

бухгалтерської звітності сільськогосподарських підприємств [Текст] : Дис... канд.
наук: 08.00.09 / Н.В.Семенишена. – Київ. ННЦ «Інститут аграрної економіки»
УААН, 2008. – 168 с.



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IMPROVEMENT OF TOURISM ACTIVITY TAXATION IN UKRAINE

The successful development of tourism in Ukraine and, consequently, of the state economy (in many countries tourism is a budget-forming sector) depends on the efficiency of the tax system in general and in tourism, in particular.

Hence, there is a wide range of problems in the regulation of tourism issues in the tax legislation of Ukraine. In our belief, this is due to the lack of national support of the development of priority type of tourism – the incoming (foreign). It severely affects the economic and international relations and the interests of our country. In our view, a special legislative act on state support of the incoming tourism will contribute to the effective solution of a number of problems. It would regulate the relations with the provision of tourism services to foreign tourists, the procedures and conditions of introducing this type of activities by the subjects of entrepreneurship, law and the participants' duties of such relations and so on.

In particular, the concept of "export / import" of tourism services has not been defined on the legislative level. This resulted in the lack of fair taxation mechanism of value added tax and numerous legal problems in this regard. For example, the Tax Code of Ukraine introduced the improper taxation of travel services (product) by the value added tax, excluding general mechanism of taxation in our country of VAT export and import. This, in turn, violates the rights to tourists' freedom to travel because this right is restricted by too high value of tourism services through charging the taxation VAT.

Moreover, the absence of a zero rate of VAT for services in incoming tourism contradicts the international practice, and the current laws of Ukraine, as in fact, it is the discrimination against the taxation of other exports in Ukraine.

According to the Law of Ukraine "On External Economic Activity" from 16.04.1991 No 959-XII (Art. 1), the classical notion of "export of goods" means its sale to foreign economic activity subjects with their re-exportation or export without passing through the customs border of Ukraine. Importing goods stands for its purchase from foreign subjects of foreign economic activity through importing or without it on the territory of Ukraine [1]. If to talk about the specific product, like tourist services (tourism product), the sale of these services is different from the trade of other goods, as they do not have a materialized form and literally they do not cross the border. This uncertainty and the absence of considering the specificities of the tourist trade have led to the

incorrect formulation of rules of VAT tourist services (product) without distinguishing between exports and imports of services from tourism.

Taking into account the above-given general definitions of "export / import" of goods, it is necessary to understand exports of travel services (tourism products) as the services which are sold by Ukrainian subjects of tourist activity to foreign economic entities. Imports of travel services (tourism products) are understood as the purchase of Ukrainian tourist activity subjects from foreign economic entities. However, the zero VAT rate is applicable to transactions of service supply which are aimed at consuming outside the customs territory of Ukraine. In the tourism industry, this provision should be interpreted vice versa.

Travel services (tourism product) are delivered outside the customs territory of Ukraine either directly or through non-residents. And they are consumed by foreigners in Ukraine, as tourism services cannot be carried through the customs border of Ukraine (tourism infrastructure, natural resources, historical and cultural objects display etc.). Thus, the provision of travel services (tourism products) in Ukraine is zero taxed in case of their direct deliveries outside Ukraine or with the non-residents' use of cashless payments.

This approach is fully consistent with the international practice, as according to Paragraph 2 of Article 1 of the General Agreement on Trade in Services (GATS) from 15.04.1994, export of services is meant as the provision of the customer (consumer) of the other state with the service (e.g. Ukraine) on the customs territory of the particular state. That is incoming tourism services are exporting services, and according to our legislation, exports are taxed at a zero rate of VAT [2].

In addition, the absence of a zero VAT rate for services in incoming tourism contradicts the norms of the national legislation to comply with the principles of unity of the tax system, including "the principle of equality, preventing any form of tax discrimination – to ensure uniform approach to economic entities" (Art. 4 of the Tax Code of Ukraine) [3]. Therefore, tour operators are discriminated in relation to other economic entities, there has been violated the equality in taxation of tourism product / service exports (which operates on standard rate of VAT to the tax base), exports of goods and services in other areas of economic activity to which zero VAT rate continues to be applied.

Consequently, reception services and service of foreign tourists in Ukraine (incoming tourism) in accordance with the existing practice should be taxed at a zero rate as any real exports of goods (services) and it is rightly envisaged by tax legislation of Ukraine for a number of other sectors and existed until 2005 in the field of tourism under the Law of Ukraine "On Value Added Tax" No168 / 97-VR.

Services in arranging travels outside Ukraine (outbound tourism) is tourism service imports and they should be taxed on a common basis. For these transactions in accordance with Art.207 of Tax Code of Ukraine a clear scheme of taxation was established – on a general basis the commission amount to business subjects (margins) which complied with the EU (Council Directive No 2006 / 112 / EC of 28.11.2006 on common tax system of value added tax).

In this connection, we consider it appropriate to improve the existing legislation on

these issues, taking into account the specifics of travel services (tourism products) by making appropriate amendments to the Tax Code of Ukraine; to define the concept of export / import of travel services (tourism products) and on this basis to establish the order of VAT.

With the above-mentioned suggestions and alignment with the international practice of VAT services to incoming tourism the attractiveness of Ukrainian tourism products and its competitiveness on international markets services, will increase significantly.

And, therefore, thanks to the increasing number of foreign tourists visiting Ukraine and spending their money to pay for goods and services of Ukrainian producers, the state, certainly, will get a significant increase in revenues from both VAT and by contributions from related activities. At present, exports of services in Ukraine are only 3% (in Europe – 30%), and tourism in our country generates only 1.6% of total GDP (in the EU - 8%) [4].

References

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