

BUDGETARY CONTROL AND FINANCIAL AUDIT OF UKRAINE: CURRENT STATE AND CHANGES

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INTRODUCTION

The effectiveness of the public financial management system in Ukraine is determined by the balanced functioning of all its components, compliance with current legislation, and the achievement of goals by public institutions in the most economical and effective way. Budget control plays an important role in achieving this goal. The prospect of improving the complexity of budgetary control in Ukraine depends on its quality at all stages and the timely response of financial authorities, chief executives and other authorities on the results of control, to the revealed facts of misuse and inefficient use of budgetary funds, by taking measures to compensate for illegal expenses, regulation volumes of financing, bringing them into conformity with the normative legal acts that regulate the budget process of Ukraine.

1. Definition of budgetary control of Ukraine

In the conditions of special urgency, the issues of increasing the transparency, accountability and efficiency of the activity of state authorities, local self-government bodies and entities management of state and communal ownership and management and use of available resources in general and control system for this process in particular. Indeed, an effective system of financial control over the management of state (local) resources (public funds, fixed assets and other assets) and their use is not only an instrument of guaranteeing transparency, accountability and quality of activity of public authorities, local governments and economic entities, but also essentially an effective mechanism for ensuring the financial stability and security of the country, achieving the strategic goals of the state, the effectiveness of public policy, improving the quality of life of the population and, in particular, the tion management of public finances.

The most topical theoretical and practical problems of financial control and its types are investigated in the works: E. O. Alisova, L. K. Voronova, K. S. Belskyi, O. P. Hetmanets, A. I. Ivanskyi, M. P. Kucheriavenka, T. O. Latkovska, P. P. Latkovskiyi, O. P. Orliuk, I. H. Ozerova, L. A. Savchenko, M. I. Sidor, I. B. Stefaniuk, A. A. Nechai, E. A. Rovinskyi, N. I. Khimicheva, V. D. Chernadchuk and others.

The current legislation of Ukraine does not define the term “budgetary control”. According to Article 26 of the Budget Code of Ukraine (hereinafter referred to as BCU) uses the term “control over compliance with budgetary

legislation”, which is aimed at ensuring the effective and efficient management of budgetary funds and is implemented at all stages of the budgetary process by its participants in accordance with the BCU and other legislation¹.

In the definition of monitoring compliance with budgetary law, you can trace its following features:

- 1) is carried out by special entities – participants of the budget process;
- 2) is implemented within the legal framework that arises at all stages of the budget process;
- 3) is carried out in order to ensure effective and efficient management of budgetary funds;
- 4) regulated by the rules of the BCU and other legislation.

Budgetary control comes from the concept of “control”, which is considered by legal professionals in the context of different social relations. Consequently, control is a form of legal activity whereby authorized bodies and persons within the framework of control proceedings obtain, in order to obtain legally significant results and exercise (regulatory) influence, the controlled entities to collect and verification of information on the actual implementation of regulatory requirements, compliance with the requirements of regulatory and legal acts, and directly take measures to prevent and eliminate violations (deviations) in order to ensure the protection of the interests of society and the state, protect the rights and freedoms of citizens.

L. A. Savchenko argues that “budgetary control” is the activity of state bodies and non-governmental organizations, the economic entities themselves or their structural subdivisions, natural persons, endowed with appropriate powers or rights, aimed at ensuring legality, financial discipline, rationality in the course of mobilization, allocation and use of financial resources².

L. K. Voronova provides two understandings of this concept: first, “budgetary control” – is regulated by legal norms the activity of state and municipal and other public bodies to check the timeliness and accuracy of planning, soundness and completeness of funds in the appropriate funds, correctness and efficiency of their use; secondly, it is a special area of state control related to the activities of financial bodies in detecting violations of the law, financial discipline and expediency of forming, distributing and using state and municipal monetary funds³.

According to Yu. V. Mekh, control should be considered as a threefold component, which should be considered as “management”, “social management” and “public administration”. The general concept of control is

¹ Бюджетний кодекс України від 8 липня 2010 року № 2456-VI. *Відомості Верховної Ради*. 2010. № 50–51. Ст. 572. URL: <http://zakon2.rada.gov.ua/laws/show/2456-17>

² Савченко Л. А. Правові проблеми фінансового контролю в Україні : монографія. Ірпінь : Академія державної податкової служби України, 2001. 407 с.

³ Воронова Л. К. Фінансове право України : підручник. Київ, 2014. 407 с.

social control. Control in public administration is a special function of public authorities and local self-government bodies; it is also a way of ensuring legitimacy and discipline in government⁴.

State control has special features:

- 1) it is implemented by authorized bodies of state power;
- 2) carried out within the framework of subordination relations;
- 3) is a procedure, defined in the established manner, a set of sequential actions regulated by the rules of law;
- 4) aimed at establishing the degree of compliance with the subject of control by the regulations of legal acts and the implementation of acts of individual action in relation to the controlled object;
- 5) may have as a result the initiation of the issue of bringing the perpetrators to justice in accordance with the regulations of legal acts.

Therefore, state control as a form of control is the activity of the authorized bodies of state power and local self-government, regulated by the norms of law, which is a procedure established at the legal and regulatory level for certain subjects to control compliance with legal acts and the implementation of acts of individual action against a specific object of control that may have consequences in the case of finding violations of the responsibility of the perpetrators.

State control has the following features:

- 1) it is implemented by authorized bodies of state power;
- 2) carried out within the framework of subordination relations;
- 3) is a procedure, determined in due course, by a set of sequential actions regulated by the rules of law;
- 4) aimed at establishing the degree of compliance of the subject of control with the regulations of legal acts and the implementation of acts of individual action on a controlled object;
- 5) as a result, the issue of bringing the perpetrators to justice in accordance with the normative acts may arise. Control, notes T. O. Latkovska is a management function, that is, the system of observation and verification of the process of functioning of the respective object in order to establish its deviation from the specified parameters, and adds that the control is a system of observation and verification of the compliance of the process of operation of the management object. managerial influence on the managed object, detection of deviations allowed in the process of implementation of these decisions⁵.

⁴ Мех Ю. В. Контроль органів виконавчої влади за дотриманням бюджетного законодавства України : автореф. дис. ... канд. юрид. наук : 12.00. Харків, 2011. 20 с.

⁵ Латковська Т. А. Бюджетна політика держави як один з основних напрямків економічної політики за господарським законодавством. *Актуальні проблеми держави і права*. 2012. Вип. 65. С. 68–70.

Budgetary control is an independent type of financial control, which is carried out in the regulated norms of law in the budgetary sphere and is aimed at ensuring the legality, reliability and rationality of the activity of subjects of budgetary legal relations. Budgetary control is implemented in a separate sphere of budgetary financial relations, which is a function of the budgetary process. This is a direction of state control, that is, a comprehensive and purposeful system of economics – legal actions authorized by the state entities, aimed at ensuring the legitimacy, rationality, reliability, budgetary discipline of participants in the budget process during the preparation, review, approval of budgets, implementation and amendment, reporting on the implementation of the budgets that make up the budget system of Ukraine. The purpose of budgetary control can be considered to ensure compliance with the requirements of the current legislation at all stages of the budget process as “budgetary process of budgeting, reviewing, approving, executing, reporting on their implementation” (part 1 of Article 2 of the BC of Ukraine)⁶.

The need to improve the control activities in the budget process and to direct control over the performance, i. e., creating the conditions for compliance with financial discipline and strengthening the fight against budgetary offenses make the relevance of a wide range of issues related to regulatory support for the organization of control in the budget process.

Public financial control in Ukraine is divided into public financial control in the budget process – budgetary control, tax control, customs control, currency control and banking supervision. The budgetary legal relations shall consist of the control legal relations within the framework of which budgetary control is exercised. In view of the above, budgetary control is a type of state financial control, which is an activity of the authorized bodies of state power and local self-government, regulated by the norms of law, which is enshrined at the regulatory and legal level by the procedure of verifying the compliance of budgetary entities with the requirements of budgetary legislation during the development of budgetary legislation, approving and executing appropriate budgets, as well as acts of individual action taken for their implementation, which may result in the event of a discovery of violations of bringing the perpetrators to justice.

In addition, in Article 26 BCU also notes that the purpose of monitoring compliance with budget legislation is to ensure effective and efficient management of budget funds, namely:

1) an assessment of the management of budget funds (including the conduct of a state financial audit);

⁶ Бюджетний кодекс України від 8 липня 2010 року № 2456-VI. *Відомості Верховної Ради*. 2010. № 50–51. Ст. 572. URL: <http://zakon2.rada.gov.ua/laws/show/2456-17>

2) the correctness of accounting and the reliability of financial and budgetary statements;

3) achieving budget savings, their targeted use, efficiency and effectiveness in the activities of budget spending units by making sound management decisions;

4) carrying out the analysis and assessment of the state of financial and economic activity of spending units;

5) prevention of violation of budget legislation and ensuring the interests of the state in the process of management of state property;

6) the reasonableness of budgeting and budgeting⁷.

O. P. Hetmanets defines the purpose of control of the budget process, namely as compliance with budget legislation at every stage of the budget process, as well as preventing the occurrence and termination of budget offenses⁸.

In legal science, different approaches have been developed to define the concept of budgetary control, in particular as governed by the rules of budgetary law of a system of audit and legal measures aimed at verifying the legality and expediency of budgetary activities performed.

V. D. Chernadchuk thinks that the results of budgetary control can lead to conclusions about the use of budgetary funds, and this indicates the need to create a comprehensive system of budgetary control. Providing such a system will allow to coordinate the activities of all competent state bodies in the process of organizing and implementing budget expenditures and ensuring the formation of budgetary resources⁹.

It also defines the budgetary control system from the following elements:

– subjects of budgetary control, among which are the following: controlling entities (authorized by the budget legislation to control the observance of the provisions of this legislation by the bodies, the list of which is defined by the BC of Ukraine) and controlled entities (spending units and recipients of budgetary funds, committed to, or abstain from, certain actions);

– the object of control is the real results of the subjects' budgetary activity as a result of the actions envisaged by the budget legislation, i. e. the results or, more precisely, the real indicators of budgetary activity;

– the subject of control is the budget indicators, budgetary acts and their projects established by the budget legislation.

⁷ Бюджетний кодекс України від 8 липня 2010 року № 2456-VI. *Відомості Верховної Ради*. 2010. № 50–51. Ст. 572. URL: <http://zakon2.rada.gov.ua/laws/show/2456-17>

⁸ Гетманець О. П. Бюджетний контроль: організаційно-правові засади: монографія. Харків: Екограф, 2008. 308 с.

⁹ Чернадчук В. Д. Бюджетні правовідносини в Україні: поняття, класифікації та особливості структури: монографія. Суми: Університет. книга, 2011. 172 с.

The subject of budgetary control is considered to be “budgetary resources that are defined by budgetary legislation, ie the law on the State Budget of Ukraine, the decision on local budgets and other legal acts”. The essence of budgetary control is to check compliance with the current legislation in the budgetary sphere and to prevent violations of the established procedure for receiving and spending state and local budgets. The current increase in the importance of budgetary control is driven by the following factors:

1) uncertainty of the external and internal environment affecting the budget process: approved plans are not always implemented; subjects of control

2) are not able to motivate economic entities to comply with applicable law; business entities do not always accept the rights and responsibilities delegated to them;

3) crisis prevention – control allows you to identify problems and adjust the activity of the controlled entity accordingly before these problems develop into a crisis;

4) observance of the current legislation in the sphere of formation and use financial resources and strengthening financial discipline.

2. Directions for improving budgetary control in Ukraine in accordance with International Standards

O. P. Hetmanets attributes to the principles of budgetary law the following principles: regulations, economic feasibility, social equilibrium, unity of budgets, independence and mutual conditionality, independence and interdependence, planning, separation of powers, publicity, plannedness, purposefulness¹⁰.

The procedure for the formation of the plan – the schedule of planned inspections and their division by degrees are established by the Ministry of Finance in accordance with the Law of Ukraine “On Amendments to the Tax Code on Improving the Investment Climate in Ukraine of December 21, 2016 # 1797. The principle of independence – bodies of state financial control in Ukraine must have organizational, functional, material independence from the legal and natural persons, whose activity they check; also the principle of publicity exists in all legal acts related to the legal status of public financial control bodies, for example today according to the Regulation on the State Tax Service of Ukraine – the State Tax Service publishes acts and other official documents and information on the official website of the STS on matters within its competence . The Verkhovna Rada of Ukraine adopted the

¹⁰ Гетманець О. П. Бюджетний контроль: організаційно-правові засади : монографія. Харків : Екограф, 2008. 308 с.

Law of Ukraine “On Amendments to the Tax Code of Ukraine and Certain Legislative Acts of Ukraine on Balancing Budget Revenues in 2018”¹¹.

According to the above Law, the Unified State Register of such tax consultations is created. Today, the introduction of a fully fledged electronic taxpayer cabinet, which will allow correspondence with the controlling authority in electronic form. Amendments to the legislation of Ukraine, introduced on 30.03.2020. Law № 3275 “On Amendments to Certain Legislative Acts to Provide Supplementary Social and Economic Guarantees in Relation to the Distribution of Coronavirus Disease (COVID-2019)”¹².

– established a moratorium on documentary and actual inspections for the period from March 18 to May 31, 2020, except for: documentary unscheduled inspections on the grounds specified in Article 78.1, paragraph 78 of the Tax Code, that is why today the updated schedule of documentary inspections was published on the website of STS;

– camera check of tax returns (excluding value added tax returns) for the reporting (tax) periods March – May 2020, or clarification calculations (other than clarification calculations for value added tax) provided by tax payers during 2020 year, can be held only within 60 calendar days, which comes after the last day of the deadline for their submission, and if such documents were submitted later – after the day of their actual submission.

According to the Lima Declaration on Guiding Principles of Control, the independence of the responsible employees of the supreme control body must be provided for by the Constitution and relate to the procedure for their appointment, promotion and dismissal. The Lima Declaration sets out the guiding principles for auditing public finances, namely:

– independence of the audit of public finances – an indispensable attribute of democracy and a necessary element of public finance management;

– legislative consolidation of the independence of the supreme body of financial control;

– internal and external control as a prerequisite for financial control;

– publicity and openness of SAIs with the compulsory requirement of commercial and other confidentiality protected by law¹³.

¹¹ Про внесення змін до Податкового кодексу України щодо забезпечення збалансованості бюджетних надходжень у 2018 році : Закон України від 07 грудня 2017 року № 2245-VIII-ВР URL: <http://zakon0.rada.gov.ua/laws/show/2245>

¹² Про внесення змін до деяких законодавчих актів, спрямованих на забезпечення додаткових соціальних та економічних гарантій у зв'язку з поширенням коронавірусної хвороби (COVID-2019) : Закон України від 30.03.2020 р. URL: <https://zakon.rada.gov.ua/laws/show/540-20>

¹³ Лімська декларація керівних принципів контролю : декларація ІХ Лімського (Перу) Конгресу вищих органів контролю державних фінансів (INTOSAI) від 01.10.1997. URL: <http://www.ac-rada.gov.ua/control/main/uk/publish/article/140217>

Following Section 7 of the Lima Declaration of Guidelines on Auditing Precepts, Supreme Audit Institutions shall be provided with the financial means to enable them to accomplish their tasks. If required, Supreme Audit Institutions shall be entitled to apply directly for the necessary financial means to the public body deciding on the national budget. Supreme Audit Institutions shall be entitled to use the funds allotted to them under a separate budget heading as they see fit¹⁴.

Pursuant to Article 38 of the Law of Ukraine “On the Accounting Chamber”, funds for the maintenance of the Accounting Chamber are allocated from the State Budget of Ukraine. The amount of funds is established annually by the Verkhovna Rada of Ukraine and is mentioned in the State Budget of Ukraine in a separate line¹⁵.

The principle of publicity is peculiar to all regulatory legal acts relating to the legal status of state financial control bodies. The Law of Ukraine “On the Accounting Chamber” specifies the implementation of the transparency principle in the activities of the Accounting Chamber, as follows: meetings of the Accounting Chamber are held in the form of open hearings, which should be attended by people’s deputies of Ukraine, representatives of state bodies and the public (approval of reports, decision-making on completion of state external control (audit))¹⁶.

The State Tax Service publishes on its official website acts and other official documents and information on issues within its competence, namely, data subject to a proclamation under the legislation.

Compliance with the relevant principle does not imply the awareness of publicity of expert-analytical measures, as well as information that constitutes a state or other secret. The Law of Ukraine “On Amendments to the Tax Code on Improving the Investment Climate in Ukraine” ascertains that the schedule of documentary routine inspections should be publicly available on the website of the State Tax Service in advance before December 25, 2017, preceding such inspections, mandatory disclosure of the results of control measures, including on the expenditure of budget funds, the provision of reports to the specific state bodies, the legality of public finance management by subordinated entities. According to the Law of Ukraine “On Amendments to the Tax Code of Ukraine and Certain Legislative Acts of Ukraine on Ensuring the Balance of Budget Revenues in 2018”, the official publication on the website of the State Tax Service of Ukraine of cumulative information on the rates of local taxes and fees, as well as on the regulatory monetary valuation of lands, is introduced. The relevant

¹⁴ Гетманець О. П. Бюджетний контроль: організаційно-правові засади : монографія. Харків : Екограф, 2008. 308 с.

¹⁵ Про Рахункову палату : Закон України від 02.07.2015 № 576-VIII. URL: <http://zakon.rada.gov.ua/laws/show/576>

¹⁶ Ibid.

publication shall be made no later than July 15 of the current year and is an official source of information for taxpayers to determine their tax liabilities. In other words, the taxpayer is not liable if he/she refers to the cumulative information posted on the official website of the State Tax Service of Ukraine, even if it contains errors or discrepancies¹⁷.

A change in rates of local taxes and/or fees and tax benefits for the payment of local taxes and fees requires the adoption of a new decision by the local self-government body or amendments to the current decision. In addition, local councils are obliged to send electronic copies of relevant decisions to the local authorities of the State Tax Service, which should forward them to the central tax authority of Ukraine. Thus, it shall publish such information on its website. Information on the rates of taxes and fees established by each local government in Ukraine can be found on the official web portal of the State Tax Service “Rates of local taxes and fees”. We note that the updated information is given for each oblast (region): “Cumulative information on rates and established benefits effective from 01.01.2022”. It also provides for the supplement of Art. 12 of the Tax Code of Ukraine with the new sub-paragraph 12.3.8, which regulates the mechanism for introducing taxes if the community does not make any decision. Hence, during martial law, village, settlement, city councils, and councils of amalgamated hromadas (communities), established in accordance with the law and the long-term plan for the formation of hromadas’ territories, are authorized to decide on the introduction of local taxes and fees, as well as benefits for the payment of local taxes and fees, without applying the procedures provided for by the Law “On the Principles of State Regulatory Policy on Economic Activity”¹⁸.

L. A. Savchenko defines publicity as the obligatory examination of financial documents and conclusions on the activities of entities of fiscal control by representative bodies and making the information on the results of the activities of entities of fiscal control available to the public by publishing them in the press¹⁹.

The principle of planning is determined by the nature of management arrangements and the need to define both the general goals of management and the specific goals of control. In this regard, control subjects conduct their work by relying on annual, quarterly, and monthly plans for control measures. The procedure for drawing up a scheduled plan of routine inspections and a

¹⁷ Про внесення змін до Податкового кодексу України щодо забезпечення збалансованості бюджетних надходжень у 2018 році : Закон України від 07 грудня 2017 року № 2245-VIII-ВР URL: <http://zakon0.rada.gov.ua/laws/show/2245>

¹⁸ Податковий кодекс України від 02.12.2010 № 2755-VI. *Відомості Верховної Ради України*. URL: <http://zakon3.rada.gov.ua/laws/show/2755-17>

¹⁹ Савченко Л. А. Правові проблеми фінансового контролю в Україні : монографія. Ірпінь : Академія державної податкової служби України, 2001. 407 с.

list of risks and their division by degrees are established by the Ministry of Finance in accordance with the Law of Ukraine “On Amendments to the Tax Code on Improving the Investment Climate in Ukraine”. Under the Regulation “On the State Tax Service of Ukraine”, it organizes budget work within the STS executive office and its territorial bodies, controls the use of financial and physical resources, and ensures the organization and improvement of accounting in the manner prescribed by law.

The principle of effectiveness and its essence are not specified in regulatory legal acts, but upon Art. 30 of the Law of Ukraine “On the Accounting Chamber”, the activities of the Accounting Chamber are based on the principle of efficiency. For example, the annual report on the activities of the Accounting Chamber should contain data on performance assessment. Art. 10 of the Law states that the Accounting Chamber is authorized to assess the efficiency of administration by supervisory authorities of revenues to the State Budget and measures taken by the debtor to recover the State budget²⁰.

Moreover, the Accounting Chamber of Ukraine is entitled to check the effectiveness of the State Tax Service of Ukraine. The Lima Declaration of Guidelines on Auditing Precepts refers to the verification of the effectiveness of internal control by an external control entity.

Efficiency implies ensuring the economic security of the state and the minimum costs of financial control through using the principal forms and applying rational methods of data collection, as well as modern information technologies. For example, at the international level, the fight against tax evasion and misuse of budget funds is aimed at introducing a system of automatic exchange of information on financial accounts. The effectiveness and efficiency of electronic inspections in Ukraine should be ensured by the availability of special-purpose software to protect confidential information from unauthorized penetration into electronic systems.

The principle of continuity means that all monitor objects are subject to constant prior, current, and periodic further budgetary control by monitor subjects within the time limits established by the legislation of Ukraine. This guarantees constant monitoring of the administration of state and local budgets.

The principles of the State Financial Control are set out in the Lima Declaration of Guidelines on Auditing Precepts, which was adopted by the IX International Congress of INTOSAI, and in the declaration adopted in Kyiv in 2001. Thus, all member independent states adhere to the following principles:

– recognition of independent audit bodies as an integral feature of democracy and an obligatory element of public funds management;

²⁰ Про Рахункову палату: Закон України від 02.07.2015 № 576-VIII. URL: <http://zakon.rada.gov.ua/laws/show/576>

– consolidation in the legislative order of institutional, functional, and organizational independence of audit bodies, independence of employees of audit bodies, financial independence of supreme audit institutions, their relations with the parliament, government, etc., which is a prerequisite for observing the legality, objectivity, and regularity of control;

– publicity of the work of audit authorities, which follows from the right of the taxpayer to know how his funds are spent, but subject to compliance with confidentiality of information, commercial and other secrets protected by law;

– recognition of the need for preliminary audit and audit after the fact, recognition of the need for internal and external audit²¹.

The principle of efficiency, its essence is not explicitly stated in the legal acts, but Article 30 of the Law of Ukraine “On the Accounting Chamber” activity of the Accounting Chamber is based on the principle of efficiency, for example, the annual report on the activity of the Accounting Chamber should contain information on the evaluation of the effectiveness of the Accounting Chamber.

The principle of responsibility is disclosed by the Law of Ukraine “On the Fundamental Principles of Exercising Public Financial Control” states that the public financial control authority takes in the prescribed manner measures to eliminate violations of the law and hold them accountable in the course of state financial control. the perpetrators, namely: they are brought to disciplinary and criminal responsibility for the failure or improper performance of public financial control officials by their officials minimum liability. Today, according to the amendments to the legislation of Ukraine (Law № 3275), during the period from March 1 to May 31, 2020, taxpayers are not charged a penalty, but accrued, but not paid for this period, is subject to write-off²².

However, so far the State Tax Service software is still ready for this benefit.

In Art. 2 of the BCU provides the definition of the budget as a plan for the formation and use of resources to ensure the tasks and functions, which are carried out respectively by public authorities, authorities of the Autonomous Republic of Crimea, local governments during the budget period²³.

Thus, budgetary resources are public finances, the redistribution of which is regulated by special budget legislation and is carried out within the

²¹ Лімська декларація керівних принципів контролю : декларація ІХ Лімського (Перу) Конгресу вищих органів контролю державних фінансів (INTOSAI) від 01.10.1997. URL: <http://www.ac-rada.gov.ua/control/main/uk/publish/article/140217>

²² Про внесення змін до деяких законодавчих актів, спрямованих на забезпечення додаткових соціальних та економічних гарантій у зв'язку з поширенням коронавірусної хвороби (COVID-2019) : Закон України від 30.03.2020 р. URL: <https://zakon.rada.gov.ua/laws/show/540-20>

²³ Бюджетний кодекс України від 8 липня 2010 року № 2456-VI. *Відомості Верховної Ради*. 2010. № 50–51. Ст. 572. URL: <http://zakon2.rada.gov.ua/laws/show/2456-17>

framework of budgetary relationships. Within the framework of budget relations, budgetary control is implemented as a type of state financial control, which has its own peculiarities. Determining the essence of budgetary control is essential not only for the legal science, but also for the legislative and law enforcement practice in Ukraine.

Assessment of the financial position of the budget is an indispensable element of the budget process at its final stage when summarizing the budget execution. At the same time, an important factor in the effective management of budget resources is the overall assessment of the financial state of the budget, which in its content reflects the results of the financial activities of the executive authorities. This assessment analyzes the budget commitments and examines their structure.

Audit should be understood as the form of subsequent financial control, which is a system of mandatory control actions under a pre-approved program, in the form of a documentary and factual verification of compliance with an entity, institution or organization of financial law, the legality, expediency and effectiveness of economic and financial transactions performed, reliability and correctness of accounting and reporting.

A complete audit involves checking all parties to the financial and economic activity of the control entity. Audit in accordance with the resolution of the Cabinet of Ministers of Ukraine “On approval of the procedure of inspection by the State Audit Service, its interregional territorial bodies” of 20.04.2006 № 550:

Partial – check only certain types of business transactions or specific areas of activity of the enterprise, institution, organization. Thematic ones are a check of the same institutions, organizations on specific special issues. Comprehensive audits allow you to look more deeply into the broad range of issues that characterize all links and aspects of an entity’s business, organization and institution. In a continuous audit, they check all documents that characterize financial and economic activity since the last audit. The sample checks only some documents or all documents, but for a certain period of time. Scheduled audits are carried out in accordance with the plan of control and audit work of the controlling bodies. Unscheduled audits are carried out on the special tasks of superior organizations or at the request of the courts and prosecutors²⁴.

Today, there is insufficient attention to control activities that provide a preventive control function. Duplication in the work of supervisory authorities at different levels, overloading of some objects with audits and inspections.

²⁴ Про затвердження порядку проведення інспектування Державною аудиторською службою, її межрегіональними територіальними органами : Постанова Кабінету Міністрів України від 20.04.2006 р. № 550. URL: <https://zakon.rada.gov.ua/laws/show/550-2006>

Therefore, it is necessary to ensure a unified methodological support for the budget, reflecting the state of financial discipline, and methods for calculating them; the mechanism of internal control and compliance with the current budget legislation, as well as the formation of a system of unified procedures for external and internal state control. Today, there is insufficient public relations work to clarify the tasks of budgetary control.

Preliminary budgetary control precedes the implementation of financial and economic operations. This control is carried out at the stage of consideration and decision-making on financial matters, including – at the stage of development and adoption of laws and acts in the field of financial activity, substantiation of financial programs and forecasts in the process of drawing up, review and approval of budget plans of all levels, estimates of extrabudgetary funds, in the process of developing financial plans and estimates, credit and cash applications, financial sections of the business plan, drawing up forecasts, balances of economic entities. At the same time, the activity of financial control bodies is aimed at preventing illegal and irrational use of funds in a timely manner. The preliminary budgetary control is carried out at the parliamentary hearings on budgetary policy issues for the next budgetary period, which are held in the Verkhovna Rada of Ukraine on the draft Budget Policy Guidelines (Budget Resolution) presented by the Cabinet of Ministers, as well as financial and economic expertise of the State Budget of Ukraine drafts by the Accounting Chamber of Ukraine and draft laws and other normative acts, international treaties of Ukraine, national programs and other documents concerning the state budget and finances of Ukraine. At the stage of financial forecasting and planning, preliminary budgetary control is a prerequisite for making optimal management decisions. It should be noted that during the ex-ante control, the measures of influence are not applied as they are not yet occurring in violation of financial discipline.

The next budgetary control is exercised by the Accounting Chamber, namely when performing Art. 35 of the Law on the Accounting Chamber, stating that:

1. According to the results of implementation of measures of state external financial control (audit), a report shall be drawn up, the constituent parts of which are the act (if any), conclusions and recommendations (proposals). The report on financial and performance audits must make the conclusions based on the criteria established in accordance with paragraphs 3 and 4 of Article 4 of this Law.

2. The report shall be signed and presented at a meeting of the Accounting Chamber by a member of the Accounting Chamber responsible for carrying out the appropriate measure of state external financial control (audit).

3. Not later than seven working days before the consideration at the meeting of the Accounting Chamber, the draft report shall be discussed by the respective member of the Accounting Chamber and the authorized official of

the object of control. Within five days, the audited entity may submit written comments on the content of the draft report to the appropriate member of the Accounting Chamber, who shall review them and provide information on the results of the consideration of the comments. Such comments and help are an integral part of the report.

4. After approval by the Accounting Chamber, the report shall be sent to the subject of control²⁵.

According to the order of the Ministry of Finance of Ukraine “On approval of the Procedure of preparation of budget reporting by managers and recipients of budgetary funds, reporting by compulsory state social and pension insurance funds” of January 24, 2012 # 44 spending units whose subordination according to the legislation of Ukraine since the beginning of the new the budget period and / or during the reporting period has been modified, the budget statements are prepared and submitted in ex-ante reporting as discontinued operations to bsyazi annual reporting. According to the new subordination, such spending units compile and submit budget reports as newly created, depending on what reports are prepared and submitted (monthly, quarterly (interim), annual). Such budget spending units are not indicated in the budgetary statements at the beginning of the reporting year. Reporting forms are prepared and submitted using the automated electronic reporting system by the clients of the State Treasury Service of Ukraine.

All copies of the budgetary statements of spending units and recipients, as well as the consolidated budget statements of the main spending units, shall be checked and inspected by the relevant Treasury body by:

- imposition of a qualified electronic signature on each form of budget reporting and the form on disclosure of elements of budget reporting (in the case of reporting using the AE-Reporting AU);
- Certification by signature, stamp or stamp on each page of all forms of budgetary reporting and forms for disclosure of elements of budgetary reporting (in the case of reporting on paper).

According to the Resolution of the Cabinet of Ministers of Ukraine “On Some Issues of Internal Audit and Establishment of Internal Audit Units” № 1001 of 28.09.2011 in the ministries of other central executive bodies, their territorial bodies and budgetary institutions, which belong to the sphere of management of the ministries of other central executive bodies Authorities should set up internal audit units. The object of internal audit in accordance with the said resolution is the activity of the central executive body of its territorial bodies and budgetary institutions in full or on certain issues and measures taken by its head to ensure the effective functioning of the internal control system: compliance with the

²⁵ Про Рахункову палату : Закон України від 02.07.2015 № 576-VIII. URL: <http://zakon.rada.gov.ua/laws/show/576>

principles of legality and efficient use of budgetary funds, achievement of results in accordance with the set goal, fulfillment of tasks of plans and observance of requirements concerning activity of the central body of executive power, its territorial bodies and budgetary institutions, and also the enterprises, institutions and organizations which belong to the sphere of management of the ministries of other central executive bodies.

The main task of the unit is to provide the head of the state body, its territorial body and the budget institution with objective and independent conclusions and recommendations on:

- functioning of the internal control system and its improvement;
- improvement of the management system;
- prevention of illegal, inefficient and ineffective use of budget funds and other assets;
- prevention of errors or other deficiencies in the activity of the state body, its territorial bodies, enterprises, institutions and organizations belonging to the sphere of its management²⁶.

Strategic and operational plans are formed by the unit on the basis of the results of risk assessment and approved by the head of the state body, its territorial body, the budget institution not later than the beginning of the planning period. Changes to the strategic and operational plans shall be made in the order of their approval not later than the end of the planning period. In case of creation of subdivisions in territorial bodies and budgetary institutions of a state body, consolidated strategic and operational plans (hereinafter – consolidated plans) of internal audit activity in the state body, its territorial bodies and budgetary institutions shall be drawn up and approved by the head of the state body. Strategic and operational plans (consolidated plans) and amendments thereto shall be published on the official website of the public authority, its territorial body and the budgetary authority.

According to Part 3 of Art. 4 of the Law of Ukraine “On the Accounting Chamber” financial audit consists in checking, analyzing and evaluating the correctness of keeping, completeness of accounting and reliability of reporting on revenues and expenditures of the budget, establishing the actual state of affairs regarding the purposeful use of budgetary funds, compliance legislation in conducting transactions with budgetary funds²⁷.

Financial audit of the use of budget funds covers:

- 1) during the year of monitoring the financial statements of the budget institution, including using the State Treasury databases;

²⁶ Латковський П. В. Правове регулювання Бюджетного контролю в Україні : дис. ... канд. юрид. наук : 12.00.07. Одеса, 2017. 247 с.

²⁷ Про Рахункову палату: Закон України від 02.07.2015 № 576-VIII.URL: <http://zakon.rada.gov.ua/laws/show/576>

2) verification of use of budgetary funds, state and communal property, correctness of accounting, reliability of financial statements, in the case of detection of risky transactions as a result of monitoring of financial statements;

3) analysis of the internal financial control system, in particular determining the effectiveness of its organization;

4) preparation of proposals for the management of the budgetary institution for elimination of the identified shortcomings and violations, revealed by the results of the previous stages;

5) providing an opinion on the level of reliability of the financial statements of the budgetary institution, compliance with the legislation on financial issues by officials and completeness of consideration of the proposals during the audit.

Such legislative definitions of the concept of financial audit do not substantially contradict one another; 26 of the Bank of Ukraine, according to which budgetary control is aimed at ensuring efficient and effective management of budgetary funds, as well as providing an assessment of budgetary management (including conducting a state financial audit); the correctness of accounting and the reliability of financial and budgetary statements; achieving budget savings, their targeted use, efficiency and effectiveness in the activities of budget spending units by making sound management decisions; analysis and evaluation of the state of financial and economic activity of spending units; prevention of violation of budget legislation and ensuring the interests of the state in the process of managing state property; the reasonableness of budgeting and budgeting.

Budgetary control is an effective tool to stimulate greater financial responsibility and productivity for both employees, business units and the enterprise as a whole. The tasks of budgetary control can be further specified on institutional grounds, firstly, on the object and object of control, secondly, on the stages of the budgetary process, on the procedure of adopting the relevant budgets that make up the budgetary system; thirdly, the entities with controlling powers. The essence of budgetary control is specified through actions, that is, the system of control measures of authorized entities to compile, review, approve, execute budgets, as well as to review and approve reports on the implementation of budgets, both at the state and local levels.

P. P. Latkovsky calls budgetary control regulated by the rules of budgetary law the control activity of the authorized (controlling) persons to perform operations of comparing (comparing) the indicators of budgetary activity of obliged (controlled) entities (budgetary-legal reality) with the established rules of budgetary law, that is, knowledge of budgetary activity, as well as detection and elimination of deviations of real performance indicators from the established norms of budgetary law in order to establish compliance with budgetary di of its legal model to achieve a certain result²⁸.

²⁸ Латковський П. В. Правове регулювання Бюджетного контролю в Україні : дис. ... канд. юрид. наук : 12.00.07. Одеса, 2017. 247 с.

The control of the Treasury bodies directly at the stage of payment (except for the costs incurred at the expense of their own revenues) should ensure that expenditures are compliant with the conditions of the registered obligations and that the purpose of the funds at which they are incurred is met. When making expenditures in respect of own resources of budgetary institutions, the Treasury control must ensure that they comply with the directions stipulated by the approved estimate. Another area of control of the State Treasury bodies is the verification of financial statements of managers and recipients of local budget funds²⁹.

The compliance of the reporting data with the indicators of accounting of execution of local budgets performed by the Treasury bodies is checked; the existence of a logical relationship between the individual elements of the financial statements of Treasury customers. According to Art. 19 of the Budget Code of Ukraine stage is “preparation and review of the report on budget implementation”, however, Chapter 10 of the Budget Code, which regulates this stage, refers to the monthly and quarterly report on budget implementation, and in relation to the annual report – already about the implementation of the Law on the State Budget of Ukraine³⁰.

In the process of current reporting, which is entrusted to the spending units and at the stage of reporting on budget execution, the bulk of the materials are prepared in accordance with the requirements established by the State Treasury Service of Ukraine. As the State Treasury Service of Ukraine is responsible for unified accounting rules for all financial transactions, assets and financial liabilities of the state, budget spending units keep accounting in accordance with the rules established by the State Treasury Service of Ukraine. Scientists distinguish in the framework of the preliminary budget control two of its types, which are carried out in the first two stages, but combined by the end result

– the law on the state budget or the decision on the local budget. At the legislative level, changes were made to Article 113 of the Budget Code of Ukraine of July 8, 2010 № 2456-VI and the Law of Ukraine “On the Fundamental Principles of Exercising State Financial Control in Ukraine” of August 7, 2015 № 2939-XII with New Powers of Public Financial Control Bodies: Control over the Reliability of Determining the Need for Budgetary funds when budgeting.

Among the violations of fiscal discipline in 2019, the most common were: violations of the legislation on wages, accrual and payment of a single social

²⁹ Про Державну казначейську службу України: Постанова Кабінету Міністрів України від 15.04.2015 № 215. URL: <http://zakon.rada.gov.ua/laws/show/215-2015>

³⁰ Бюджетний кодекс України від 8 липня 2010 року № 2456-VI. *Відомості Верховної Ради*. 2010. № 50–51. Ст. 572. URL: <http://zakon2.rada.gov.ua/laws/show/2456-17>

contribution, illegal payment of compensation, benefits; implementation of expenditures from the state budget, which should be financed from the local budget; unjustified reimbursement of expenses of third parties, natural persons, or reimbursement at the expense of the general fund of the estimates of expenses of the special fund; illegal alienation of property; misuse of budget funds. Almost 10.2 thousand persons were brought to administrative responsibility for violations of the legislation on financial issues in the regions. Almost 1.9 thousand control measures were transmitted to law enforcement agencies. Thus, the Treasury budget execution system has significantly strengthened budgetary control over local budgets. Therefore, it is advisable to create a comprehensive system of electronic document circulation of the bodies of the State Treasury Service of Ukraine and its integration with the system of electronic interaction of bodies of executive power.

The main achievement of the Law of Ukraine “On Auditing of Financial Reporting and Auditing” № 2258-VII of 21.12.2017 is the unification of the legislation of Ukraine in the field of audit activity with European legislation, which should enhance the international prestige of Ukraine, promote its economic and financial integration in the world economy³¹.

One of the positive innovations of this Law is the introduction of a unified register of auditing entities. This will greatly simplify their administration of their activities, save time and money in meeting the requirements of various regulators.

From the specified definition of budgetary control, we can distinguish the following features of this type of state financial control:

1. Budget control is carried out in respect of the funds of the State Budget of Ukraine, as well as local budgets adopted in accordance with the procedure established by the current legislation of Ukraine.

2. Budgetary control is implemented by the participants of the budgetary process.

3. Budgetary control is carried out in accordance with the budget legislation of Ukraine.

4. Budgetary control is implemented at all stages of the budgetary process.

INTOSAY Financial Audit Guidelines: The International Audit and Insurance Standards Board's evaluation and resources system, the performance audit mechanism, the exchange of knowledge on the successful performance of the audit function. The problems in the public finance management system facing the state authorities today require the state financial audit of innovations in order to achieve the efficiency of its activity. Effective functioning of the state financial audit in accordance with EU standards will provide the necessary qualified

³¹ Про аудит фінансової звітності та аудиторську діяльність: Закон України від 21.12.2017 р. № 2258-VII. URL: <http://zakon.rada.gov.ua/laws/show/2258-19>

personnel with skills to carry out expert evaluation of the management functions of the public authority through: openness-full informing of all interested persons about the activity of the body, the lawfulness of the provision of public services through the use of effective mechanisms of control and compliance with the legislative and regulatory and relevant ethical and professional standards, accountability – timely submission of quality financial reports on the results of the body's activities³².

The International Standards provide recommendations for conducting an audit of legality (financial audit), requirements for auditors, methods of conducting an audit, registration of results. During the state financial audit the accounting documents, financial statements, their compliance with the current legislation and regulations are checked and evaluated. The financial audit is carried out in order to take precautionary measures during the verification of the correctness and appropriateness of the decisions made by a controlled entity for the implementation of the Law of Ukraine “On the State Budget”³³. Ensuring that the procedures and mechanism of internal control and internal audit of the spending units are in line with the EU international standards and best practices and that a coherent system of public internal financial control in the understanding of international practice is currently being implemented. At the same time, progress is not sufficient to date. The concept of state internal financial control is defined as a set of control and analytical measures aimed at ensuring the proper (legal, economic, effective, efficient and transparent) management of public finances, which are implemented within the framework of internal control, internal audit, inspection. The budget legislation of Ukraine needs further improvement in the direction of improving the principles of budgetary control and regulation of certain procedures, as well as the optimization of the system of controlling entities and control measures.

CONCLUSIONS

1. The current legislation of Ukraine does not define the concept of “budgetary control”. In Art. 26 of the Budget Code of Ukraine (hereinafter referred to as BCU) uses the term “control over compliance with budget legislation”, which is aimed at ensuring effective and efficient management of budgetary funds and is implemented at all stages of the budgetary process

³² Про внесення змін до Податкового кодексу України щодо забезпечення збалансованості бюджетних надходжень у 2018 році : Закон України від 07 грудня 2017 року № 2245-VIII-ВР URL: <http://zakon0.rada.gov.ua/laws/show/2245>

³³ Про внесення змін до деяких законодавчих актів, спрямованих на забезпечення додаткових соціальних та економічних гарантій у зв'язку з поширенням коронавірусної хвороби (COVID-2019) : Закон України від 30.03.2020 р. URL: <https://zakon.rada.gov.ua/laws/show/540-20>

by its participants in accordance with BCU and other legislation. Today, in Ukraine, it is particularly important to establish a single mechanism for internal control and compliance with current budget legislation of Ukraine.

2. The purpose of current budgetary control in Ukraine is to identify deviations from the established norms and regulations, to prevent them at the initial stage of financial transactions; achieving the rational, efficient use of financial resources for the intended purpose. It is the operational budget control that has the greatest impact on the process of formation and use of state budget resources. This budgetary control is exercised by absolutely all subjects of the execution of the state budget, which are at the same time bodies of direct management of budgetary funds.

3. The main directions of the following budgetary control of Ukraine can be attributed to: analysis of the implementation of plans and budgets; reviewing estimates, reports and balances; examination of the legality of the decisions of the governing bodies with respect to the subject being inspected; identification of cases of insecurity of property; determining ways to prevent violations of financial discipline and measures to remedy them.

4. Duplication in the work of supervisory authorities at different levels, overloading of some objects with audits and inspections, because there is insufficient attention to controls that provide a preventive function of budgetary control. That is why a unified methodological support is needed for a system of economic indicators that reflect the state of financial discipline; also the establishment of an internal control mechanism and compliance with the budget legislation of Ukraine.

5. Introduction of information technologies with the purpose of enhancing information interaction of control bodies, as well as development of mechanism of interaction of legislative and executive bodies; and mechanisms for evaluating the effectiveness and quality of budgetary control in Ukraine are needed.

SUMMARY

The article deals, Unfortunately, misuse of public financial resources is still widespread, which indicates that the existing system of budgetary control is inefficient. The Budget Code of Ukraine does not provide for liability for the inaccuracy of indicators set in local budget projects for improperly exercising control at the first stage of the budget process. The orderly and efficient use of public funds is one of the main prerequisites for the proper management of public finances and the effectiveness of decisions taken by ministries and other state bodies of Ukraine.

Today it is necessary to improve the legislation of Ukraine in the sphere of budgetary control, namely: it is expedient by joint implementation of the

Ministry of Finance of Ukraine, the State Tax Service and the Accounting Chamber of Ukraine common standards of control over the use of budgetary funds and objects of state (municipal) property. An important requirement to build a modern system of state financial control at all levels of management is to exercise control on the basis of ensuring clear interaction and coordination of efforts of all participants of financial and budgetary relations to solve the problems of budgetary control of Ukraine. The current system of budgetary control of Ukraine must be designed in such a way that it can be quickly and effectively adjusted to meet new challenges and challenges.

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