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Lidiia NESTERENKO¹

Abstract

The land tax is a kind of the payments, which was paid to fill the treasury since very long ago. That long there has been a problem of identification of a fair and comparable tax burden and to motivate payers to pay it properly. According to the author, such motivational stimulus may be awareness and perception that the money that is paid will return in another good. It will be spent on satisfaction of the general public interest, part of which is the individual interest of the given payer. For example, building a road or repairing a hospital, or restoring contaminated lands, or carrying out their reclamation. Since the land tax, according to Ukrainian legislation, is local, all funds come to the local budget. Therefore, the territorial community itself must be interested in its effective administration and timely payment. One of the problems encountered in tax administration is the poorly formed tax base. The object of taxation, according to the Tax Code of Ukraine, is the formed land plot. Which means that it has been assigned a cadastral number and information about its owner or user entered in the register of real rights to real estate and their encumbrances. Unfortunately, many potential land tax payers do not properly process their property. Because of this, the budget of the local community and the payers themselves lose. Since their property rights are not properly protected. The registry data is predominantly legally valid in comparison to previously issued land tenure documents. In addition, if the information about the land plot is not included in the relevant register, the person can not take any legal action regarding it. Thus, changing the views of the inhabitants on land tax as a benefit, but not evil - will promote the development of territorial communities and protect their own interests.

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The land tax, people rights, local community, rights of taxpayers.

Introduction.

Effective and functional local self-government is an important element of the functioning of a democratic state. Local governments should have sufficient financial resources to create the proper living environment of the territorial community. Local taxes are the basic source of local government budget revenues. Increasing their share in local budgets' own revenues is one of the priority tasks for local governments. Since land in many territorial communities is the main wealth and potential permanent source of income, it is the land tax to pay special attention to. The necessity of identifying the features of the land as an object of taxation, ascertaining the reasons for the low number of receipts of land tax amounts to the relevance of this study.

Theoretical background.

Taxation of land as property was the subject of research by many scholars. Among them the work of Khokhlyak V.V. is one of the most valuable. In his monograph, he devoted particular attention to the definition of the tax and legal essence of land tax, its characteristics and features, detailed disclosure of the legal mechanism of land tax [1]. Non-traditional approach to the study of land tax was used in her work by Gavrilyuk R.O. Having analyzed the legal regulation of taxation of property real estate in historical development, she came to the conclusion that the reasons of low profitability from taxation of land are the lack of transparency in the management of the state land cadastre and inventory of land [2]. It is worth mentioning the research of Shulga T.M., which drew attention to the fact that taxpayers should be solely owners of real estate, and the basis of taxation should be the market value of land [3]. Interesting in the light of our research is the work of Martyn A.G., in which the theoretical foundations of the management of the lands of local communities and the formation of communal property lands in Ukraine are highlighted. Particular attention is paid to the theory of management of land resources of local communities and the legal regime of the land of settlements [4]. The

theoretical and practical problems of land tax administration were also the subject of research by such scientists as Kucheryavenko M.P., Miroshnichenko A.A., Nosik V.V., Yalbulganov A.A. The purpose of our work is to study the current problems of land tax collection as a source of local budgets.

Argument of the paper.

Land tax is a statutory body and a state monetary payment to a budget paid by land owners - individuals and legal entities on the basis of compulsory, one-sidedness and individual compensation to meet public needs [1].

Land tax is one of the first in the history of tax payments. It was paid back in the days of Kievan Rus and had a targeted character. Historical and legal analysis makes it possible to assert that at this time the land was divided into types of qualitative characteristics. The tax base and tax rates were defined. The size of the tax depended on its object and on the status of the payer. Subsequently, in certain historical periods of the development of Ukrainian statehood, land payment was not paid or was periodic. The size depended on the size of the site or the number of people living on it, the region, the quality of soil and belonging to the community [5].

Only in the eighteenth and nineteenth centuries, the land tax payment received its regulatory design in the Ukrainian territories that were part of the Russian and Austro-Hungarian empires. This is due to the assertion of the capitalist foundations of the economy, the formation of the legal system, the legislative consolidation of private ownership of land. In the Soviet period, there was a generally accepted principle of free use of natural resources. In spite of this, land tenure, land tax and land tenure were used for land use. It is important to note that the subject of the tax was not the owners of land, but users. Since, according to the Decree "On Land" in 1917, the land was transferred to a nationwide property, and later the state was designated by the owner. At the same time, the tax rates were very high [2]. Given the policy of collectivization, the denial of private property and the lack of support for personal peasant goods, this meant that the main purpose of such taxation was not to fill the budget, but to motivate the population to abandon personal cultivation of land.

In such circumstances, the law of the land tax and the rent for land were adopted at the beginning of the life of independent Ukraine. The subject of taxation was the owner of the land, the tax base - the monetary

valuation of land. The size of the land tax depended on the size of the plot, purpose of use, location and other characteristics. The tax in full came to the state budget.

Today, according to the Tax Code, a land tax is also included in the list of local taxes and fees, the establishment of which falls within the competence of village, settlement, city councils and councils of the joint territorial communities established in accordance with the law and a prospective plan for the formation of community territories. It is paid in the property tax as a fee for land [6]. Article 143 of the Constitution of Ukraine stipulates that local governments establish local taxes and fees [7]. The Law of Ukraine "On Local Self-Government in Ukraine" specifies that local budgets should be sufficient for the implementation by local government of the powers granted to them by law to provide residents of the communities with high-quality public services [8].

Arguments to support the thesis

Land fee is a derivative of the normative monetary valuation, which is calculated by specialists of the relevant state body - the State Geocadastra. This indicator is the basis for payment of other compulsory payments - the state fee for the exchange of land plots, rent for land plots of state or communal property and a landmark for determining the lease rates for land owned by private property. Normative monetary valuation should be conducted once every 5-7 years and indexed annually on the inflation rate [6].

According to the State Service of Geodesy, Cartography and Cadastre, by the end of 2013, 100% complete normative monetary valuation of the lands of all settlements in accordance with Article 13 of the Law of Ukraine "On Land Valuation".

Customers of the new normative monetary assessment of the land of the territorial community are the local self-governments.

The maximally correct definition of the tax base is extremely important to ensure the implementation of the principle of fair and equitable taxation.

Point 11 of the "Transitional Provisions" of the Law on the State Budget-2018 provided that in 2018 a national (all-Ukrainian) normative monetary valuation of agricultural lands at the same time throughout the

country would be conducted in accordance with the decision and in accordance with the procedure approved by the Cabinet of Ministers of Ukraine. A nationwide (all-Ukrainian) normative monetary valuation of agricultural land will be carried out at the expense of the State Budget.

To improve the standards of providing the necessary information to local councils in order to increase the level of land tax collection for local budgets is one of the most important tasks of the public administration. It is important to constantly update and improve the information base of the land cadastre, as in the conditions of decentralization policy, successful implementation of administrative reform in our country, development of communities, infrastructure, communication paths, means of meeting social needs, and raising the standard of living of the population will take place. And these are factors that contribute to the increase of the cost of land.

For example, in the course of the next determination of normative monetary valuation, experts of the State Geological Institute state the increase in the value of land in comparison with the indicator of five-seven years ago. The main factors of growth are the development of infrastructure, transport routes, and the inflow of investments in the respective territories. The least dynamic - within 5% - the indicator is growing in villages, where the development of infrastructure is slow [9].

Although statistics say that the whole land in Ukraine has a normative monetary valuation, the legislator has provided an alternative tax base for "the area of land plots for which a standard monetary valuation has not been made" [6].

The next important element of the legal construction of land tax is the object of taxation. They are land plots owned or used and land shares that are owned by [6].

The users here should be understood as the constant land users. Leasehold land may provide for the payment of land tax to tenants only if this is specified in the contract. The ground for accrual of the land tax is the data of the state land cadastre.

To understand the problem here, we make a definite analysis.

To date, the right to a land plot is considered to be properly executed if the cadastral number and information about the right entered in the state register of real rights to real estate and their encumbrances have been assigned to the site.

According to Art. 79¹ of the Land Code, a land plot is deemed to have been formed since the cadastral number has been assigned to it and the data have been entered into the State Land Cadastre [10]. Assignment of

cadastral numbers began in 2002. It was then that the sites began to prepare for registration in the electronic system and assign them codes - cadastral numbers. Before this, land plots were owned and used without assigning such a number and without listing the information to the State Land Cadastre on the basis of the issuance of state acts of ownership of land or state acts on the right of permanent land use. Legislation did not provide for citizens to replace a state act on the right to own a land plot of the old model on a state act of a new model with a cadastral number. People have not lost their right on land till today. But the data on the sites that they own is not in official systematized documents. From the point of view of formal law, such land plots can not be subjected to taxation.

2. According to Art. 125 Land Code, the right to a land plot (property or use) arises from the moment of its state registration. Ownership, use of the land plot is made in accordance with the Law of Ukraine "On State Registration of Real Rights to Real Estate and their Encumbrances" [10, 11].

Such a requirement appeared in the legislation in 2009. Consequently, the documents were issued to this and the right that arose on their basis are valid. In this case, the right of ownership is limited, because if the information about the right on a plot is not in the state register, then the owner is actually deprived of the right to dispose of the land. He will not be able to conclude any deal. The legislator, as in the case of the State Land Cadastre, does not foresee a compulsory registration of rights to land. In practice, this leads to a reduction in the tax base. Owners and users of the land have, but it is legally impossible to tax them.

Question of the subject of payment of land tax also needs attention. According to the Land Code, land may be in state, communal and private ownership. According to Art. 80 of the Land Code subjects of the right of private property to land are citizens and legal entities; communal property - territorial communities that exercise this right directly or through local self-government bodies; state - a state that implements this right through the relevant state authorities [10]. Requirements for registration of rights to land are the same for all owners. Only the problem of demarcation of land of different forms of ownership, in particular state and municipal, is left, so that it is clear which body determines the size of the land tax for a particular land plot.

On January 1, 2013, the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine regarding the delimitation of state and

communal land" entered into force. According to the law, communal property lands of the respective territorial communities are:

a) land: where buildings, structures, other objects of real estate of communal property of the respective territorial community are located; which are in constant use of local self-government bodies, communal enterprises, institutions, organizations;

b) all other lands located within the respective settlements, except for land plots of private and state ownership [12].

For a long time, land outside the settlements belonged to state ownership, which is mainly agricultural land. They can potentially generate revenue for communities. In connection with decentralization processes, a decision was made that allowed accelerating the transfer of land to the property of the united territorial communities.

The main normative act, which allows to legalize such a transfer is - art. 117 Land Code, entitled: "Transfer of land plots of state ownership to communal ownership or land plots of communal property into state ownership" [10]; a decree of the Cabinet of Ministers, which obliges the State Geocodist to carry out such a transfer in the part of the lands of the united territorial communities; Article 26 of the Law of Ukraine "On Local Self-Government", which regulates the compulsory coordination of the actions of the State Audit Office with the body of local self-government in the transition period of the transfer of land [8].

In general, the mechanism is similar to the procedure for the transfer of land to citizens, only the host party is the united territorial community.

Will the community in this case be a land tax payer? According to the scholar Shulga T.G. the possession of land owned by territorial communities, which according to the legislation of Ukraine are legal entities, necessitates the resolution of the question of the possibility of their taxation [3]. According to the law, all forms of ownership of land are equal. So, at first it may seem that, the taxation of communal land should be carried out on a general basis. However, such a conclusion is somewhat hasty. Communal ownership of land provides not private but public interests, in particular, to all residents of a village, settlement or city. It is necessary to take into account the peculiarities of the legal status of the territorial community as the owner. Art. 142 of the Constitution of Ukraine provides that the movable and immovable property, revenues of local budgets, other funds, land, natural resources owned by the territorial communities of villages, towns, cities, districts in cities, constitute the material and financial

basis of local self-government [7]. Thus, a territorial community - an entity receiving budget revenues can not act as a taxpayer, including a land tax [3].

In order to receive adequate income from new lands, communities in the person of local self-government, it is necessary to transfer them to the lease. The rent will be a good source of income. If you do not abuse discretionary powers, and do not underestimate tax rates.

The general limit of the land tax rate are determined by the Tax Code. Limits of local tax rates, which are set according to the list and within the limits of the rates determined by the tax code, decisions of the village, settlement, city councils and councils of the united territorial communities established in accordance with the law and the prospective plan for the formation of community territories, in the within the limits of their authority and are obligatory to pay in the territory of the respective territorial communities [6].

Conclusions

The Land is one of the main material resources of a territorial community. Land tax can be a good source of local budget. The problem is the proper administration of the tax. There is enough actual permanent users and owners of land plots. There are a few lands whose normative assessment has not been made. In addition to that, many land plots are not properly registered. Since the electronic register (State Land Cadastre) the tax base has not been completed. The reason for this is that the owners have a high level of desire to avoid paying the land tax. Since there is no sense of responsibility of the owner of the land, there is no targeted use of funds received from the payment of land tax. Taxpayers can not publicly track where exactly the money is spent. They have a low tax culture and there is no awareness that the funds they pay to tax will be spent on satisfaction of their public interest and the interest of the territorial community. However, there are already positive changes, which are due to the consolidation of territorial communities, the transfer of greater powers to them and, accordingly, the levers of control over the use of funds.

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