (less than 9.0%). The above is due to amendments to the tax legislation, which for the period from March 2022 to 31 December of the year following the year in which martial law is terminated or cancelled, does not charge and pay land fees (land tax and rent for state and municipally owned land plots) in the territories where military operations are

(were) conducted or in the territories temporarily occupied by the armed forces of the Russian Federation (Information on the execution of revenues of the general fund of local budgets for 2022, 2023).

Taking a deeper glance at the revenue side of the budgets of some Ukrainian cities, it is possible to see an upward trend in the level of tax revenues from

the levy of tax on property other than land (Table 2), in particular in the cities of Kyiv (31.8 million UAH more than in 2021), Odesa (48.4 million UAH more than in 2021), Lviv (188 million UAH more than in 2021). However, as can be seen in Zaporizhzhia, there is a decrease in revenues (by 23.7 million UAH), which, as mentioned above, is due to the fact that this city was classified as a territory where military operations are (were) conducted and taxpayers were granted tax privileges in the form of exemption from this tax.

The data presented in the table allow to conclude that there have been positive changes in the revenue side of local budgets, as there is a dynamics of growth in revenues from the tax on real estate other than land and other taxes. However, the formation of a theoretical framework for the study will create the basis for effective tax collection.

3. Problematic Issues in the Collection of Tax on Immovable Property Other Than Land Plots

When studying the mechanism of levying tax on immovable property other than a land plot, it is advisable to consider the conceptual framework. The TC of Ukraine uses the terms "administration" and "collection" of taxes, fees and charges. The legislator uses the first category in the title of the chapter of the main tax law and explains that the procedure for administering taxes and fees is defined in Section I of the Code. However, the scope of the TC of Ukraine extends to relations in the field of collection of taxes and fees. Thus, it is suggested to use the term "collection", since the legislator has clearly defined the scope of tax relations.

In support of the previous thesis, it should be noted that many scholars, in particular: M. Veselsky (Veselsky, 1999), A. Selivanov (Selivanov, 2002), V. Marchenko (Marchenko, 2010), L. Kasianenko (Kasianenko, 2004), also believe that the term "tax collection" is an independent, highly specialised term and define it as a set of actions of state tax authorities and taxpayers aimed at making mandatory payments to the budget.

Based on the thesis of A. Duilko, it should be mentioned that real estate is an ideal object for taxation in terms of administration and implementation of the fiscal function of the tax, but the use of combinations of various tax benefits and special tax regimes debunk such ideas (Duilko, 2017).

Regarding the categorical apparatus, the Tax Code of Ukraine does not define "real estate", but refers to the provisions of civil law, which may lead to certain misunderstandings in case of making decisions on granting tax benefits to taxpayers, or, conversely, excluding real estate from special regimes – creating opportunities for tax avoidance.

Continuing the above thesis, it is worth noting that in accordance with subparagraph 266.2.2, paragraph 266.2, Art. 266 of the TC of Ukraine, dormitories are excluded from the list of taxable objects. However, a room in a dormitory may be privatised and become the subject of contractual relations (sale and purchase, exchange, lease, etc.). A person may own several such rooms, and the total area of these rooms will correspond to the tax base. It is advisable to revise this legislative provision (content of subparagraph 266.2.2, paragraph 266.2, Art. 266 of the TC of Ukraine) and amend the list of taxable objects depending on the size of the room in the dormitory and the possibility of applying a tax benefit in the form of a reduction of the tax base.

Analysing the exemptions from the tax on immovable property other than land plots, it is worth pointing out that some scholars (O. Riezniak, A. Pelekhatyi, I. Kolomiets) argue that it is advisable to tax objects that are not put into operation but are used by individuals for residential purposes. This proposal is not in line with the Law of Ukraine "On Regulation of Urban Development" (part 8 of Article 39), which expressly prohibits the operation of completed construction projects and those that have not been put into operation, and furthermore, the connection of networks (water supply, gas supply, electricity supply) is only possible after obtaining a certificate or act of commissioning.

However, there are cases where newly built multi-storey residential buildings have been put into operation and the owner of the property rights is in no hurry to register the ownership, or the owner of a private residential building has reconstructed his property, thereby increasing its area, but has not registered the current changes; or the owner has merged two apartments into one without amending the technical documentation. These issues require further research and special attention from the legislator when developing and amending tax legislation, as the lack of regulation of these issues creates opportunities for tax avoidance.

Another controversial issue is the issue of joint ownership of spouses, namely, the title owner of real estate may be one of the spouses (this is not prohibited by law), but legally this property belongs to two persons. Based on the above, it is proposed to supplement subparagraph 266.1.2, paragraph 266.1, Art. 266 of the TC of Ukraine – with paragraph 'h' and set it out in the following wording: "If the residential and/or non-residential property is owned jointly by the spouses and the title owner is one of the spouses, the taxpayer is each of these persons based on the equality of shares."

The Decree issued by the President of Ukraine on 24 February 2022 (The Decree of the President of Ukraine "On the Implementation of Martial Law

in Ukraine", 2022) made certain adjustments to the taxpayer's tax liability, in particular, a number of regulations were adopted to ease the taxation conditions for taxpayers by providing tax benefits or exempting certain categories of taxpayers from tax liability.

In April 2023, the TC of Ukraine was amended and paragraph 69.22 of subsection 10, Section XX "Transitional Provisions" was supplemented, which provided for exemption from the accrual and payment of real estate tax other than on land plots for residential and/or non-residential real estate located in the territories of active hostilities or in the territories of Ukraine temporarily occupied by the Russian Federation, or destroyed as a result of hostilities, terrorist acts, sabotage caused by armed aggression (The Law of Ukraine "On Amendments to the Tax Code of Ukraine and Other Legislative Acts of Ukraine on Exemption from Environmental Tax, Land Payment and Tax on Real Estate Other Than a Land Plot for Destroyed or Damaged Real Estate", 2023).

In addition, village, settlement, city councils, military administrations or civil-military administrations have the right to decide on the residential/non-residential real estate that has been damaged as a result of hostilities, terrorist acts, sabotage, suffered minor damage but is suitable for living/use for the intended purpose and is subject to restoration:

- Exemption from taxation for the periods established by tax legislation;
- the establishment of a lower tax rate on immovable property other than a land plot.

The next controversial issue in the collection of tax on immovable property other than a land plot is the place of collection of this tax. The TC of Ukraine stipulates that the tax amount is calculated by the controlling authority at the tax address (place of registration) of the resident owner of the property and at the location of the taxable property owned by a non-resident. Unfortunately, the tax legislation does not contain any provisions defining the procedure for levying tax when taxable objects are located on the territory of several village, town or city councils, or when local authorities set different rates and tax exemptions.

The complexity of this tax lies in the fact that the obligation to charge it to individuals is assigned exclusively to the controlling authorities, which, by using the State Register of Real Property Rights, must determine the tax base. However, the State Register of Real Property Rights contains incomplete information on real estate objects, and some of the data on owners remains on paper and is stored in local technical inventory bureaus or in village and

town councils. Property owners only have the right, but not the obligation, to submit ownership documents for data verification.

In order to effectively collect tax on immovable property other than a land plot, it is proposed to impose an obligation on property owners to apply to the controlling authorities at the location of the property. The respective proposal may be enshrined in the TC of Ukraine by adding subpara. 266.7.3, para. 266.7, Art. 266 – by adding a clause 3, which should read as follows: "Taxpayers – owners of residential and/or non-residential real estate are obliged to submit a written application to the supervisory authority at the place of their tax address (place of registration) for data verification."

4. Conclusions

The analysis of the theoretical results of the study presented in the article allows the following conclusions to be drawn:

1. Legislative consolidation of the collection of tax other than land has passed its historical path and continues to evolve. During the period of validity of the TC of Ukraine, Article 266 has undergone numerous changes, both positive and negative, however, this indicates that the legislator is looking for the best ways to collect the tax under study in a quality manner.

2. There are discrepancies in the categorical apparatus of the TC of Ukraine, the legislator uses the terms "administration" and "collection". It seems appropriate to use the term "collection of tax on immovable property other than a land plot".

3. The authors prove the imperfection of legal norms regulating the procedure for collecting tax other than land, which contributes to taxpayer abuse. It is proposed to revise the procedure for granting tax privileges in terms of expanding the list of objects and the tax base by including real estate, such as a room in a dormitory.

4. Positive changes include the expansion of the list of objects not included in the list of objects subject to taxation – destroyed, damaged (requiring major repairs) and destroyed buildings or structures during hostilities.

5. The article identifies the difficulties that may arise in the course of collection of this tax due to the lack of complete information in the State Register of Real Property Rights. In order to improve the administration procedure, it is proposed to amend subpara. 266.7.3, para. 266.7, Art. 266 of the TC of Ukraine to impose an obligation on property owners to apply to the controlling authorities at the place of tax address (place of registration) for data verification.

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