

1. Concept of Tax Transparency and new tendencies

1.1 What is the concept of tax transparency in your country – what are topics discussed under this term?

In Ukraine, the notion of tax transparency is similar to the one existing in other countries. Tax transparency is a matter of reputation, company's price on the market and a matter of company's interaction with tax authorities and a certainty of tax relations, predictability for the company itself and for tax consequences. Therefore, tax transparency assists organizations to obtain a "social license" for their existence.

There are three meanings of tax transparency:

- how the organization communicates its approach to taxation and the amount of taxes paid;
- how the organization makes the calculation of taxes transparent and how the stakeholders are convinced that taxes are actually paid honestly;
- how the state authorities disclose information on the amount of taxes received and how they disseminate information about similar taxpayers.

The phenomenon of tax transparency is approached in two ways:

- taxpayer's policy aimed at disclosing the amount of taxes paid to the company (stakeholders), ensuring transparency of calculating and paying taxes (tax policy).
- state policy aimed at informing society about the amounts of collected taxes, fines, arrears, and decisions taken in tax matters.

Stakeholders may be divided into:

- Traditional – shareholders, lenders, analysts.
- Not traditional – non-governmental organizations, deputies, mass media, international organizations, government.

1.2 Has there recently been a change of the perception of tax transparency?

To begin with, in order to ensure permanent provision of information to state authorities, local government, legal entities and individuals, the central executive authority implementing state tax and customs policy – on the unified state registration website of legal entities and individual entrepreneurs and on its own official website – publishes data about the registration of legal entities

as taxpayers, their separate subdivisions and self-employed individuals not later than the next workday after registration.¹

Therefore, Ukraine made available the following tax registers:

- tax invoice register;
- excise invoices register;
- register of individual tax consultations;
- register of tax assessment notices issued for each taxpayer;
- register of applications for installment of tax liabilities;
- register of VAT payers;
- register of excise duty payers;
- register of single tax payers (small business);
- register of applications for the return of VAT refunds;
- register of non-profitable institutions and organizations;
- customs register of objects of intellectual property rights.

– What are the interconnections between tax transparency and digitalization?

There is a direct interconnection between tax transparency and digitalization in Ukraine. Thus, digital technologies are introduced for interaction between taxpayers and controlling bodies (the State Fiscal Service of Ukraine). Article 42-1 of the Tax Code, introduced in 2016, provides for the functioning of taxpayer's electronic office, which ensures the following opportunities in terms of access to tax information:

- real-time tracking of information about the taxpayer collected and used by the State Fiscal Service on the matters of tax administration, tax control, etc.;
- reconciliation of taxpayer's calculations with the budget;
- filing tax returns;
- access to the data of the electronic VAT administration system, register of tax and excise invoices, and invoices, the registration of which has been stopped;
- information on the initiation, conduct and results of tax audits;
- information on the status of other taxpayers on the basis of open tax registers maintained by tax authorities;

¹ 14.1.226-1. service for payers includes administrative, consulting, reference, information, electronic and other services related to realization of the rights and obligations of taxpayer in accordance with the requirements of tax and other legislation, the control of which is entrusted to the controlling authority; {clause 14.1 of Article 14 is supplemented with sub-clause 14.1.226-1 in accordance with the Law No. 1797-VIII of 21.12.2016}

- filing applications and receipt of any documents that relate to such taxpayer and are issued by the tax authority, including tax consultations;

- electronic communications with tax authority.

Digital technologies simplify access to the required tax information, facilitate tax planning, prevent errors, and ensure “reasonable care” and predictability of the tax policy of the taxpayer.

The electronic office will be fully operated from 2018.

- Are there effects of the “new” tax transparency on the political process like increased public awareness, involvement of the public (also with the risk of miss - interpretation)

It is worth stating that tax transparency, both on the part of the state and the taxpayers, allows the society using accurate data on tax payments, state debt to taxpayers (VAT refunds) and taxpayers' debts to the state.

2. Information procurement and data usage by the tax authorities

2.1 Which principle is pursued in your country: self-assessment or assessment ex officio?

According to Article 54 of Tax Code of Ukraine, the taxpayer generally determines the amount of tax liability himself.

In addition, the amount of tax liability may be determined by:

- supervisory authority, provided:

- violations detected (failure to file a return, incorrect tax calculation) on the part of taxpayer;

- obligation to calculate tax is assigned to the supervisory authority as an exception (e.g., individuals do not have to file returns on property tax, the fiscal service determines the amount of tax liability on the basis of data of registers);

- by tax agent in cases stipulated by the law.

After submission of tax reporting it is controlled by the tax authority in the manner of conducting tax audits:

- off-site (office) audit stipulates only inspection of reporting without calling the taxpayer;

- on-site audit stipulates inspection of all tax and accounting records of the taxpayer for a certain period.

2.2 How do the tax authorities obtain information?

a) Third-party reporting obligations (banks, employers, notaries, etc.)

According to the current legislation on the performance of transactions with taxpayers, the following institutions must inform fiscal service.

Banks should provide information on the opening and closing of taxpayers' accounts. Banks do not have the right to carry out operations on debiting money from an open account until they receive notification of the taxpayer's account being taken into account. Failure to provide this information entails imposition of a fine. In addition, banks should provide information on the movement of funds on the taxpayer's account based on a court decision, and information on the presence of accounts - on the basis of a written request (see Article 62 of the Law on Banks).

Next, employers must provide information as tax agents. They submit a quarterly report on the amounts of tax withheld from taxpayers-individuals. In addition, they inform the fiscal service about concluding employment contracts with every new employee.

What is more, in the case of a notarial act regarding the certification of agreement of lease of real estate objects, notary is obliged to send information about such contract to the controlling authority.

The notary quarterly submits to the controlling authority information about the certified sales contracts (contract of exchange), with the value of each contract and the amount of tax paid indicated;

The notary quarterly submits to the controlling authority information about the issuance of certificates of the right to inheritance.

It is worth mentioning that business entities that carry out intermediary activities related to lease of real estate are obliged to send information on civil contracts (agreements) on the lease of real estate concluded through their intermediation to the controlling authority.

In addition, information is also provided by executive authorities, representatives of local self-government and the National Bank of Ukraine, in particular:

- on objects of taxation, provided or registered by such authorities, monthly;
- on the results of the state control over the economic activity of the taxpayer;
- on information contained in the reporting documents (except for personalized statistical information), submitted by the taxpayer to executive authorities or local self-government authorities;
- on rates of taxes, fees and tax reliefs established by bodies of local self-government within 10 days after the entry into force of the decision;

- on permits, licenses, patents, certificates of the right to conduct certain types of activities, monthly;

- on export and import transactions of taxpayers;

For informational and analytical support of the activity, other information that is disclosed as being subject to disclosure in accordance with the law and/or voluntarily or upon request is provided to the supervisory authority in accordance with the procedure established by law.

b) Information obtained from

– courts (obtained in other legal procedures in civil, criminal or other public administration matters)

– other branches of administration, e.g. registration authorities, traffic monitoring, etc.

– central databanks

The State Fiscal Service has the opportunity to use the full information contained in court decisions published in the Unified State Register of Court Decisions. However, the fiscal service cannot be acquainted with the materials without being a party to the case.

c) Information gathered for other purposes like prevention of money laundering, tackling terrorism, bribery control

The State Committee for Financial Monitoring of Ukraine and the State Tax Administration of Ukraine signed an agreement on information interaction and protection of information in the Unified State Information System within the framework of prevention and counteraction to legalization (laundering) of the proceeds from crime or terrorism financing. The tax police authorities within the SFS system investigate cases of tax evasion, money laundering and terrorism financing. Thus, they have full access to the relevant information.

d) Information from private stakeholders

– Acquisition of stolen data

– Information provided by NGOs, specialized journalist associations/coalitions of private researchers and media revelations (e.g. tax justice network)

– Existence of a whistleblower system

For informational and analytical support of activity, other data that is disclosed as being subject to disclosure in accordance with the law and/or voluntarily or upon request is provided to the supervisory authority in accordance with the procedure established by law.

2.3 International exchange of information

As mentioned in the introduction, the international exchange of information is not the main focus. However, especially practical evidence about the transformation of the international initiatives would be of interest.

- Transformation of the new standards into domestic law
- First experiences with the application of the new standards (FATCA, AEOI, MCAA, CbCR)

Ukraine joined the OECD Action Plan on January 1, 2017, and initiated work on the implementation of the OECD standards in the Ukrainian legislation.

Implementation of FATCA

On 7 February 2017, the Government of the United States of America and the Government of Ukraine signed an agreement to improve international tax compliance and to implement Foreign Account Tax Compliance Act (“FATCA”).

According to the Agreement, Ukraine shall obtain information about all accounts in the USA and annually exchange this information with the USA on an automatic basis.

The text of the Agreement provides the amount of information on financial accounts opened by the reporting financial institutions of Ukraine for US taxpayers, which should be received and exchanged between the Parties to the Agreement.

The Government of Ukraine takes the obligation to initiate amendments to a range of legal acts, which will enable the implementation of the Intergovernmental Agreement. However, the Agreement *has not come into force yet*.

Implementation of MCAA, AEOI, CbCR

As of 2 October 2017, Ukraine did not join MCAA and did not implement AEOI on the legislative level.

Meanwhile, the Ministry of Finance headed by Oleksandr Danyliuk declares readiness to launch automatic exchange of information about financial accounts of non-residents according to the international standard of Country-by-Country Reporting from 2020. That is, the first exchange of tax information will take place in 2019. By this time, Ukraine should ensure appropriate legislative amendments and high standards of confidentiality and protection of obtained information.

Therewith, the Draft Law “On Amendments to the Tax Code of Ukraine (On Automatic Exchange of Information on Tax Matters” No. 6503 of 25.05.2017) was developed in Ukraine. It

is aimed at creation of conditions for strengthening international cooperation on tax issues, which include, inter alia, introduction of a CRS standard at the national level.

The Draft Law suggests adding the provision about automatic exchange of information to the text of the Tax Code of Ukraine. The Draft Law offers to establish the concept of international automatic exchange of information on tax matters, and identify financial institutions that are required to provide information to tax authorities of Ukraine. Furthermore, the Draft Law offers to establish the requirements for the information provided in the framework of international exchange and guarantees of exchange of this information, as well as usage of information only for the purpose of combatting tax evasion. The Draft Law was submitted to the Verkhovna Rada of Ukraine.

International report (**CbCR**) has not been implemented at the national level.

2.4 Legal or practical obstacles for the information procurement.

Bank secrecy is disclosed by the State Fiscal Service of Ukraine (the SFS) on the basis of a court decision, except for:

- information on the opening and closing of taxpayer's accounts (provided by a commercial bank in which the account is opened);
- information on the availability of bank accounts (on the written request of the SFS).
- inviolability of the home;

In accordance with the Tax Code of Ukraine, the taxpayer is obliged to allow officials of the controlling authorities during their inspections to inspect premises, territories (except dwelling of citizens), used for income or related to the maintenance of taxation objects, as well as for inspections on the issues of calculation and payment of taxes and fees (Art. 16.1.13.).

The tax authority has the right to access to the territories, premises (except dwelling of citizens) and other property used for business activities and/or subject to taxation ring inspections, or to generate income (profit), or related to other objects of taxation and/or that may be a source of tax debt repayment (Art. 20.1.13.);

In Ukrainian legislation, there are no restrictions to use unlawfully acquired information. However, they are stipulated for criminal proceedings.

2.5 The usage of the information in the tax administration, especially in regard of automatization and digitalization of the tax assessment procedure

Certainly, the process of tax administration demands the implementation of automatization systems, application of electronic recourses and informational databanks. In the system of tax administration of Ukraine, there are services that by means of modern information technologies

promote fast and efficient implementation of the functions assigned to the controlling authorities, and enable the transition of interaction with taxpayers to a new level of excellence, in which the need for communication between taxpayers and the controlling authorities is minimized.

To begin with, in accordance with clause 74.1 of Article 74 of the Tax Code of Ukraine No. 2755-VI of 02.12.2010, the possibility of saving and processing tax information in the information databases of controlling authorities is provided. In particular, databases provide information collected, used and formed by the controlling authorities in connection with accounting of taxpayers (clause 63.12 Article 63 of the Tax Code).

The State Fiscal Service determines a list of databases created for information and analytical support of the activity of the controlling authorities.

Currently, the most significant automatization information system used by the controlling authorities for tax administration is the information system "Tax unit", created within the framework of the Project of Modernization of the State Fiscal Service of Ukraine (hereinafter – the SFS) and put into operation by the Order of the State Fiscal Service of Ukraine No. 1197 of 24 December 2012. "Tax unit" includes four subsystems, namely:

- “Registration of taxpayers”.
- “Processing of tax reporting and payments”.
- “Accounting of payments”.
- “Tax audit”.

Subsystem “Registration of taxpayers” is used for simplifying the procedure of registration of taxpayers in the SFS of Ukraine by electronic exchange of information with other state executive authorities and obtain of complete and accurate data on taxpayers and objects of taxation. In particular, such a subsystem makes it possible for the SFS of Ukraine to obtain the registration data of business entities and changes to them from the State Register.

Subsystem “Processing of tax reporting and payments” is aimed to create favorable conditions for the procedure of declaring income, namely, to ensure the efficiency and accuracy of input and processing of tax reporting data in real time (online). It provides the following services:

- generating tax reporting documents (automatic creation of tax reporting forms according to databases of the SFS of Ukraine;

- creating a document by transferring information, for example, from 1C program;
- calculating indices with the help of "tax calculator";
- automatic filling in the form of reporting with the information available in the database of SFS of Ukraine;
- control reporting in real time and after filling forms);
- review of submitted or/and generated reporting;
- filing (writing) tax reporting documents to the SFS of Ukraine.

Subsystem “Accounting of payments” creates a unique mechanism for systematical accounting and settlement in taxpayer’s personal account for all types of taxes in such a way that the accounting data is integrated with all other data of improved processes, which is aimed to create available and reliable information on the status of taxpayers’ payments with the budget for usage in other subsystems in the future. In addition, the subsystem provides the taxpayers with opportunity to obtain services and information on the status of settlements with the budget of their personal accounts in any authority of local State Fiscal Service.

Subsystem “Tax audit” allows standardizing the process of selecting taxpayers to conduct tax inspection of compliance with tax liabilities without additional interference with their activities. In particular, the subsystem provides for opportunities for tax inspection, combating minimization of tax liabilities and ensuring filling of state budget.

It should be mentioned that in accordance with clause 2.6 “Methodical recommendations on the procedure for interaction between the departments of the State Fiscal Service in organizing, conducting and implementing materials for taxpayer checks”, approved by the Order of SFS of Ukraine No. 22 of 31.07.2014, employees of departments that head inspections provide necessary information to the information database of results of inspection work of the subsystem "Tax Audit" of the "Tax unit" at each stage of organization, conduct and implementation of the materials of inspections (when sending a notice to the taxpayer about the start of a documentary scheduled (unscheduled, remote) audit, verification, registration of certificate to hold audit, registration of acts (certificates), and other acts (certificates), acceptance and filing of tax assessment notice, claims for payment of debt for single social contribution, as well as decisions on the imposition of fines and penalties, drawing up of minutes on administrative violations, etc. – on the day of occurrence of such actions, administrative or judicial appeal against monetary obligation stipulated in the received tax assessment notices, amounts of single social contribution and penalties

specified in the established requirements for payment of debt, for payment of a single deposit, as well as decisions on the imposition of fines and penalties – on the day of receipt of the relevant documents or information in accordance with the established procedure (to the "Tax audit" of the "Tax unit" system should be additionally added the following: order for conducting the inspection; minutes of the meeting of the standing committee on consideration of controversial issues, objection to the verification act, conclusion and response to such objections; electronic acts are attached with all applications, as well as other defined data).

On the basis of conducted inspections, units of the State Fiscal Service, which conducted (headed) the inspection, summarize information on detected schemes for tax evasion or minimization of tax liabilities, amounts of a single contribution (if any), and enter them into the subsystem "Tax audit" of "Tax unit".

Consequently, tax information collected and added to information databases, as well as the results of its processing, is used for the purpose of fast and effective implementation of functions and tasks entrusted to the controlling authorities.

Other important element in administration of VAT taxpayers is the Unified register of tax invoices.

Tax code of Ukraine, sub-clause 14.1.60 of clause 14.1 of Article 14, defines that the Unified register of tax invoices is the register of information on tax invoices and adjustment calculations, which is maintained by the central executive body ensuring the formation and implementation of the state tax and customs policy in the electronic form in accordance with electronic documents provided by the taxpayers.

Functioning of the Unified register of tax invoices is enshrined in the procedure for maintaining the Unified register of tax invoices, approved by the Resolution of the Cabinet of Ministers of Ukraine No. 1246 of December 29, 2010.

At the same time, it should be noted that the electronic VAT administration system is an essential part of the Unified register of tax invoices. Provisions of clause 2001.1 of Article 2001 of the Tax Code of Ukraine state that the electronic VAT administration system provides for automatic accounting of:

- tax amount contained in the issued and received tax invoices and adjustment calculations registered in the Unified register of tax invoices;
- tax amount for which taxpayers are entitled to register tax invoices and adjustment calculations to tax invoices in the Unified register of tax invoices, etc.

Therefore, the Unified register of tax invoices and electronic VAT administration system are interconnected and cannot function independently.

In this regard, risk management includes automated monitoring of compliance of tax invoices/adjustment calculation with the criteria for assessing the degree of risk sufficient to suspend the registration of such tax invoices/adjustment calculation in the Unified register of tax invoices, introduced by provisions of clause 74.2 of Article 74 of the Tax Code of Ukraine from April 2017. The monitoring system is created using the criteria specified by the Order of the Ministry of Finance No. 567 of June 13, 2017 "On approval of the criteria for assessing the degree of risk sufficient to suspend the registration of tax invoice/ adjustment calculation in the Unified register of tax invoices and the Exhaustive list of documents sufficient for making a decision on the registration of tax invoice/adjustment calculation", registered with the Ministry of Justice of Ukraine No. 753/of June 16, 2017.

Monitoring is exercised by the SFS of Ukraine on the basis of the analysis of the data of taxpayer's reporting indexes, available tax information, and information submitted by the taxpayer in the form according to the annex to the Criteria, which reflects the specifics of the taxpayer's economic activity separately for each type of economic activity, if the commission of the SFS decides to take into account such information.

If, according to the monitoring, tax invoice/adjustment calculation meets the conditions specified in clause 6 of the Criteria of the Order No. 567, registration of such tax invoice/adjustment calculation shall be suspended in accordance with the requirements of clause 201.16 of Article 201 of the Tax Code. This reduces the possibility of abuse by dishonest taxpayers.

In addition, payers of excise duty should apply the system of electronic fuel management and the Unified register of excise invoices.

The system of electronic fuel management and the Unified register of excise invoices operate since March 1, 2016. Relevant innovations are carried out in compliance with the law of Ukraine "On amendments to the Tax Code of Ukraine and certain legislative acts of Ukraine regarding the balance of budget revenues in 2016". In accordance with sub-clause of 14.1.60 of clause 14.1 of Article 14 of Tax Code, Unified register of excise invoices, which is conducted by the SFS of Ukraine, is defined as the register of electronic documents on excise duties in accordance with electronic documents provided by payers of excise duty.

Any transactions of fuel sale exercised by registered payer of excise duty should be reflected in Unified register of excise invoices. This will ensure tax control of the tax authority

over the movement of fuel, which prevents economic entities that are payers of excise duties from selling fuel not reflected in Unified register of excise invoices (in particular, to increase the amount of fuel by adding impurities in order to generate additional income).

3. Protection of the taxpayer

3.1 Constitutional law (also in comparison to human rights)

To begin with, in accordance with Article 32 of the Constitution of Ukraine, collection, storage, use, and dissemination of confidential information about a person without his consent shall not be permitted, except for the cases determined by law and only in the interests of national security, economic welfare, and human rights. A similar provision is contained in part 2 of Article 11 of the Law “On Information”.

Confidential information about individual includes data about nationality, education, marital status, religious affiliations, health condition, as well as address, date and place of birth.

However, the Constitutional Court of Ukraine emphasizes that confidential information about individual is determined on a case-by-case basis, and the list of such information may be very broad. Thus, the decision of 20 January 2012 states that information about private and family life (personal data) is any data or list of data about individual that is identified or may be identified, namely: nationality, education, marital status, religious affiliations, health condition, as well as address, date and place of birth, place of residence, information about property and non-property relations of this person with others, including family members, as well as information about events and phenomena that have already happened or happen in household, private, social, professional, business and other spheres of life, except for data on exercising authority by a person that holds a position related to the functions of the state or local governments. Such information about individual and his family members can be shared only with their consent, except in cases determined by law, only in the interest of national security, economic welfare and human rights.

Article 32 of the Constitution determines that Every citizen shall have the right to have access to the information about himself/herself possessed by public authorities and bodies of local self-government, institutions, and organizations unless such information is considered a state or other secret protected by law, as well as to demand removal of any information about himself.

Article 55 of the Constitution guarantees the right to challenge in court the decisions, actions, or inactivity of State power, local self-government bodies, officials and officers.

The Constitution defines the right to apply for protection to the Commissioner of the Verkhovna Rada of Ukraine as the separate mechanism of the right protection. At the same time,

powers of ombudsman includes the control over compliance of the legislation on the protection of personal data.

The Constitution also declares that after exhausting all domestic legal instruments, everyone shall have the right to appeal for the protection of his rights and freedoms to the relevant international judicial institutions or to the relevant bodies of international organisations of which Ukraine is a member or participant.

Part 1 of Article 8 of the Constitution of Ukraine determines that the rule of law shall be recognised and effective in Ukraine.

In the decision No.15/2004 of 2 November 2004, the Constitutional Court of Ukraine stated that the rule of law is the domination of the law in society. The rule of law demands from the state its implementation in law making and law enforcement activities, particularly, laws that in their content must be imbued with the ideas of social justice, freedom, equality, etc.

The Constitution of Ukraine does not reveal the principle of proportionality, although the Venice Commission emphasized the need to consolidate this principle in its Opinion on the Amendments to the Constitution of Ukraine.

At the same time, the Constitutional Court of Ukraine in the series of decisions, for instance, in the case No.1-11/2012 of 25.01.12, states that one of elements of rule of law is the principle of proportionality, which means that the measures provided in the regulatory acts should be directed towards achieving the legitimate aim and be appropriate to it.

The principle of proportionality is mentioned in the procedural law. Thus, the Code of administrative legal proceedings of Ukraine, on the basis of which courts consider tax disputes, stipulates that in the event of appeals against decisions, actions or inactivity of subjects of authority, courts check whether they are committed in proportion, in particular, with the observance of the necessary balance between any adverse consequences for the rights, freedoms and interests of the person and aims to be achieved.

In accordance with Article 41 of the Constitution of Ukraine, everyone shall have the right to own, use, or dispose of his property and the results of his intellectual or creative activities.

The right for private property shall be acquired in compliance with the procedure established by law.

Citizens may use the objects of state or communal property in accordance with law in order to satisfy their needs.

In accordance with Article 43, everyone shall have the right to work, including a possibility to earn a living by labour that he freely chooses or to which he freely agrees.

The State shall create conditions for citizens that will make it possible to fully realise their right to work, guarantee equal opportunities in the choice of profession and of types of labour activities, and implement programmes for vocational education, training, and retraining of personnel according to the needs of society.

According to Article 42, everyone shall have the right to entrepreneurial activity that is not prohibited by law.

The discussion about constitutional norms, which determine the freedom of ownership, entrepreneurship, prohibition of collection of confidential information without the consent of individuals, as well as legal entities are conducted at the level of scientists and practitioners.

This discussion is based on the Chapter II of the Constitution, which contains relevant constitutional norms and is called “Human and Citizen Rights, Freedoms, and Duties”. The provisions of this Chapter are the basis of approach according to which Constitutional norms referred herein are applicable only to individuals.

However, this position is controversial, to say the least, because legal entity in its essence is a group of people or a collective formation. In addition, some norms of the Constitution operate with the word "human" when it comes to individual. Instead, other norms use the word "person" or more general terms "everyone", "nobody", etc. From our point of view, it indicates that these rules should apply to legal entities, which in one way or another are also created by individuals (directly or indirectly). In particular, Article 41, which guarantees freedom of ownership, Article 42, which guarantees freedom of entrepreneurship, Article 32 on the prohibition of the collection of confidential information may and should apply to legal entities.

According to Part 4 of Article 13 of the Constitution, the state provides the protection of rights to all subjects of ownership and business. Thus, the Constitutional Court of Ukraine clarifies that the subjects whose right of ownership, including in court, must be provided by the state, are, in particular, legal entities and other subjects of business relations.

Difference between implementation of the right to court protection of an individual and a legal entity is mainly in procedural peculiarities related to the jurisdiction of cases.

The norms of the Constitution are applied directly, that is, the right to appeal to the court for protection, the right to own freely, use, dispose of the property, the right to prohibit unauthorized collection of confidential information can be implemented by a legal entity and an individual directly on the basis of the norms of the Constitution.

3.2. Tax secret

The legislation of Ukraine has no definition of the term “tax secret”, as well as definition for a list of information that is “tax secret”.

Instead, the law defines the term “tax information”, that is a collection of information and data created or received by the subjects of informational relations in the process of current activity and necessary for the implementation of tasks and functions entrusted to the supervisory authorities in the order established by the Tax Code.

However, the law does not specify what particular part of "tax information" should be qualified as "tax secret".

In addition, the legislation about information and personal data defines types of restricted information, namely:

- Confidential information;
- Service information;
- Secret information.

Secret information is the information with limited access, according to the Part II of Article 6 of the Law on access to public information; its disclosure can cause damage to a person, society of the state.

That is, the information is referred to "secret" if it "causes damage as a result of disclosure". At the same time, the law also stipulates that the information, which contains state, professional, banking secrets, secret of pre-trial investigation and other statutory secrecy, is recognized as secret.

It should be mentioned that, among the list of “secret information”, tax information is not mentioned and attributed to any of the categories.

We may assume that it would be more expedient to classify tax secret as a "professional secret" or formulate it as "another statutory secret". However, in other acts (in Tax Code, etc.) tax secrecy is not mentioned directly, such position would not be sufficiently reasonable.

This regulatory uncertainty complicates the protection of taxpayer’s rights to information protection. On the one hand, there are general definitions of confidential information, secret information and professional secret. On the other hand, it is uncertain whether tax information relates to confidential or secret information and, if so, which part of it creates a background for discussion.

The Tax Code contains the general provision (Article 17), according to which the taxpayer is entitled not to have his information disclosed by controlling authority without his written consent and data that is confidential, state, commercial or banking secrets and made available to officials during the implementation of official duties, except in cases where this is directly provided by law.

This right corresponds to the obligation of controlling authorities to prevent disclosure of restricted, received, used and accessed information; data that is being saved during the implementation of functions assigned to the controlling authorities (see Article 21 of the Code).

The law applies the general terms "restricted information", "confidential information". Therefore, the decision about the lawfulness of disclosure of information in a particular case should be made in the context of interpretation of the content of specific information and the possibility of assigning it to one or another category of restricted information.

The determination of the content of tax information that belongs to restricted information is necessary in order to guarantee the rights of taxpayers and eliminate abuses due to lack of legislative regulations.

First, the law on the protection of personal data defines that the personal data specified in the return of property, income, expenses and financial obligations, executed in the form and in accordance with the procedure established by the Law of Ukraine “On the Principles of Prevention and Counteraction of Corruption”, does not belong to restricted information, except for data specified in this Law.

In addition, information on obtain of budgetary funds, state or communal property in any form by an individual is not a part of restricted information, except in cases stipulated in Article 6 of the Law of Ukraine "On access to public information". In particular, when disclosure or provision of such information may cause damage to the interests of national security, defence, investigation or prevention of crime.

Second, the Tax Code states that the damage caused by unlawful actions of officials of the controlling authorities shall be reimbursed at the expense of the state budget provided for such supervisory bodies. If disclosure of tax secret was the result of acts or inaction of tax authority or/and its official, such acts or inaction shall be deemed unlawful, and disciplinary measures of influence may be applied to the official additionally.

Moreover, the Code on Administrative Offenses establishes sanctions for violations of personal data protection. Thus, for non-compliance with the order of protection of personal data, which led to illegal access to them or violation of the rights of the subject of personal data, a fine is imposed on the guilty party (for an individual – from UAH 1700 to 8500, and for officials and subjects of business activity – from UAH 5100 to 17000).

In some cases, a person can be brought to criminal liability for illegal collection, storage, usage, destruction, distribution of confidential information about individual or illegal change of such information (see Article 182 of the Criminal Code). Depending on the circumstances of the case, the sanction may include fine, correctional work, arrest, restriction or imprisonment.

3.3. Data protection laws

Clause 63.12 of Article 63 of the Tax Code defines that information which is collected, used and formed by authorities of incomes and fees in connection with the accounting of taxpayers is entered into the information databases and used with regard to the limitations provided for tax information with restricted access.

The norm of the clause 70.15.2. of the Tax Code stipulates that information from the State Register of individuals - taxpayers is information with restricted access, except for information on the registration of individuals – entrepreneurs and persons who conduct independent professional activities.

The tax authorities are obligated to protect the data in the State registers of individuals and legal entities from unauthorized access.

Norms of the Tax Code, which regulate data protection, are applied in complex with the general norms of the Law on personal data protection. In particular, such a law establishes that the authorities are responsible for the processing of personal data, and provides for creation of a structural department with a person responsible for organizing work related to the protection of personal data when processing it.

The same Law establishes conditions for access to personal data aimed to protection against unlawful disclosure. Thus, in accordance with Part II of Article 16 of the Law on protection of personal data, access to personal data shall not be granted to a third person if such person refuses to assume an obligation to enforce the requirements of this Law or cannot ensure them.

In addition, the Law stipulates conditions and cases of removing and destruction of personal data. The specified norms are subject to application including in the tax process.

As to cases of limitation of the norms on the protection of personal data, such cases should be clearly defined by law.

Unlike the norm of Regulation 2016/679, the EU (which is not applied in Ukraine that is not a member state), the Law of Ukraine on personal data protection establishes a less detailed norm (Part 1 of Article 25). Its essence is as follows: restrictions on the application of Articles 6, 7 and 8 hereof can be carried out in cases provided by law as the necessity of democratic society in the interests of national security, economic welfare or the protection of the rights and freedoms of the subjects of personal data or other persons.

To put it another way, such norm does not directly determine cases of taxation among cases where it is allowed to depart from the requirements of the law on the protection of personal data. However, generally (for example, in order to ensure economic welfare or the rights and freedoms of the individual), depending on specific conditions, such a norm may be applicable.

The right to demand the removal of information is regulated by the norm 32 of the Constitution of Ukraine, which guarantees this right to everyone.

The submission by the bodies of the State Fiscal Service of the results of tax audit to their own information systems that the payer considers incorrect is a common practice. The fact of submitting such information may have negative effect both the payer itself and its counterparties. However, actual case law has a strong belief that tax authority's contribution to the information system is not a violation. In particular, the information entered in the information system is recognized as official information and the actions of the controlling authority – the official activity of the employees. In accordance with clause 74.3. of the Tax Code, collected tax information and results of its processing are used for implementation of functions and tasks entrusted to the controlling authorities.

According to the courts, inclusion of information to the information system does not create any legal consequences for the taxpayer. Therefore, the court finds no reasons for the obligation of the tax authority to remove the relevant information. Such a conclusion is contained, for example, in the decree of the High Administrative Court of Ukraine of August 17, 2016 in case No. K/800/67453/14.

For this reason, the courts refuse the plaintiffs' claims to oblige the tax authority to remove the relevant information about the payer from the system.

A separate reason for the exclusion, deletion of information (personal data) is the relevant order of the Ombudsman of Verkhovna Rada in case of Human Rights, as well as a court decision.

3.4. Compensation for damages and juridical protection

As Ukrainian legislation does not apply the term "tax secret", the issue may concern compensation for damage caused by violation of the right to confidential information or other restricted information. Thus, a defence strategy will depend on assigning of information to the appropriate category of restricted information.

According to the clause 21.3. of the Tax Code, damage caused by unlawful actions of officials of the controlling authorities shall be compensated from the state budget funds provided for such supervisory bodies.

The damage can be compensated in court. During the trial, the absence of violation should be established (for example, unlawful disclosure of confidential information or other unlawful use), the fact of causing damage as a result of violation, as well as the amount of damage.

Speaking about the unlawful actions of the fiscal authority or its official, the unlawfulness of actions may be established in a separate proceeding (administrative claim for the recognition of unlawful actions). As a result of such proceedings, obtaining a court decision with the fact that it

establishes the unlawful actions of the tax authorities, a person may apply to the court with claims for compensation for losses. The amount of claimed damages must be calculated, substantiated and evidenced.

The law does not provide compensation or other form of reimbursement instead of damages, which would exempt the applicant from the obligation to prove the existence of pecuniary damage and its size.

An administrative fine can be imposed as a separate sanction for violating the requirements of the law on the protection of personal data or the disclosure of confidential information. Such sanction has public-law order, that is, it does not serve for compensation for damage to the victim, and instead goes directly to the budget.

As for the matter of causing damage due to violations of privacy, and provided such a violation be recognized as a crime under Article 182 of the Criminal Code, the damage can be compensated by way of filing a civil claim.

An administrative body that monitors the compliance with the requirements of the law on personal data is the Commissioner of Verkhovna Rada of Ukraine for Human Rights. One of his duties is to protect confidential information.

The Commissioner has the right to carry out checks on observance of the legislation, make orders, draw up administrative minutes and forward them to the court for the imposition of administrative sanctions on the guilty party.

The Commissioner may take appropriate measures both on his own initiative and on request. To address such appeal, a person should state the matter and provide supporting materials (documents or other relevant information).

Applications shall be submitted to the Commissioner in written within one year of detection of violation. In exceptional circumstances, this period may be extended, but should be no more than two years.

Based on the results of inspection or consideration of the application, the Commissioner has the right to issue requirements for the prevention or elimination of violations of the legislation on the protection of personal data, as well as to draw up administrative minutes and refer them to the court for making the decision concerning the offenders.

In addition, unlawful actions of officials of the fiscal authority can be appealed to a parent body. In particular, according to Clause 56.2. of the Tax Code, when the taxpayer considers that the controlling authority has taken any other decision that contradicts of the law or goes beyond the powers of the controlling authority, he has the right to appeal to the supervising body to review the decision. During the administrative appeal procedure, the obligation to prove that any decision of the controlling authority is lawful is the responsibility of the controlling authority. The

controlling body considering the taxpayer's complaint is obligated to take a motivated decision and send it within 20 calendar days after the receipt of the complaint.

Regarding the court appeal, it is carried out in accordance with the requirements of the procedural codes. Administrative courts consider disputes regarding any decisions, actions or inactivity of the subjects of power (including the state body and its official). Both individuals and a legal entity that considers that its rights are violated by unlawful actions or inaction of the fiscal authority can initiate a dispute.

In case of satisfaction of a claim, a court may decide, among other things, on the recognition of unlawful decisions, actions or inaction of the subject of authority; the obligation of the defendant to act (for example, to remove information); an obligation to refrain from committing certain actions (for example, dissemination of information); to confess the presence or absence of the competence (authority) of the subject of authority.

4. Transparency of the tax administration

4.1. Publication habits of the tax administration

- Publication of administrative directives etc.

Tax administration of Ukraine generalizes the practice of applying legislation on matters within its competence, develops suggestion for the improvement and draft laws, Decrees of the President, the Government, and the Ministry of Finance. Acts developed by tax administration are submitted to the Ministry of Finance.

Tax administration promulgates acts and other official documents within its competence on the website and in its official printed edition.

State Fiscal Service of Ukraine publishes the following matters on the website:

- Agenda for the preparation of acts;
- Draft acts;
- Register of valid acts developed by the tax administration with the terms of monitoring their effectiveness;
- Schedule of measures for monitoring effectiveness of acts;
- Reports on monitoring the effectiveness of acts.

In order to ensure transparency of tax administration and public participation in the discussion of draft acts, about 50 notices on promulgation of draft acts were published on the official website and in leading news agencies, with brief content, the aim and expected result of

implementation, postal and e-mail addresses of the developer and address for comments and suggestions indicated.

Draft acts issued by the Ministry of Finance, prepared by the tax administration, were also promulgated on the website.

Tax administration examines all comments of society and may take into account particular suggestions for the preparation of draft acts, and in case of non-consideration, provides motivated reasons for rejection.

– How open is the process of risk management by the tax administration?

There is no effective system of risk management valid in Ukraine, with only particular elements of risk management available.

According to the Compliance Risk Management Guide for Tax Administrations (CRMG), published in 2010 by EU, risk management is a process of increasing the efficiency of tax administration in the high-risk environment.

This process may be divided into five main types of risk processing: identification, analysis, prioritization, treatment, and evaluation.

In Ukraine, risk management is limited only to three stages. This is due to the fact that taxpayers are ranked depending on the risk of non-payment of taxes in order to establish the frequency of scheduled inspections against them.

Thus, according to the state legislation, a documentary planned tax inspection should be stipulated in a correspondent schedule. Taxpayers at risk of non-payment of taxes or non-compliance with other legislation, control over which is assigned to the tax administration, are included in the schedule of such inspections.

The frequency of conducting documentary scheduled inspections is determined by the degree of risk of their activities: high, medium and insignificant.

In 2017, Ukraine developed the issue of transparency of the tax administration, in particular, in the context of risk management. Now, the Tax Code states that the schedule of documentary planned inspections for the current year should be published on the official website by December, 25, of the year preceding the year of scheduled inspection. Thus, during 2018, tax inspections will be carried out exclusively according to a schedule that will be promulgated by the end of 2017. The Tax Code did not contain any provisions on promulgation of this document before.

Nevertheless, the sphere of implementation of risk management in Ukraine is quite narrow.

- Publication of advanced tax rulings?

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In the context of combatting harmful tax practices, Final Reports of the OECD provide the definition of *tax rulings*.

Thus, Action 5 stipulates that a ruling implies any suggestion, information and obligation provided by the tax authority of a particular taxpayer or a group of taxpayers regarding their tax condition and on which they are entitled to rely.

In accordance with Action 5, tax rulings were divided into *rulings on particular taxpayers* and *general rulings*.

The decision on the particular taxpayer is implemented to a particular taxpayer and on which he is entitled to rely. Such rulings are implemented both before (advance tax rulings, advance pricing agreements) and after transactions, in every case upon taxpayer's request.

Hence, within decisions of a particular taxpayer, *advanced tax rulings and advanced pricing agreements were distinguished*.

Advanced tax rulings identify tax consequences of scheduled transaction, on which the taxpayer may rely. Advanced tax rulings may be of any form.

Advanced pricing agreements are defined in the OECD Transfer Pricing Guidelines, which highlight such agreements among other decision-making procedures. Such agreements are special, in particular, because they provide for continuous monitoring of changes in actual conditions on which certain legal consequences are based throughout the validity of advance pricing agreements.

In addition, provisions of Action 5 indicate innovative practices of delivering tax rulings (Section IX Chapter 5 of Action 5). In the context of tax administration transparency, official rules and administrative procedures on tax rulings should be determined and published beforehand. These rules should contain (i) conditions for adoption of ruling; (ii) reasons for refusal; (iii) structure of payment, if any; (iv) legal consequences of ruling; (v) possible penalties for providing incomplete or false information by the taxpayer; (vi) conditions for annulment, revocation or review of ruling; (vii) any other instructions designed to make the rules comprehensible for taxpayers and their advisers.

Individual tax consultations are similar to advanced rulings, taking into account the national legal terminology.

Individual tax consultation is provided upon request of taxpayer. In 2017, Ukraine developed the issue of tax transparency in the context of publication of individual tax consultations.

Thus, the creation of the Unified database (Register) of individual tax consultation was introduced in 2017. That is, individual tax consultation provided to a taxpayer in written should be registered in a unified database of individual tax consultations and *posted at the official website of tax administration*. If the consultation is published, the taxpayer to whom it was provided remains anonymous.

From now on, the exemption from liability of the taxpayer who acted in accordance with the individual tax advice is possible only if such consultation is registered in the Unified database (Register) of individual tax consultation and *is available to other taxpayers*.

The Unified database (Register) of individual tax consultation consists of sections, and one may search for consultation on its registration number, date, summary of the issues (keywords), court case number (if any) and the body that provided such consultation.

– Publication of the results of mutual agreement and arbitration procedures?

From 1 January 2017, Ukraine undertook to implement the minimum standards of BEPS Action Plan. Our state particularly intends to implement Action 14.

Article 25 of the Model Tax Convention of the OECD (2014) provides for a mechanism independent of ordinary remedies available under domestic law, through which the competent authorities of the Contracting Parties can target discrepancies or issues in interpreting or applying the Convention by mutual agreement. This mechanism is a *mutual agreement procedure*. In the event that the competent authorities were unable to reach agreement within two years, the Model Convention provides for the transfer of disputes to arbitration, which forms an integral part of the mutual agreement procedure. Steps developed within the framework of Action 14 of BEPS Action Plan are aimed at enhancing the mutual agreement procedure.

Ukraine is not a member of the Organization for Economic Cooperation and Development, however, most of double taxation conventions between Ukraine and other states comply with the structure and content of the Model Tax Convention of the OECD. In addition, now Ukraine is aware of its obligation to the international community to implement the minimum standard of the BEPS Action Plan, and, in particular, Action 14.

Today, the procedure for reaching mutual agreement in Ukraine is not effective. Most double taxation conventions between Ukraine and other states declare that if a person considers that the actions of one or both of the Contracting States result or will result in its taxation not being in accordance with the provisions of the Convention, it may, irrespective of the remedies provided

for by the national laws of those States, submit their case to the competent authority of the Contracting State of which he is a resident. However, the mutual agreement procedure is not accessible to taxpayers at the national level. Therefore, *the Guidance on the Mutual Agreement Procedure* has not been developed or published in Ukraine.

However, well aware of this gap, Ukraine is taking steps to reach the minimum standard of the BEPS Action Plan as soon as possible.

Ukraine strives to fulfil its commitment to publish its *Mutual Agreement Procedures* profile (in accordance with a coherent template developed jointly with the FTA MAP Forum), and is preparing to *provide Ukraine's MAP statistics for 2017*².

– Publication of black lists of tax havens?

The issue of drawing up "black lists" of tax havens was given a detailed attention within the framework of analysing the development of effective rules for controlled foreign companies within Action 3. Thus, the rules for controlled foreign companies are analysed in the context of best practice guides. Such rules in Ukraine are not applicable yet.

However, in Ukraine, the publication of black lists of tax havens appears in the context of application of transfer pricing rules.

In accordance with the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017, the controlled transaction is recognized as a transaction between two related (associated) entities.

At the same time, the list of grounds for recognizing transactions controlled is much wider in Ukraine. Thus, in particular, controlled, in accordance with national legislation, is a transaction performed with a non-resident registered in the low-tax jurisdiction (or with a resident of such jurisdiction). The Government of Ukraine forms the black list of such low-tax countries (territories). One of the criteria used by the Government of Ukraine to attribute the state (territory) to the black list of tax havens is that there is a corporate tax rate of 5% or more percentage points lower than in Ukraine.

Over the past years, the development and adoption of black lists of tax havens in Ukraine was chaotic. Lists have changed several times throughout the year. For example, during 2015, the list was valid in four different editions (in the wording of the Decree of the Government No. 1042-p of 25/12/2013, in the wording of the Governmental Order No. 449-p of 14/05/2015, in the wording of the Governmental Order No. 677-p of 1/07/2015, and in the wording of the Decree of the Government No. 977-p of 16/09/2015).

² Ukraine was supposed to submit the MAP Profile within 3 months after joining the Inclusive Framework on BEPS (1 January 2017). However, [as stated on the OECD website](#), this profile is only expected.

However, such volatility of tax legislation, in particular with regard to the publication of black lists of tax havens, was overcome.

It can be stated that the last approved and published list remains unchanged during 2016 and 2017.

4.2. Transparency towards the taxpayer

- Automatic access to the own tax file; access to databanks; technical precautions
- Access on request
- Notification
 - Of the start of criminal investigations
 - Of data received from third parties
 - Of transfer of data to other institutions/foreign tax administrations
 - By other administrations/private institutions/banks about information transferred to the tax administration

Automatic access to tax information in Ukraine is provided through the taxpayer's electronic office.

In 2017, Ukraine made a step towards transparency of the tax administration in the context of taxpayer access to information.

From 2017, the Tax Code of Ukraine is supplemented with provisions that define the legal framework for the functioning of the taxpayer's electronic office. The electronic office is a secure real-time online resource. Electronic office in Ukraine began work in test mode in early 2016. However, the extended functionality of the e-office should be completed by the end of 2018.

The protection of personal data of the taxpayer in the electronic office from a technical viewpoint is ensured by the information security system, which receives the certificate of conformity according to the results of the state examination. In addition, personal documentation of the taxpayer is accessible only after its authorization in the office by using an electronic digital signature.

Through the electronic office, the taxpayer can *access both its own tax documentation and publicly accessible databases*. The type of information that a taxpayer receives through an electronic office depends on the way he is signed in. An electronic office includes an open (public) part and a private part (personal office). To create a personal office, the taxpayer must have an electronic digital signature. Personal office is accessible after the user passes the electronic identification online using such a signature. After electronic identification, the taxpayer has the

right to access the personal office, which is an individual personalized user's webpage. Taxpayers and authorized officials of the tax administration have the right to review the history of all actions (events) occurring in the personal office, including, in particular, date and time of sending and receiving documents via the office, and any changes in the data available in the office. The main purpose of the personal office is work with *taxpayer's personal tax documentation* (submission of tax returns in electronic form and electronic communication with the tax administration).

All users without access to an electronic digital signature have access to an open (public) part of the e-office and can receive public information about other payers, including the use of databases (to receive information on taxpayers' registration, information from the registers of individual taxpayers, applications for VAT refund, etc.). If using databases through a personal office, the taxpayer may also upload information about himself from the relevant databases, with the application of an electronic digital signature of the tax administration official and the stamp.

To *access tax information at the request of the taxpayer*, a taxpayer in Ukraine should file an application for obtaining public information in the manner prescribed by a separate law (Law of Ukraine "On Access to Public Information").

Regarding *the provision of information to the taxpayer by means of communications*, the taxpayer should be notified via electronic office on tax audits and administrative appeals against them, as well as on the status of counterparties in accessible databases (registers). In particular, it provides for the provision of information on counterparties of the taxpayer for which a decision has been made to liquidate a legal entity, cancellation of registration of VAT taxpayer, or who is held liable for violations of tax laws (only after the final approval of sanctions and obligations).

Information on *filing requests to other state authorities, insurance companies and banking institutions, requests to authorized foreign bodies*, etc. (if any) shall be indicated by the officials of tax administration in the act (certificate) drawn up on the results of the tax audit. In addition, the certificate should contain information received in response to such requests. There is no separate order for the taxpayer to provide such information. Thus, the taxpayer in Ukraine is not informed in advance about sending/receiving requests from the state authorities, banks, foreign tax administrations.

A *statement of suspicion of a tax offense* is handed to a person in accordance with the procedure provided for in the Criminal Procedure Code of Ukraine. As a general rule, a written

notice of suspicion is handed to a person by the investigator or prosecutor, or in the manner prescribed for the delivery of communications in criminal proceedings (by correspondence, e-mail, to a family member, at the place work, etc.).

4.3. Usage of information towards the public, especially naming & shaming approach
– Public disclosure of tax payments – as an instrument to improve compliance
(role of social responsibility)

The method of publishing data on taxpayers in Ukraine is virtually not used with the purpose of forming a good-faith taxpayer's behavior model and increase sense of social responsibility.

Although this notion is absent in the national legislation of Ukraine, in fact, the amount paid by the taxpayer, its income and expenses constitute a tax secret.

In Ukraine, the practice of publishing personalized data on the accrued, paid amounts of tax, income, and expenses of taxpayers is not developed. There are no legislative provisions that would require the general disclosure of such data, both for companies and for taxpayers - individuals (with or without the status of a business entity). Thus, tax returns are not available to the public. Such information is not provided by the tax administration at the request of non-profitable groups, competitors, etc.

In general, exceptions to this rule can only be considered as a legislative requirement regarding the disclosure by certain entities of their financial statements, the disclosure of declarations of persons authorized to perform state or local government functions, and the publication by the tax administration of lists of taxpayers with a tax liability.

In Ukraine, public joint stock companies, companies - issuers of mortgage bonds, mortgage certificates, corporate bonds and certificates of real estate funds, as well as professional stock market participants, banks, insurers and other financial institutions are obliged to publish annual financial statements and annual consolidated financial statements, together with an audit report, on their website, as well as recurrent and non-recurrent publications.

State and communal unitary enterprises, economic partnerships with more than 50 per cent of shares (stocks) are owned by the state or territorial community, as well as economic partnerships, 50 and more percent of shares (stocks) of which belong to economic partnerships, the share of state or territorial community in which is 100 percent, are required to disclose information about their activities (quarterly, annual financial statements, including consolidated statement, for the last three years) by publishing it on their own website. Access to such websites is round the clock and free of charge.

Ukraine has a system for submitting and disclosing the returns of state or local self-government officials and persons equivalent to them (E-declaration).

Information on the income and property of these persons is entered into the Unified State Register of Returns and is made public on the official website of the National Agency for the Prevention of Corruption. Persons who hold responsible political positions, civil servants, local self-government officials, deputies, judges, officials of a public law entity, etc. should have their tax returns available at Unified State Register of Returns.

Since the returns of the state officials of the highest posts also contain information on their family members, the issue of the need for consenting the declarant's family members to publish information about them has repeatedly been raised.

The Tax Administration publishes black lists of taxpayers who have a tax debt with the aim to trigger the discipline of taxpayers. Such information is individualized – the name of the debtor and the total amount of his debt to the state and to the local budget shall be indicated. The requirement to publish such information is legally established.

The tax administration also publishes information on the amount of taxes and duties, their accrual, on the receipt of funds to the compulsory state social insurance, etc. However, payers do not individualize such information.

The tax administration publishes individualized information on the amount of taxes paid only as the rating of the largest taxpayers by the amount of taxes. However, the obligation to disclose the amounts of taxes paid by the largest taxpayers has not been established. Therefore, publication of such information in the rating is limited to companies that have agreed to the disclosure of such information. As for the rest of the largest taxpayers, the tax administration publishes only data on the increase in collection fees and tax debt.

The range of instruments for obtaining taxpayers information about their counterparties is rather poor. In addition, the taxpayer may only receive publicly available information. Thus, the amount of information that can be disclosed is not differentiated, depending on the requestor. Through its electronic office, the taxpayer can, in particular, receive information on the elimination of the counterparty, cancellation of its registration as a value added tax payer, and holding accountable for violation of tax laws.

To obtain information about any debts of counterparty, taxpayer should use the official website of the tax administration, an electronic service "Find out more about your business

partner". The tax service contains information on the existence of a tax debt, regardless of its amount, and allows you to view such information in real time. In addition, lists of taxpayers with a tax debt are published on the official website of the tax administration.

– Public Country-by-Country Reporting

As already mentioned, since 1 January 2017, Ukraine has undertaken to implement the minimum standard of the BEPS Action Plan, including Action 13. The implementation of country-by-country reporting will take place in stages (in general, starting with the legally binding obligation of multinational groups to report country-by-country, then implementing an international exchange of such reports and, ultimately, the use of such reports in the activities related to compliance with tax obligations).

For developing countries, the approved steps for Action 13 are not yet available. However, the steps that Ukraine has to make for the implementation of Action 13 will be structured over the next few years.

First, Ukraine expresses its firm intention to join the Multilateral Competent Authority Agreement (MCAA). In the same context, Ukraine intends to introduce the Common Reporting Standard from the beginning of 2020. To date, the Draft Law on Amendments to the Tax Code of Ukraine (on the international automatic exchange of information on tax issues) has already been submitted to the Ukrainian Parliament for consideration.

– Centralized (publicly assessable) registers of beneficial ownership

In 2017, Ukraine made a significant step towards transparency in taxation, joining the Global Register of Beneficiary Owners. Therefore, this year, in order to fulfill its commitments, made on the results of the London Anti-Corruption Summit held in London on May 12, 2016, the Government of Ukraine supported the initiative of the Ministry of Justice to join the Global Register of Beneficiary Owners, created within the framework of the international project OpenOwnership.

Information on beneficial owners of all Ukrainian companies is currently available to public and is published on the website of the Unified State Portal of Open Data.

The legislation of Ukraine contains laws designed to regulate information relations. In particular, in the context of the freedom of tax information, the Law of Ukraine "On Access to

Public Information" of January 13, 2011 is applicable. In order to comply with the requirements of this law, the tax administration in Ukraine publishes certain data on its official website. This includes official register data (Register of value added tax payers, Register of large taxpayers, Register of Enterprises authorized to conduct customs brokerage activities, Register of Enterprises authorized for the opening and operation of the customs warehouse, Register of Enterprises, which has been granted permission for the opening and operation of the temporary storage facility, Register of duty-free shops, etc.), information on the amount of refund of value added tax from the state budget, on the receipt of taxes and fees, on the calculation of taxes and fees, on business entities that have a tax debt, on the receipt of funds to the compulsory state social etc..

Today such data sets are systematized and presented as an interactive "Open Data" service, which began to operate in test mode in 2017.

The use of tax data for research purposes is examined by the Research Institute of Fiscal Policy, a structural subdivision of the University of the State Fiscal Service of Ukraine (the University was formed by the Government of Ukraine, administered by the tax administration of Ukraine).

It is worth stating that in June of 2017, Ukraine hosted 21st General Assembly of IOTA: disruptive trends and new business models: challenges and implications for the 21st century tax administration.