

# "TAX FREE" IN CUSTOMS LAW: INTERNATIONAL LEGAL EXPERIENCE AND ECONOMIC CONSEQUENCES

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**Abstract.** *Relevance.* Global processes of internationalisation of the world economy lead to increased interdependence of national economies and convergence of mechanisms and instruments used to achieve various economic goals. These goals include sustainable and uniform economic growth, increased employment, stabilisation of monetary circulation and exchange rates, improvement of the welfare and quality of life of citizens, intensification of Ukraine's participation in international integration processes, strengthening cooperation with foreign strategic partners, attraction of foreign investments into Ukraine's economy, and ensuring national security in the context of military aggression. Therefore, this study focuses on the analysis of international experience of using the concept of "Tax Free" in customs law. The article analyses the functioning of duty-free and tax-free zones in Ukraine, compares them with other countries of the world, and studies the impact of these processes on international security and economic growth. The purpose of the study is to analyse the international experience of "Tax Free" regulation in customs law and its impact on the economic situation in the country. The research methodology includes such methods as comparative analysis, forecasting methods, logical methods and the case study method. *Conclusions.* The paper examines various aspects of their activities, differences in status depending on the location, and regulation through a number of documents. The authors consider the problems faced by such stores in the international travel retail system, security and sanctions issues, their impact on the economy, and propose specific ways to solve them. The article also analyses the effectiveness of "Tax Free" programmes and their impact on the economy and international trade. Particular attention is paid to the aspects of security, national and environmental safety, as well as sanctions and international legal liability. The analysis of international experience in the use of "Tax Free" in customs law shows that this tool has significant potential to stimulate international trade and economic development. The "Tax Free" programmes in different countries help to attract foreign tourists, stimulate exports of goods, and increase consumer spending. However, there are also certain problems associated with the use of "Tax Free", such as loss of revenue for the budget and the potential for abuse of the system. Solving these problems requires careful analysis and implementation of effective control and regulation measures.

**Keywords:** security, national security, environmental security, sanctions, international legal responsibility.

**JEL Classification:** F52, H55, Q50, F51

## 1. Introduction

In light of the growing international trade and tourism, understanding the effectiveness of such systems and their impact on the economic development of countries is an important task for scientific research and customs policy development. In this context, the analysis of international experience in the field of "Tax Free" in

customs law, as well as the economic consequences of this phenomenon is necessary to understand the best practices and opportunities for improvement of domestic legislation and practice.

In the European Union, the Tax Free service allows foreign nationals to receive a VAT refund on the goods they purchase. This service is also available in many

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other countries around the world, and the refund can range from 4% to 27% of the purchase price, depending on the VAT level in the country where the purchase was made. However, the use of this service is still avoided due to its complexity and length.

It is important to note that there is currently no comprehensive research on the specifics of VAT refunds through the Tax Free service in the leading countries of the world and in Ukraine, which necessitates this study.

*Research object.* The object of the study is the system of value added tax (VAT) refunds to foreign citizens who purchase goods in the country and subsequently export them abroad.

*Research subject.* The subject of the study is the international experience of using such a system, including different approaches, legal norms, application practices and effectiveness of such programmes in different countries, as well as an analysis of the economic consequences. The analysis also includes opportunities to improve domestic legislation and practice based on international experience.

The main objective of the study is to analyse the international experience of applying the VAT refund system for foreign citizens, known as "Tax Free", in different countries. Specifically:

- Review and analyse the regulatory framework related to Tax Free programmes in different countries and determine the effectiveness of such programmes.
- Identification of the advantages and disadvantages of the "Tax Free" system for foreign citizens and the country's economy (determination of economic consequences).
- Identify the prospects for the development of the "Tax Free" system in Ukraine and provide recommendations for its further improvement.

With regard to specialised terminology, the following definitions of key concepts should be noted:

In the context of customs law, the term "tax free" is of significant importance, as it denotes exemption from customs duty on specific goods that are imported or exported across the customs border. This mechanism is employed to facilitate international trade, tourism, and investment, as well as to bolster specific economic sectors (Jakobsson, Stepanenko, & Verovkin, 2021).

The concept of national security is defined as the stability, safety, and protection of a country from potential threats, both internal and external. Such measures are implemented across a range of domains, including the economic, political, social, and military spheres, with the objective of preventing and countering threats to national security (Jakobsson, Stepanenko, & Verovkin, 2021).

Environmental security can be defined as a state in which natural resources and ecosystems are provided with measures aimed at their preservation and restoration. The concept of environmental security

entails the balanced utilisation of resources and the minimisation of detrimental effects on the natural environment (Jakobsson, Stepanenko & Verovkin, 2021).

Sanctions are measures taken by one country or international organisation that involve restrictions or bans on trade, financial transactions, or other interactions with other countries or their citizens (Jakobsson, Stepanenko, & Verovkin, 2021).

The principle of international legal responsibility establishes the obligation of states to adhere to international law and to be held accountable for violations of these norms. This implies that states can be held accountable for their actions or inactions in the event of a violation of international law (Jakobsson, Stepanenko, Verovkin, 2021).

The VAT (value added tax) is a mandatory tax levied on the turnover of goods and services in Ukraine (The Law No. 2755-VI, 2010).

## 2. Methodology

In the course of the study of the international experience of applying "Tax Free" in customs law, the authors used such methods as comparative analysis, forecasting, logical methods and case studies.

The comparative analysis method, as employed in the context of the "Tax Free" study in customs law, permits the comparison of the approaches of different countries to this concept. Specifically, this method was employed to identify countries that apply the "Tax Free" concept in customs law. The parameters for comparison were then determined, namely the legal norms regulating "Tax Free" and the procedures for obtaining tax benefits. The selected countries were then analysed, and the collected data were compared based on the selected parameters between different countries. This allowed for the identification of common aspects and differences in their "Tax Free" systems. The method of comparative analysis allowed to understand how different countries deal with taxation issues within the framework of customs law and identify the most effective approaches to applying the "Tax Free" concept, as well as to trace the relationship between "Tax Free" and the country's economic capabilities.

Using the forecasting method, the authors analyse the future development of the "Tax Free" concept in customs law at the international level. In particular, the key factors that may affect the future development of the "Tax Free" concept in customs law were identified. In addition, the forecasting method allowed the authors to identify the potential risks and benefits of implementing various strategies in the field of "Tax Free" in customs law at the international level.

The use of logical methods allowed formulating the research hypothesis that the application of the "Tax Free" mechanism contributes to stimulating

international trade and economic development. In addition, the method of analysis was used to analyse scientific papers, legislation and international experience on the application of "Tax Free" in customs law, and to identify key concepts, problems and trends in this area. This method also helped to formulate conclusions on the effectiveness of the "Tax Free" system in customs law and its impact on international trade and economic development. Thus, the use of logical research methods made it possible to systematise and analyse information on the "Tax Free" system in customs law and draw reasonable conclusions about its effectiveness and potential benefits.

Through the application of the case study method, international experience regarding the "Tax Free" concept in customs law was examined. Specifically, countries where the "Tax Free" concept is already successfully applied were chosen, detailed research of each selected case was conducted, and based on the analysis of the cases, recommendations for the possible implementation of the "Tax Free" concept in customs law in Ukraine were developed.

The mentioned research methodology allowed obtaining a deep understanding of the essence and effectiveness of "Tax Free" in customs law and developing practical recommendations for its improvement.

### 3. Analysis of Recent Research and Publications

In the study of international experience in the regulation of "Tax Free" in customs law, special attention should be paid to the works of such scholars as: I. Hutsul, I. Chunitska, O. Klyuchka, M. Kovalchuk, I. Litvinova, Yu. Solomyanyi, N. Proskuryakova, N. Podolchak, Yu. Dzyurah, V. Halanets, F. Tkachyk, V. Ostapchuk, O. Sazonets, L. Barabash, A. R. E. Jakobsson, O. Stepanenko, V. Verovkin, D. Saha, O. Betliy, A. Gaverdovsky, Y. Chyrkova, O. Zuzak.

In the work of I. Hutsul (2018), the customs policy of foreign countries is considered. The main points of the study include the analysis of customs policy (the study examines various aspects of customs policy in different countries, including its effectiveness, goals and tools) and international experience (the work is based on the study of other countries' practice and experience in customs policy and comparative analysis of these approaches).

In addition, I. Chunitska, O. Klyuchka, M. Kovalchuk (2020) reviewed global experiences and domestic practices regarding Tax Free. The paper concludes that the service of VAT refund on purchases, known as Tax Free, is becoming increasingly popular among various social groups, including wealthy individuals and the middle class. This service is actively used not

only by students studying in European countries, but also by regular travellers. When making purchases abroad, the buyer can receive a partial VAT refund, usually up to 10% of the purchase amount. This is made possible by working with companies that specialise in providing this service and receive part of the payment for their services. This practice is beneficial both to the purchaser and to the companies providing the Tax Free service.

In addition, I. Litvinova, Yu. Solomyanyi (2020) studied international experience and priority areas of combating tax evasion, fees and other mandatory payments in Ukraine. The authors conclude that there is a tendency in Ukraine to bring the tax control system closer to European standards, although the process of reforming the tax administration system is very slow. To address this problem, the authors propose to make financial sanctions dependent on the characteristics of the tax law violation, its monetary value, the presence of intent to evade taxes, etc. In addition, it is proposed to link the amount of financial sanctions to the economic consequences, as well as to extend financial liability to legal entities for violations of accounting and tax accounting, not limited to taxpayer officials.

The issue of combating corruption in the customs sector was considered by N. Proskuryakova (2019). The popular methods of corruption are distinguished as follows:

- Illegal import or export of goods such as tobacco products, computer equipment and cars with foreign registration, which make up the bulk of illegal customs movements in Ukraine.
- Similar actions are carried out by individuals without customs clearance, i.e., outside of customs control, as well as abuse of the right to a VAT refund under the Tax Free system.
- Importation of cars by legal entities for use in business activities and then their use in private life by individuals for remuneration, which allows avoiding taxation, as such transactions are exempt from tax.

In addition, N. Podolchak, Yu. Dzyurah, V. Halanets (2023) examined the development of Ukraine's customs policy in the context of European integration, taking into account the need to counter global threats to food security. The authors came to the following conclusions:

Due to Ukraine's active participation in international cooperation and the growth of European integration processes, there is a need to create a unified, transparent and understandable legal framework for all participants in customs relations. Currently, several unsystematised sources of law, although ratified by Ukraine's international agreements, have limited practical impact on the activities of customs and other control bodies and society.

Ratification of international agreements is becoming a norm of national legislation, and efforts to deepen European integration require the government to bring federal legislation in line with international standards. An important step in this direction was the implementation of the international standards of the Kyoto Convention on the Simplification and Harmonisation of Customs Procedures through the adoption of a new version of the Customs Code of Ukraine in 2012.

The change in priorities in customs policy is of some concern: while previously the emphasis was on the regulatory function, it has recently begun to give way to the tax function. Experts see the need to prioritise the removal of tax obstacles, as the key should not be the amount of taxes collected, but their accurate and complete calculation, as well as the number of smuggling or customs violation cases, but the detection and punishment of undetected customs offences.

In addition, F. Tkachyk, V. Ostapchuk (2020) examined European priorities in personal income taxation. These priorities include not only increasing the transparency and efficiency of the tax system, but also simplifying tax payment procedures and improving social justice. The authors emphasise the importance of encouraging compliance and combating tax evasion, as well as providing incentives to stimulate economic activity and increase tax revenues. They also offer recommendations for improving the personal income tax system, based on European experience, to achieve greater efficiency and fairness in taxation.

The conclusions of the article by L. Barabash (2021) highlight the importance of harmonising the tax system in conditions of economic crisis. It is noted that in times of crisis it is important to implement measures aimed at improving fiscal policy in order to ensure the stability and sustainable development of the economy. The author justifies the need to adapt the tax system to new conditions and provides recommendations for optimising the tax burden, increasing the efficiency of tax administration and stimulating economic growth. It also considers the importance of improving mechanisms for controlling and monitoring tax processes in order to prevent tax evasion and increase revenues to the state budget.

Definitions of terms were taken from the dictionary edited by A. R. E. Jakobsson, O. Stepanenko, V. Verovkin (2021) and O. Sazonets, I. Sazonets (2021).

In the paper "Taxation of distributed profits: International Experience", prepared by D. Saha, O. Betliy (2017), international experience in the taxation of distributed profits is reviewed. It discusses different approaches to taxation of distributed profit in different countries, provides examples of international best practices and recommendations that Ukraine can consider when developing its tax policy. In addition, problematic issues of tax exemption are examined

using Estonia as an example. It is noted that Estonia has effectively become a "corporate bank" for the profits of transnational companies, with profits remaining in Estonia without taxation and without tax on interest.

A study by A. Gaverdovsky (2023) notes that VAT fraud using the "missing trader within the community" is widespread in the EU, the UK, and Singapore. The attention is paid to a study conducted by the European Parliament in October 2018, which showed that carousel schemes are the most dangerous type of cross-border VAT fraud, with losses estimated at an average of 50 billion EUR annually. Based on the results of the study by Y. Chyrkova, O. Zuzak (2022), the authors believe it is important to emphasise the importance of introducing automated and transparent VAT refund procedures similar to those used in EU countries. They also argue for the need to amend the Tax Code of Ukraine to include new provisions defining the specifics of VAT collection on goods supplied to duty-free shops. Another priority is the fight against smuggling and the continuation of negotiations to improve the existing free trade agreements between Ukraine and the EU, in particular as regards the rules of origin of goods.

Research on "Tax Free" in the context of customs law and its international experience reflects several important trends. Scientific studies in this area aim to understand the effectiveness and impact of such schemes on the economy and tax policy of countries. In particular, the research focuses on studying the impact of "Tax Free" on consumer activity, trade turnover and the investment climate of countries; analysing legislation, rules and regulations related to "Tax Free" in different countries and their compliance with international standards; studying the impact of the "Tax Free" system on tax revenues and budgetary processes, as well as developing proposals for optimising the tax system; and exploring new technologies and innovative approaches to the implementation of the "Tax Free" system, which contribute to finding effective solutions for all parties involved.

#### 4. The Main Research Material

The "Tax Free" system allows foreign nationals to receive a refund of value added tax (VAT) on goods purchased during their stay in the country, provided they do not reside there permanently. The tax refund is possible only after leaving the country where the purchases were made. The VAT refund percentage is determined in accordance with the rules of each country and can be up to 20% of the total purchase amount. In addition, there is a minimum purchase amount required to qualify for a refund, which is set by each country separately.

As a general rule, foreign nationals are eligible for "Tax Free" if they:

- Stay in the country where the purchases were made for no more than three months.
- Do not have a permanent residence in the country where the purchases were made.
- Do not have the right to work in the country where the purchases were made.
- Are not refugees in the country.
- Are not citizens of the European Union if the purchase was made within the EU.

The process of obtaining a "Tax Free" refund can be divided into three stages:

**1. Making a purchase.** One need to do this in a store that operates under the "Tax Free" system. This may be indicated by a sign at the entrance (Global Refund or Tax Free), or alternatively, one can simply ask a sales assistant. After making a purchase at the checkout, one needs to fill out the documents to get "Tax Free". To do this, a passport is required.

**2. Leaving the country where the purchase was made.** Before passing through customs control, it is necessary to stamp the receipts at a special "Tax Free" point. To do this, one needs the receipts, a passport and possibly the goods in their original, unopened packaging sealed in the store. If one has made a purchase within the EU, the receipts will be stamped in the country through which one are leaving the Schengen area.

**3. Receiving the refund.** After passing customs control, one can immediately receive a "Tax Free" refund in the Duty-Free zone at a special point. If for some reason this is not possible, it can be done upon returning home at one of the Global Refund offices ([globalrefund.com](http://globalrefund.com)) or to a bank account by sending receipts with bank details to Global Refund.

Starting from January 1, 2020, only purchases with an invoice amount of 50.01 EUR or more can qualify for the sales tax exemption for export on non-commercial trips for the supplying dealer. Even if they qualify for an exemption, the full purchase price, including sales tax, must be paid first. The seller can reimburse the VAT after receiving confirmation that the goods have been properly exported (Citizens Information, 2024).

However, the same vendor can also use a service company operating at the border or airport. This company pays the tax amount, after deducting a handling fee, in exchange for the delivery of the export documents certified by the customs authorities. The service company, which has a contractual relationship with the seller, can obtain a refund of the tax paid from the domestic seller upon presentation of the export documents (European Commission, 2024).

Under EU law, if goods are bought in an EU country and exported outside its territory, the buyer is entitled to a VAT refund. This is standard practice in each country, as VAT is usually charged domestically and

net prices, excluding VAT, apply to goods sold outside the country. At the same time, the goods must be in the same condition at the border as when they were bought in the shop, i.e., in their original, unopened and undamaged packaging (Global Blue, 2024).

Ukraine is the only European country that does not offer a tax-free option for tourists. Ukrainian legislation provides for VAT refunds for exports, but this procedure in Ukraine applies mainly to legal entities and remains quite bureaucratic (The Law No. 4495-VI, 2012).

Consider the issue of tax-free trade in the customs legislation of foreign countries in more detail (Table 1).

As shown in Table 1, VAT refund requirements differ from country to country.

At the same time, in today's reality, there are restrictions on tax-free shopping for countries under sanctions.

The EU List is part of the EU's strategy to combat tax evasion and avoidance. It includes jurisdictions that, in the EU's view, do not meet the standards of good tax governance and have either failed or refused to comply with their remedial obligations within a specified timeframe (so-called "non-cooperative jurisdictions"). Russia was included in the EU list because its tax regime for "international holding companies" moving outside Russia to one of its special administrative regions was found to be a harmful preferential tax regime and Russia has not fulfilled its obligations to amend this regime. Inclusion in the EU list requires disclosure of transactions by EU resident companies with non-cooperative jurisdictions in accordance with EU directives transposed into national law. This includes cross-border payments to associated enterprises that pay corporate tax in Russia and requires public information on corporate tax for each EU Member State and for each non-cooperative jurisdiction, including Russia (White&Case, 2023).

An additional consequence of being included in the EU list is the introduction of restrictive tax measures and stricter tax disclosure requirements under the national tax laws of EU Member States. In some of these countries, such restrictions will be applied only after the national lists of non-cooperative jurisdictions are amended. It is important to note that these national tax measures are generally targeted at transactions with "tax havens", which may create uncertainty in their application to Russia.

In addition, national measures and their impact on the scope of existing double taxation treaties are not harmonised between EU Member States and are not always clear (Council Directive (EU) 2018/822, 2018; Directive (EU) 2021/2101, 2021).

In particular, in terms of sanctions violations, Russian women are being deprived of luxury purchases when they try to take them out of the EU

Table 1

**Tax Free regulation according to the legislation of foreign countries**

Country	The Tax Free form is valid (if there is a customs stamp)	Minimum purchase amount and tax amount
Poland	8 months from the date of purchase	200 PLN 5% (agricultural products, handicraft products), 8% (some food products), 23% (other products)
Germany	4 years from the date of issue	50,01 EUR 7% (food, books, maps, antiques, hearing aids), 19% (general purpose goods)
Malta	3 years from the date of issuance of the Tax Free Form	50 EUR 18% (general purpose goods), 5% – books, medicines, glasses or prescription lenses)
France	With the Pablo e-stamp, there is no term limit; with a physical customs stamp, the term is 6 months from the date of issuance of the form	175,01 EUR 20%, 10% (food, multimedia, books), 5.5% (food)

Source: (Planet, 2024b; Gide, 2023; N26, 2023; Office of commissioner for revenue, 2022; Planet, 2024b; Citizens Information, 2024)

(Berest, 2023). In addition, in Germany, cases were brought against Russians for violating sanctions during the consideration of tax exemption applications (2022). These cases demonstrate that there are incidents of sanctions violations during tax-free trade processing, especially in Germany. This highlights the need to strengthen control over this process and develop effective mechanisms to detect and prevent such violations. In order to prevent sanctions violations in tax-free processing, it is necessary to raise awareness and educate purchasers, especially in countries with strict sanctions regulations. Effective control of tax-free processing and the prevention of sanctions violations requires cooperation between countries, the exchange of information and the implementation of joint measures. Ensuring the effective functioning of the "Tax Free" system and preventing sanctions violations requires continuous improvement of relevant legislation and procedures, in particular with regard to the control of processing and export purchases.

The economic consequences of the "Tax Free" system can be as follows:

**Increase in trade volume.** The "Tax Free" system encourages foreigners to make more purchases in the country, which directly increases the volume of sales in the retail networks. Tourists are more likely to visit countries with a "Tax Free" system, increasing tourism revenues (Italy).

**Fiscal consequences.** On the one hand, the government loses part of its VAT revenues by refunding them to foreign buyers. This can be a significant factor for countries with high VAT rates. On the other hand, an increase in sales and tourism may compensate for the loss of VAT refunds by increasing revenues from other taxes (e.g., corporate income tax).

**Competitiveness.** The presence of the "Tax Free" system makes the country more attractive to foreign

investors and retail chains, potentially leading to increased investment. The interest of foreigners in shopping in the country contributes to the expansion of the range of goods available on the domestic market.

Thus, the "Tax Free" system has significant economic consequences, both positive and negative. It promotes trade and tourism, which has a positive impact on the country's economy. At the same time, the state suffers losses from VAT refunds, but these losses can be offset by other tax revenues and infrastructure development. Effective management and administration of the system is crucial to maximise its benefits and minimise its costs.

The scientific issues in the context of the study of "Tax Free" in customs law include the following aspects:

**Insufficiency of scientific research.** Existing research may be limited or insufficient, making it difficult to generalise the results or analyse international experience in this area in detail.

**Lack of standardised research methods.** The lack of consistent research methods can lead to different approaches and the importance of certain factors in different studies, making it difficult to compare results.

**Difficulty accessing data.** Some countries may have limited access to data on their "Tax Free" programme, making it difficult to analyse and compare with other countries.

**Specificity of customs legislation in each country.** The diversity of customs laws and regulations in each country can make it difficult to compare international experience and identify common trends.

**Dynamics of markets and legislative changes.** Changes in economic conditions, including changes in tax legislation and customs regulations, may affect the effectiveness of the "Tax Free" programme and require constant updating of research.

Understanding and studying these issues can help researchers avoid methodological errors and provide

a more objective and comprehensive study of the international experience of applying the "Tax Free" programme in customs law.

## 5. Conclusions

With regard to the first task, the international experience of the use of tax exemptions in international law and the economic consequences of such use were analysed using the method of comparison and case analysis. It was found that there is a need to improve the legal regulation. It was found that the "Tax Free" programme can be an effective tool for stimulating economic growth. However, in order to ensure its effectiveness and transparency, it is necessary to strengthen legal regulation and improve VAT refund procedures without endangering national and environmental security.

It has been established that the tax-free area is vulnerable to abuse, especially to violations of customs rules. Therefore, it is important to take measures to prevent abuse and fraud within the "Tax Free" programme, in particular, to strengthen control and supervision over the tax refund process. In addition, the effective functioning of the "Tax Free" programme can be achieved through the cooperation of international organisations, exchange of experience and best practices between countries.

Regarding the ways to improve and develop the "Tax Free" programme, it is worth noting that this programme may affect national security by reducing tax revenues and potentially being used to legalise illicit income. Therefore, it is necessary to strike a balance between stimulating the economy and ensuring national security.

A study of the international experience of "Tax Free" regulation in customs law has revealed the following problematic issues:

- Legislative shortcomings. Different legal acts and shortcomings in their coordination lead to ambiguous interpretation of the rules of the "Tax Free" programme.
- Administrative and procedural obstacles. Complex procedures for obtaining tax refunds may seem confusing and require significant effort to follow.
- Problems with VAT accrual and refund. Different rules and restrictions in different countries can make it difficult to calculate and refund the tax.
- Combating abuse and fraud. The possibility of using the "Tax Free" programme for abuse, including the submission of false claims, could undermine confidence in the system.
- The need for harmonisation of rules. A lack of standardised rules between countries can lead to complications for international travellers and undermine a country's competitiveness.

These challenges can be addressed by improving and coordinating the legal and regulatory framework to ensure clarity and unambiguity of rules; introducing simpler and more straightforward procedures for obtaining tax refunds; developing a control and monitoring system to prevent abuse and fraud; and cooperating between countries to create standards and rules that will promote transparency and efficiency of the "Tax Free" programme.

As for further research, it is necessary to study the various legal norms and rules related to the "Tax Free" programme in different countries in order to identify the most effective approaches and transfer this experience.

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