

UDC 347.73: 336.22

DOI <https://doi.org/10.32849/2663-5313/2022.1.10>

**Kateryna Nedostup,**

*Ph.D Student at the Department of Civil, Economic and Environmental Law, National Technical University Dnipro Polytechnic, 19, D. Yavornytskyi avenue, Dnipro, Ukraine, postal code 49005, nedostup.k.k@nmu.one*

**ORCID:** <https://orcid.org/0000-0003-0122-7007>

Nedostup, Kateryna (2022). The transformation of local taxes in the tax system of Ukraine. *Entrepreneurship, Economy and Law*, 1, 58–67, doi: <https://doi.org/10.32849/2663-5313/2022.1.10>

## THE TRANSFORMATION OF LOCAL TAXES IN THE TAX SYSTEM OF UKRAINE

**Abstract.** *The purpose* of the article is to study the transformation of types of local taxes in the tax system based on a retrospective analysis of their legal regulation; to identify the shortcomings and positive experience of taxation lawmaking. **Research methods.** The general scientific (comparison, generalization) and special (retrospective analysis, content analysis, logical-legal method) methods of scientific knowledge were used to achieve the goal. **Results.** The experience of delegation of legislative powers by the Verkhovna Rada of Ukraine to the Cabinet of Ministers of Ukraine and the legal grounds for conducting a taxation experiment were analyzed. The author examined the sequence of adoption of normative legal acts, which regulate the establishment and procedures for collecting local taxes, by legislative and executive bodies. As a result of comparison of the lists of local taxes that are simultaneously enshrined in two legal acts (The Law of Ukraine “On the Taxation System” and the Decree “On Local Taxes and Fees”), which were in force from October 1, 1994 until the adoption of the Tax Code of Ukraine, the non-identity of the names and terms enshrining individual local taxes was revealed. The local taxes collected to attract the additional funds to local budgets in the short term and in order of the experiment were emphasized. It is noted that for the first time the concept of “tax agent” was legally fixed and the intended use of their tax revenues was settled in the legal acts which established the procedure for collecting of local taxes by experiment. **Conclusions.** The Ukrainian tax system is characterized by the reduction of local taxes. Since 2015, it comprises two local taxes. The decision on their collection in a particular territory is made by the local government. The mechanism of legal regulation of local taxes, which started working after the proclamation of Ukraine’s independence in 1991, is constantly evolving and being improving. However, the rulemaking process requires the following: 1) to improve the coordination of actions of legislative and executive authorities; 2) to take into account the norms enshrined in interrelated documents; 3) executive authorities to comply with the limits of tax authority established by law.

**Key words:** decree, law, local taxes, tax code, tax system.

### 1. Introduction

The public purpose of local taxes is conveyed by their fiscal function. It is known that they are a component of tax revenues of the local budget, one of the sources of income of the general budget fund of rural, settlement, city, and amalgamated territorial communities (hromadas). The availability of local taxes in the tax system contributes to the formation of financial resources necessary to ensure the functioning of local self-government authorities. Therefore, the improvement of legal regulation of procedures for their introduction and collection holds sway over time and is constantly of interest to lawyers and economists. In particular, the legal regulation of local taxes was discussed by Bokshorn A.V. (Bokshorn, 2021), Viktorchuk M.V. (Viktorchuk, 2016), Dumchykov M.O. (Dumchykov, 2018), Ryzhiy A.V. (Ryzhiy, 2021), Skorobahach V.I. (Skoroba-

hach, 2015), et al. Its features were studied by Pabat O.V. (Pabat, 2020, p. 44–47). The stages of formation and development of legal groundwork for local taxes were analyzed by Kmit V.M., Vovchanskyi Yu.V. (Kmit', Vovchans'kuy, 2018, p. 656–662), Shapoval V.O. (Shapoval, 2019, p. 101–105). In order to identify contradictions and gaps in tax legislation, a retrospective analysis of the regulatory framework governing the administration of local taxes was carried out by Bokshorn A. V. (Boxgorn, 2017, p. 38–47), Mushenok V. V. (Mushenok, 2017), and Ryzhiy A. V. (Ryzhiy, 2021, p. 64–74). Khrystoforov A.B. (Khrystoforov, 2017, p. 127–133) provided the legal assessment of the norms of the Tax Code of Ukraine (TCU) for compliance with the principle of stability of tax legislation and the Budget Code of Ukraine (BCU) in terms of regulating the procedure of putting local taxes in force.

The purpose of the article is to study the transformation of types of local taxes in the tax system based on a retrospective analysis of their legal regulation; to identify shortcomings and best practices in taxation law-making.

To achieve the above, the author has used general scientific (comparison, generalization) and special (retrospective analysis, content analysis, logical-legal) methods of scientific cognition.

## 2. Legal grounds for the availability of local taxes in the tax system

It is known that the Verkhovna Rada of Ukraine (VRU) – the sole body of legislative power in the state – adopts all laws, including those relating to taxation. However, the history of domestic law-making has the case of temporary (from 30.12.1992 to 21.05.1993) delegation by the parliament of its powers, enshrined in para. 15 of Art. 97 of the Constitution of Ukraine in effect at that time [the Constitution (Basic Law) of Ukraine dated 20.04.1978, No. 888-IX], to the Cabinet of Ministers of Ukraine (CMU) “for making prompt decisions on matters related to the introduction of a market economy and concentrating their legislative solution in a single pair of hands” (Law of Ukraine dated 18.11.1992, No. 2796-XII).

The sole body of legislative power delegated its constitutional authority in the following way. First, on 18.11.1992, the Parliament adopted the Law of Ukraine No. 2796-XII “On Temporary Suspension of the Powers of the Verkhovna Rada of Ukraine provided for in paragraph 13 of Article 97 of the Constitution of Ukraine and the Powers of the President of Ukraine provided for in paragraph 7–4 of Article 114-5 of the Constitution of Ukraine”. Thus, it ruled to temporarily, “for 6 months”, suspend the effect of “paragraph 13 of Article 97 of the Constitution of Ukraine in terms of the legislative regulation of property relations, entrepreneurial activity, social and cultural development, state, customs, scientific and technological policy, financial and credit system, taxation, state policy on remuneration and pricing, as well as the effect of paragraph 7-4 of Article 114-5 of the Constitution of Ukraine. The Cabinet of Ministers of Ukraine was entitled to exercise the mentioned powers.

On the same day (18.11.1992), the Verkhovna Rada of Ukraine adopted the Law of Ukraine No. 2796-XII “On Temporary Delegation of the Powers to Issue Decrees on Legislative Regulation to the Cabinet of Ministers of Ukraine” to resolve issues related to implementing market reform promptly.

Further, on 21.11.1992, the VRU adopted Law No. 2813-XII specifying legislative acts which the CMU is authorized to adopt, their

legal status, etc. On 22.11.1992, the VRU determined (Resolution of the Verkhovna Rada of Ukraine No. 2814-XII dated 22.11.1992) the effective date of the Law of Ukraine “On Temporary Suspension of the Powers of the Verkhovna Rada of Ukraine provided for in paragraph 13 of Article 97 of the Constitution of Ukraine and the Powers of the President of Ukraine provided for in paragraph 7–4 of Article 114-5 of the Constitution of Ukraine” and instructed the Legislation and Legitimacy Commission of the Verkhovna Rada of Ukraine to draw up and submit the relevant amendments and additions to the Constitution of Ukraine for the VRU consideration. As a result, on 19.12.1992, the Parliament adopted two legal acts:

1) the Law of Ukraine No. 2885-XII “On Supplementing the Constitution (Basic Law) of Ukraine with Article 97-1 and Amendments and Additions to Articles 106, 114-5, and 120 of the Constitution of Ukraine” (enacted on 10.01.1993);

2) the Law of Ukraine No. 2886-XI “On Amendments and Additions to the Law of Ukraine “On Temporary Suspension of the Powers of the Verkhovna Rada of Ukraine provided for in paragraph 13 of Article 97 of the Constitution of Ukraine and the Powers of the President of Ukraine provided for in paragraph 7–4 of Article 114-5 of the Constitution of Ukraine” (enacted on December 30, 1992).

After reading the Law of Ukraine No. 2886-XI, the author states that it does not make any additions but completely modifies the content declared in its title. Consequently, it becomes identical to the Law of Ukraine dated 18.11.1992 No. 2796-XII “On the Temporary Delegation of the Powers to Issue Decrees on Legislative Regulation to the Cabinet of Ministers of Ukraine”. Analyzing the history of the latter legal act published on the VRU official portal, one can see that this document has two editions today: the primary edition, which was adopted by the VRU on 18.11.1992, and the current one, the content of which was enshrined by the Law of Ukraine No. 2886-XII and which fully duplicated its original edition. In other words, both versions of the aforementioned law of Ukraine are the same.

It is apparent that the publication of two different laws in title and content with the same number 2796-XII by the Verkhovna Rada of Ukraine on 18.11.1992 affected further law-making activities.

The official web portal of the Parliament of Ukraine currently lacks the text of the Law of Ukraine No. 2796-XII as of 18.11.1992 “On Temporary Suspension of the Powers of the Verkhovna Rada of Ukraine provided for in paragraph 13 of Article 97 of the Constitution

of Ukraine and the Powers of the President of Ukraine provided for in paragraph 7–4 of Article 114-5 of the Constitution of Ukraine”. A scanned copy of the relevant legal act is available on the official web portal of the State Archival Service of Ukraine. Therefore, it is impossible to have a look at its latest edition and reliably establish whether the document has legal force at the moment.

Given the chronology of adopting the above-mentioned legal acts and their enactment, the author asserts the following:

1. The Parliament became entitled by law “to delegate the powers to issue decrees on legislative regulation of specific matters under paragraph 13 of Article 97 of the Constitution of Ukraine to the Cabinet of Ministers of Ukraine for a specified period”, and the CMU – to issue decrees from the moment of introducing appropriate amendments to the Basic Law [Constitution (Basic Law) of Ukraine dated 20.04.1978 No. 888-IX], that is, after the enactment of the Law of Ukraine No. 2885-XII.

2. As of 18.11.1992, the Verkhovna Rada of Ukraine was not authorized to adopt the Law of Ukraine No. 2796-XII “On Temporary Delegation of Powers to Issue Decrees on Legislative Regulation to the Cabinet of Ministers of Ukraine”.

It should be noted that from 24.11.1992 to 21.05.1993, the Cabinet of Ministers of Ukraine adopted 83 decrees, among which was Decree No. 56-93 “On Local Taxes and Fees”, which entered into force on 05.06.1993 and was in effect until the enactment of the Tax Code of Ukraine (until 01.01.2011). The legal act was “focused on strengthening the budgets of local self-government” and specified “the types of local taxes and fees, their maximum amount, and the calculation procedure” (Decree of the Cabinet of Ministers of Ukraine “On Local Taxes and Fees” dated May 20, 1993, No. 56–93).

It is known that in Ukraine, from 01.10.1991 to 01.04.1994, the Law of the Ukrainian Soviet Socialist Republic No. 1252-XII dated 26.06.1991 regulated principles of the tax system construction. The legal act established types of republic-wide “taxes, fees, and mandatory payments, the sources of their remittance, taxpayers and taxation objects, and liability for violation of tax legislation”.

Later, as a result of the adoption of the Law of the Ukrainian Soviet Socialist Republic dated 02.02.1994 No. 3904-XIII by the Verkhovna Rada of Ukraine, the Law of the Ukrainian SSR dated 26.06.1991 No. 1252-XIII was issued in a new wording, which came into force on 01.04.1994. Thus, for the first time, it was enshrined the legal definition of the concept

of the “taxation system” and types of national taxes and mandatory payments, local taxes and fees”.

At the time of the adoption and enactment of the Decree of the CMU No. 56–93, the availability of local taxes and fees in the tax system was not legally enshrined, but it was determined that tax legislation comprises the Law of the Ukrainian SSR No. 1252-XII “and other acts of the legislation of the Ukrainian SSR issued in accordance with it”.

The author emphasizes that, being an act of law-making, Decree No. 56–93, which was adopted by the supreme body in the system of executive bodies based on the Law “On Temporary Delegation of Powers to Issue Decrees on Legislative Regulation to the Cabinet of Ministers of Ukraine”, has the force of law.

Taking into account the above, the author holds that from June 5, 1993, to April 1, 1994, under the Law of the Ukrainian SSR No. 1252-XII, there were no local taxes and fees in the tax system. However, they were collected pursuant to the Decree of the Cabinet of Ministers of Ukraine No. 56-93. The Parliament eliminated legal conflict by adopting Law No. 3904-XII (Law of the Ukrainian Soviet Socialist Republic “On Amendments and Additions to the Law of the Ukrainian SSR “On the Taxation System” dated 02.02.1994 No. 3904-XIII).

### **3. Types of local taxes available in the tax system before the adoption of the Tax Code of Ukraine**

From 01.01.1994 to 01.01.2011, types of local taxes were identified by two legal acts – the Law of Ukraine “On the Taxation System” (Table. 1) and the Decree of the CMU No. 56–93 (Table 2). During that period, the tax system was modified many times.

Ryzhiy (Ryzhiy, 2021, p. 45) studied the transformation and development of local taxes and fees. However, by relying on the content analysis of versions of the Law “On Taxation System” and the Decree “On Local Taxes and Fees” available on the official web portal of the Parliament “Legislation of Ukraine”, somewhat different results from comparing local taxes fixed in these legal acts were obtained.

In particular, the following was established.

1. Non-identity of the names of individual local taxes.

1) During the entire validity period of Decree No. 56-93, the list of local taxes, enshrined in its Art. 1, included a *parking* fee. According to sub-para. b of para. 1 of Art. 15 of the Law of Ukraine No. 1252-XII, the fee entitled as above was available in the domestic tax system until 20.03.1997. As a result of alteration of the mentioned legal act based on the Law of Ukraine No. 77/97-VR dated

Table 1

**Types of local taxes according to para. 1 of Art. 15 of the Law of Ukraine  
“On the Taxation System” dated 26.06.1991 No. 1252-XII**

Law revision as of the following date					
01.04.1994	20.03.1997	12.07.2000	26.06.2001	01.01.2004	01.01.2011
Hotel tax				–	–
Parking fee <sup>2</sup>	Vehicle parking fee				
Market fee					
Housing allocation fee					
Resort fee					
Entry fee for a horse race					
Tax on winning from a horse race.					
Track take					
Fee for the use of local symbols					
Filming fees					
Local auction and lottery fees					
Cross-border tax				–	–
Retail license fee	Retail and service license fee				
–	Dog tax				
–	–	Excursion and tourist tax <sup>3</sup>	–	–	–

<sup>1</sup>Invalidation.

<sup>2</sup>Hereinafter author's marks.

<sup>3</sup> Collected from 01.01.2001 to 26.06.2001

Source: summarized by the author.

18.02.1997, it was revised. Thus, the list of local taxes enshrined by the Law of Ukraine “On the Taxation System” began to contain a “*vehicle parking fee*”. This name of the local fee was retained until the repeal of Law No. 1252-XII because of the enactment of the Tax Code of Ukraine.

2) The Law of Ukraine No. 1252-XII fixes a “tax on winning from a horse race”. Instead, Decree No. 56-93 fixes “a track rate”. In order to understand which “runs” are referred to in the name of the local tax mentioned in the decree, it is necessary to read Art. 9 of this legal act.

3) As you can see (Table 1), until March 20, 1997, there was a retail license fee in the tax system. After amending the Law of Ukraine “On the Taxation System”, based on the Law of Ukraine No. 77/97-VR, the name of the concerned local fee has changed. Since then, it has been called “a retail and service license fee”. However, no corresponding changes were made to para. 17 of Art. 1 of Decree No. 56-93. Therefore, the procedure for collecting the relevant local fee from its payers, who carry out their service activities, was not regulated. The author draws attention to the fact that legal conflict was not settled before the decree's abolition.

The analysis of regulations and legal acts approved by local self-government bodies

that establish the mechanism for charging a retail and service license fee (<http://parus-consultant.com/?doc=03R3147185>, <http://consultant.parus.ua/?doc=01SCY7AAFD>, etc.) indicates that they were developed under Art. 17 of Decree No. 56-93. In other words, local self-government bodies independently determined the procedure for charging retail and service license fee by relying on the procedure established by the law for charging a retail license fee.

2. Difference in the terms of legal confirmation of a dog tax.

The local fee under study, in accordance with Decree No. 56-93, was charged from 20.05.1993 to 01.01.2011. However, it was included in the list of local fees, enshrined in the Law of Ukraine No. 1252-XII, as of 20.03.1997 VR by relying on the Law of Ukraine No. 77/97.

3. Short-term existence of some local taxes.

“To attract additional funds to settle the arrears of wages and social benefits for employees of educational institutions of the general secondary education system”, based on the Law of Ukraine dated 17.09.1999 № 1065-XIV, Art. 1 of Decree No. 56-93 was supplemented with the following paragraph: “a fee for the right of business entities to use premises located in the central part of the settlement and buildings that are monuments of history

Table 2  
Types of local taxes according to Art. 1 of the Decree of the Cabinet of Ministers of Ukraine dated May 20, 1993, No. 56-93

Decree revision as of the following date							
20.01.1993 <sup>1</sup>	16.07.1993	17.09.1999	13.05.2000	12.07.2000	20.06.2001	01.01.2004	01.01.2011 <sup>2</sup>
		Hotel fee				-	-
		Parking fee					
		Market fee					
		Housing allocation fee					
		Dog tax					
		Resort fee					
		Entry fee for a horse race					
		Tax on winning from a <i>horse race</i>					
		Track take					
		Fee for the use of local symbols					
		Filming fee					
		Local <i>auction</i> and lottery fees					
		Cross-border tax				-	-
		Retail license fee					
-	-	Fee for the right of business entities to use premises located in the central part of the settlement and buildings that are monuments of history and culture <sup>3</sup>	-	-	-	-	-
-	-	-	-	Excursion and tourist tax	-	-	-

<sup>1</sup>Original version.

<sup>2</sup>Invalidation.

<sup>3</sup>Collected from 01.01.2000 to 13.05.2000

Source: summarized by the author.

and culture” and Art. 17-2, which determined the procedure for its collecting. The fee was effective from 01.01.2000 to 13.05.2000. Due to the abolition of the Law of Ukraine No. 1065-XIV, para. 19 of Art. 1 and Art. 17-2 (the Law of Ukraine No. 1661-III dated 20.04.2000) were excluded from Decree No. 56-93.

Let's pay attention to the fact that the Verkhovna Rada of Ukraine, deciding to make the above additions to Decree No. 56-93, ignored the need to amend the interrelated document – the Law of Ukraine No. 1252-XII. Consequently, the relevant local fee could not be collected because it had not been introduced into the tax system of the state.

In addition to the above fee, there was another short-term local fee in the domestic tax system.

Pursuant to the Law of Ukraine No. 1805-III dated 08.06.2000, para.1 of Art. 15 of the Law of Ukraine “On the Taxation System” was supplemented with [26] sub-para. 15, and Art. 1

of the Decree “On Local Taxes and Fees” – with paragraph 20: “excursion and tourist fee”. The decree was also supplemented with Article 17-2, which defines the payers and the maximum fee amount. The excursion and tourist fees were available from 01.01.2001 to 26.06.2001. It was canceled by the Law of Ukraine dated 07.06.2001 № 2515-III.

#### 4. Local taxes collected during the taxation experiment

Analyzing the legal regulation of local taxes, one cannot disregard the taxes that were collected from 2003 to 2006 solely on the territory of the Autonomous Republic of Crimea (ARC). “Given the specifics of the socio-economic development of the region”, the taxes were introduced by the Verkhovna Rada of the Autonomous Republic of Crimea (VR of the ARC) in agreement with the Cabinet of Ministers of Ukraine.

Pursuant to Art. 39 of the Law of Ukraine No. 380-IV dated 26.12.2002 “On the State Budget of Ukraine for 2003”, resolution No. 434-3/03

dated 19.02.2003 of the VR of ARC approved four provisions that establish the mechanism for the collection of the following local fees in the Autonomous Republic of Crimea: 1) for the development of municipal public transport; 2) resort; 3) for the development of the recreational complex; 4) from the owners of real estate for the use of engineering infrastructure and improvement of cities and settlements.

However, on May 28, 2003, the Cabinet of Ministers of Ukraine decided "to agree with the proposal of the Verkhovna Rada of the Autonomous Republic of Crimea relating to the introduction of local fees in 2003 as an experiment, i.e., the fee for the development of the recreational complex in the Autonomous Republic of Crimea and the fee for the development of passenger e-transport in the Autonomous Republic of Crimea" (Resolution of the Cabinet of Ministers of Ukraine dated 28.05.2003, No. 875). That kind of parliament decision encouraged the VR of the ARC to make specific amendments to the prior resolution No. 434-3/03 dated 19.02.2003 (see sub-paras. 1.3–1.4, para. 1 of the Decree of the VR of the ARC as of 05.06.2003 No. 587-3/03). Consequently, the mentioned statutory act was expanded by para. 30<sup>1</sup>, and para. 30 was recognized as invalid. Thus, the Regulation on the fee for the development of the recreational complex in the ARC and the Regulation on the fee for the development of passenger e-transport in the ARC were approved.

Initiated in 2003, the experiment on collecting the abovementioned two local fees in the ARC, based on the Law of Ukraine No. 1344-IV dated 27.11.2003 and the Resolution of the CMU No. 875 dated 28.05.2003, lasted until 01.01.2005.

During the experiment, the concept of "tax agent" was used for the first time – its definition was also enshrined. Thus, para. 4.1. para. 4 of the Regulation on the fee for the development of the recreational complex in the AR of Crimea determined that "the fee is collected by tax agents – legal entities or individuals who, regardless of their organizational and legal status and their methods of payment of other taxes, are obliged under this Regulation to accrue, deduct or collect and pay the fee to the budget on behalf and at the expense of a taxpayer, to keep tax records and submit tax reports to tax authorities following the current legislation, as well as to be responsible for violation of the provisions of this Regulation".

The normative legal acts regulating the procedure for collecting the aforementioned local fee enshrined their intended use. Thus, tax revenues from the fee for the development of the recreational complex, which was collected from

organized holidaymakers and unorganized holidaymakers who arrived in the Autonomous Republic of Crimea in their vehicles, were to be allocated to implement joint projects with local governments for the development of resort cities, finance activities related to reconstruction, maintenance of the infrastructure of the resort and tourism complex and preparation for the resort season, and obtained revenues from the fee, which was collected from other unorganized holidaymakers, to cover the costs specified by local councils during the approval of budgets for the relevant year.

The fee for the development of passenger electric transport was an additional source of funds for developing public transport, first of all, intercity passenger electric transport, the purchase of school buses. As you can see, the statutory purposes of the concerned local fee were not fully consistent with its name.

The procedure for collecting fees defined the budget type for their crediting, payment name, and the code of income budget classification (Table. 3).

At the same time, the order of the Ministry of Finance of Ukraine (MFU) No. 441 dated 09.07.2003 additionally introduced code 16011800 "Fee for the development of a recreational complex in the Autonomous Republic of Crimea and code 16011900 "Fee for the development of passenger electric transport in the Autonomous Republic of Crimea" into the systematized grouping of income (Order of the Ministry of Finance of Ukraine No. 604 dated 27.12.2001 "On Budget Classification and its Implementation").

As we can see, the MFU did not fix a budget classification code for analytical accounting of revenues from the fee for the development of the recreational complex in the ARC. However, the VR of the ARC did not amend sub-paras. 4.7–4.8 of the normative legal act establishing the procedure for the collection of the relevant fee throughout the period of its validity.

During the study of the legal regulation of the collection of the fee for the development of the recreational complex and the fee for the development of passenger electric transport in the ARC, it was found that the experiment on their collection in the ARC was not agreed with the Cabinet of Ministers of Ukraine after 2004. In addition, the fees were administered in the ARC throughout 2005 and for some time in 2006.

Therefore, there raised a logical matter of the legal grounds for conducting a taxation experiment in the Autonomous Republic of Crimea. It is known that:

1. Only the laws of Ukraine establish the taxation system, taxes, and fees. From 01.04.1994

Table 3  
**Conditions for the transfer of local fees approved by the Verkhovna Rada of the Autonomous Republic of Crimea**

Type of local fee	Type of local budget	Purpose of payment	Code of budget classification
Fee for the development of the recreational complex in the ARC	Budget of local self-government	Fee for the development of recreational complex from unorganized holidaymakers in the ARC	16011801
	Budget of the Autonomous Republic of Crimea	Fee for the development of recreational complex from organized holidaymakers in the ARC	16011800
		Fee for the development of recreational complex in the ARC*	16011802
Fee for the development of passenger electric transport in the ARC		Fee for the development of passenger electric transport in the ARC	16011900

\*The fee is paid by unorganized holidaymakers who arrived in the Autonomous Republic of Crimea in own vehicles.

Source: summarized by the author by relying on sub-paras. 4.7–4.8, para. 4 of the Regulation on the fee for the development of the recreational complex in ARC, and sub-para. 6.2, para. 6 of the Regulation on the fee for the development of passenger electric transport in the ARC.

to 01.01.2011, the role of that kind of a legal act was the Law of Ukraine “On the Taxation System”. Art. 1 of the Law determined that “taxes and fees (mandatory payments), the payment of which is not prescribed by this Law, are not payable” (from 20.03.1997 to 17.02.2000) and “any taxes and fees (mandatory payments) introduced by the laws of Ukraine must be included in this Law” (from 20.03.1997 to 01.01.2011).

2. The Budget Code of Ukraine (BCU) in force at that time enshrined that tax revenues are considered only “... local ... fees stipulated by the tax laws of Ukraine” (para. 2 of Art. 9) and regulated the indicators and provisions of the law on the State Budget of Ukraine (para. 2 of Art. 38). According to the BCU, the mentioned law cannot make changes in the tax system and amend the powers of the Cabinet of Ministers of Ukraine.

3. The Autonomous Republic of Crimea is authorized, pursuant to the legislation of Ukraine, ... to conduct taxation experiments, set local taxes and fees, ... exercise other powers in the field of taxation” (Constitution of the Autonomous Republic of Crimea dated 23.12.1998). The Constitutional Court of Ukraine [decision No. 1-rp/2003 as of 16.01.2003 (case No. 1-3/2003)] recognized the provision of the Constitution of the Autonomous Republic of Crimea, approved by the Law of Ukraine “On Approval of the Constitution of the Autonomous Republic of Crimea” as of December 23, 1998, as complying with the “Constitution of Ukraine (constitutional):

“in accordance with the legislation of Ukraine ... conducting taxation experiments”.

4. The list of issues in respect of which the Autonomous Republic of Crimea carries out statutory regulation is enshrined in Art. 137 of the Constitution of Ukraine (Constitution of Ukraine dated June 28, 1996, No. 254k/96-BP) – taxation issues are out of its scope.

5. “Normative legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea ... may not contradict the Constitution and laws of Ukraine and are adopted in accordance with the Constitution of Ukraine, laws of Ukraine, acts of the President of Ukraine and the Cabinet of Ministers of Ukraine and for their implementation” (Constitution of Ukraine dated June 28, 1996, No. 254k/96-VR).

In view of the above, we must state that the Verkhovna Rada of the Autonomous Republic of Crimea, having set local fees on the territory of the ARC that are not prescribed by the laws of Ukraine and having approved the regulations governing the procedure for their collection, exceeded its authority.

Thus, violations of the above rules called into question the legality of the experiment on collecting local fees in the ARC.

By the way, in 2006, the Commercial Court of the ARC declared para. 30.1 of the Resolution of the Verkhovna Rada of the Autonomous Republic of Crimea No. 434-3/03 dated 19.02.2003 “On the Budget of the Autonomous Republic of Crimea for 2003” illegal and invalid: it concerns the part of the approved Regulation on the fee for the development

of passenger electric transport in the Autonomous Republic of Crimea (15.03.2006, case No. 2-28/5895-2006A [45]) and the part of the Regulation on the fee for the development of the recreational complex in the AR of Crimea (Resolution of the Commercial Court of the Autonomous Republic of Crimea dated 17.08.2006, case No. 2-10/11684-2006A).

The Sevastopol Commercial Court of Appeal dismissed the appeals of the VR of the ARC and upheld the above rulings of the Commercial Court of the ARC (Rulings of the Sevastopol Commercial Court of Appeal dated 22.05.2006, case No. 2-28/5895-2006A and dated 15.11.2006, case No. 2-10/11684-2006A). The Verkhovna Rada of the Autonomous Republic of Crimea, in accordance with the procedure established by law, did not appeal the court rulings.

However, despite the fact that the aforementioned court rulings of the Sevastopol Commercial Court of Appeal entered into force on November 30, 2006, the Parliament adopts the Law of Ukraine No. 398-V, sub-para. 8, para. 3 of the final provisions of which, in 2007, “extended the experiment on the introduction of some local fees consolidated in 2003 by the Verkhovna Rada of the Autonomous Republic of Crimea in agreement with the Cabinet of Ministers of Ukraine (fee for the development of the recreational complex in the Autonomous Republic of Crimea and fee for the development of passenger electric transport in the Autonomous Republic of Crimea)”. In this regard, the order of the Cabinet of Ministers of Ukraine dated 07.02.2007, No. 36-r instructed “the Council of Ministers of the AR Crimea ... to quarterly inform the Ministry of Finance about the experiment’s progress, the receipt of funds to the budget and their use”. It should be noted that, the resolution of the VR of the ARC No. 315-5/06 dated 28.12.2006 annulled the legal acts establishing the procedure for collecting the relevant fees in 2007. Based on the information provided by the State Tax Administration in the Autonomous Republic of Crimea (the letter of the State Tax Administration in the Autonomous Republic of Crimea “On Regulation of the Recreational Fee” dated 18.10.2007 No. 1206/G/15-3),

throughout 2007, that is, at the time of adoption of the CMU order, both fees were not collected.

Regulations on the fee for the development of the recreational complex in the Autonomous Republic of Crimea and Regulations on the fee for the development of passenger electric transport in the Autonomous Republic of Crimea became null and void pursuant to the decree of the VR of the ARC dated 16.01.2008 № 728-5/08.

Thus, due to the study of legal acts regulating tax relations, the author holds that from 01.01.2004 to 31.12.2010, the tax system of Ukraine included (Table. 1) 12 local fees, of which five were subject to mandatory collecting (a fee for vehicle parking, a market fee, a housing allocation fee, a fee for a trade and service license, a dog tax). Village, settlement, and city councils decided to set local fees, the list of which was enshrined in para. 2 of Art. 15 of the Law of Ukraine “On the Taxation System”; developed and approved the collection mechanism for each established fee guided by the relevant norms of Decree No. 56–93.

#### 5. Local fees collected on the basis of the Tax Code of Ukraine

With the enactment of the Tax Code of Ukraine, the powers of local self-government bodies in terms of establishing local taxes have been preserved in full, while the list of local taxes has changed. Three local fees began to be administered from 01.01.2011, namely: a vehicle parking fee, a tourist fee, and a fee for a business license (Table 4). The latter was mandatory for establishment by local self-government bodies and was collected until 01.01.2015. The fee for a commercial activity license was excluded from the tax system due to the entry into force of the Law of Ukraine dated 08.12.2014 No. 71-VIII, which modified para. 10.2 of Art. 10 and Art. 267 of the TCU.

As you can see (Tables 1–3), the parking fee has been collected since 20.05.1993 until the present. However, during this time, not only the mechanism of its collection changed, but also the name: from 01.04.1994 to 20.03.1997 – *parking fee*, from 20.03.1997 to 01.01.2011 – *automobile parking fee*, from 01.01.2011 and until now – *a vehicle parking fee*.

Table 4

#### Types of local fees under sub-para. 10.2 of Art. 10 of the Tax Code of Ukraine

The TCU text as of the following date	
01.01.2011 (enactment)	from 01.01.2015 to the present
Vehicle parking fee	
Fee for a trade activity license	–
Tourist fee	

Source: summarized by the author.



## 6. Conclusions

The mechanism of collecting local taxes, which started working after the proclamation of Ukraine's independence in 1991, is constantly developed and being improved. The Verkhovna Rada of Ukraine Legal adopt acts which regulate tax relations and have the status of a law. However, there is the case of the Parliament's delegation of its legislative powers to the Cabinet of Ministers of Ukraine. As a result, the Government adopted the Decree "On Local Taxes and Fees" which laid the groundwork for the collection of local taxes. The process of application of delegated legislation was accompanied by hasty decision-making: the delegation of powers by the Verkhovna Rada of Ukraine to the Cabinet of Ministers of Ukraine and the beginning of their implementation by the latter took place before amending the Constitution (Basic Law) of Ukraine; the Parliament adopted two laws of Ukraine, different in name and content, which had the same number that subsequently adversely affected modification of one of them.

From 01.10.1994 until the adoption of the Tax Code of Ukraine, the tax system included 12 local fees, of which 5 were subject to mandatory charging. Amendments to their structure, simultaneously enshrined in the Law of Ukraine

"On the Taxation System" and the Decree "On Local Taxes and Fees", resulted in the non-identity of the names and terms of fixing individual local fees. The tax system of that period was characterized by the short-term existence of some local fees, which were introduced to attract additional funds to local budgets. For the same purpose, during 2003–2006, an experiment on fee collection was carried out on the territory of the Autonomous Republic of Crimea. In the normative legal acts regulating the procedure for collecting the fees in the ARC, the intended use of their tax revenues was established and the legal consolidation of the concept of "tax agent" was implemented for the first time. The modern tax system has two local fees. The local self-government body decides on their collection in a particular territory.

A retrospective analysis of the legal regulation of the collection of local fees in Ukraine has allowed concluding that the rulemaking process requires the following: 1) to improve the coordination of actions of legislative and executive authorities; 2) to take into account the norms enshrined in interrelated documents; 3) executive authorities to comply with the limits of tax authority established by law.

## References:

- Bokshorn, A. V.** (2021). Administruvannya mistsevykh podatkov i zboriv yak ob'ekt pravovoho rehulivannya [Administration of local taxes and fees as an object of legal regulation]. *Candidate's thesis*. Odesa: Odesa State University of Internal Affairs (in Ukrainian).
- Bogorn, A. V.** (2017). Henezys mistsevoho opodatkovannya za chasiv nezaleznoi Ukrainy [The Genesis of Local Taxation in Ukrainian Independence Time]. *Lex Portus*, 6, 38–47 (in Ukrainian).
- Dumchikov, M. O.** (2018). Administratyvno-pravovi zasady reformuvannya systemy zahalnodержavnnykh ta mistsevykh podatkov i zboriv v Ukraini [Administrative and legal principles of reforming the system of national and local taxes and fees in Ukraine]. *Candidate's thesis*. Sumy: Sumy State University (in Ukrainian).
- Khrystoforov, A. B.** (2017). Mistsevi podatky ta zbory: deiaki problemy vvedennia v diiu [Local taxes and fees: some implementation problems] *Nauka i pravookhorona – Science and law enforcement*, 4(38), 127–133. (in Ukrainian).
- Kmit', V. M., Vovchans'kuy, Yu. V.** (2018). Otsinka mekhanizmu administruvannya ta rehulivannya mistsevykh podatkov ta zboriv v Ukraini [Assessment of the mechanism of administration and regulation of local taxes and fees in Ukraine]. *Ekonomika i suspilstvo – Economy and society*, 15, 656–662. (in Ukrainian).
- Mushenok, V. V.** (2017). Heneza systemy mistsevoho opodatkovannya v Ukraini [Genesis of local taxation in Ukraine] *Mizhnarodnyi naukovyi zhurnal "Internauka". Seriya: "Iurydychni nauky" – The International scientific journal "Interscience". Series: "Legal Sciences"*, 1, 33–36 (in Ukrainian).
- Pabat, O. V.** (2020). Osoblyvosti pravovoho rehulivannya mistsevykh podatkov i zboriv [Specific features of legal regulation of local taxes and fees]. *Pravo i bezpeka – Law and Safety*, 4 (79), 44–47 (in Ukrainian).
- Ryzhiy, A. V.** (2021). Pravove rehulivannya mistsevykh podatkov ta zboriv v umavakh detsentralizatsii [Legal regulation of local taxes and fees in terms of decentralization]. *Candidate's thesis*. Zaporozhye: Classical Private University (in Ukrainian).
- Shapoval, V. O.** (2019). Instytut mistsevykh podatkov i zboriv v Ukraini: pravovi zasady ta tendentsii rozvytku [Institute of local taxes and fees in Ukraine: legal bases and trends of development] *Aktualni problemy vitchyznianoi yurysprudentsii. Spetsvypusk – Actual problems of domestic jurisprudence. The Special Issue*, 3, 101–105. (in Ukrainian).
- Skorobahach, V. I.** (2015). Pravove rehulivannya mistsevykh podatkov ta zboriv [Legal regulation of local taxes and fees]. *Candidate's thesis*. Kharkiv: Yaroslav the Wise National University of Law (in Ukrainian).
- Viktorchuk, M. V.** (2016). Administratyvno-pravove rehulivannya mistsevykh podatkov i zboriv v Ukraini v umovakh yevrointehratsii [Administrative and Legal Regulation of Local Taxes and Fees in Ukraine in Terms of European Integration]. *Candidate's thesis*. Kharkiv: V. N. Karazin Kharkiv National University (in Ukrainian).

**Катерина Недоступ,**

аспірантка кафедри цивільного, господарського та екологічного права, Національний технічний університет «Дніпровська політехніка», проспект Д. Яворницького, 19, Дніпро, Україна, індекс 49005, nedostup.k.k@nmu.one

**ORCID:** <https://orcid.org/0000-0003-0122-7007>

**ТРАНСФОРМАЦІЯ МІСЦЕВИХ ЗБОРІВ У ПОДАТКОВІЙ СИСТЕМІ УКРАЇНИ**

**Анотація. Мета.** Метою статті є вивчення трансформації видів місцевих зборів в податковій системі на основі ретроспективного аналізу їх правового регулювання; виявлення недоліків та позитивного досвіду правотворчої діяльності в сфері оподаткування. **Методи дослідження.** Для досягнення поставленої мети під час дослідження застосовано загальнонаукові (порівняння, узагальнення) і спеціальні (ретроспективний аналіз, контент аналіз, логіко-юридичний метод) методи наукового пізнання. **Результати.** Проаналізовано досвід делегування Верховною Радою України законодавчих повноважень Кабінету Міністрів України, правові підстави проведення експерименту в сфері оподаткування. Розкрито послідовність прийняття органами законодавчої та виконавчої влади нормативно-правових актів, які регулюють встановлення та процедури справляння місцевих зборів. В результаті порівняння переліків місцевих зборів, одночасно закріплених у двох правових актах (Закон України «Про систему оподаткування» і Декрет «Про місцеві податки і збори»), які, в період з 01.10.1994 р. й до прийняття Податкового кодексу України, мали силу закону, виявлено неідентичність назв і строків закріплення окремих місцевих зборів. Виокремлено місцеві збори, які справлялися з метою залучення додаткових коштів у місцеві бюджети короткостроково та у порядку проведення експерименту. Відмічено, що у нормативно-правових актах, що встановлювали порядок справляння місцевих зборів в порядку експерименту, вперше відбулось правове закріплення поняття «податковий агент» і було врегульовано цільове використання їх податкових надходжень. **Висновки.** Українській податковій системі характерне скорочення кількості місцевих зборів. З 2015 р. у ній налічується два місцеві збори, рішення щодо справляння на певній території яких приймається органом місцевого самоврядування. Механізм правового регулювання місцевих зборів, який запрацював після проголошення в 1991 р. незалежності України, постійно розвивається й удосконалюється. Втім, під час нормотворчого процесу пропонується: 1) покращити координацію дій органів законодавчої й виконавчої влади; 2) враховувати норми, закріплені у взаємопов'язаних документах; 3) органам виконавчої влади дотримуватись меж повноважень у сфері оподаткування, встановлених законом.

**Ключові слова:** декрет, закон, місцеві збори, податковий кодекс, податкова система.

*The article was submitted 10.02.2022*

*The article was revised 03.03.2022*

*The article was accepted 24.03.2022*