

UDC 342.95

DOI <https://doi.org/10.32849/2663-5313/2022.8.04>**Artem Yefremov,***PhD in Law, Head of the Main Directorate of the State Tax Service in Kharkiv region as a separate division of the State Tax Service of Ukraine, 46, Pushkinska street, Kharkiv, Ukraine, postal code 61000, yefremov_artem@ukr.net***ORCID:** orcid.org/0000-0002-1727-0743Yefremov, Artem (2022). Description of the system of state tax policy makers. *Entrepreneurship, Economy and Law*, 8, 28–33, doi: <https://doi.org/10.32849/2663-5313/2022.8.04>

DESCRIPTION OF THE SYSTEM OF STATE TAX POLICY MAKERS IN UKRAINE

Abstract. Purpose. The purpose of the article is to define the concept of system of makers of state tax policy and to determine its main features, as well as to identify a certain system of actors of implementation of state tax policy, relying on the scientific perspectives of experts in administrative law and provisions of current legislation. **Results.** The scientific article studies the essence of the category “system”, as this enables to determine the totality of makers of tax policy of the Ukrainian State. It is emphasised that the system of makers of state tax policy of Ukraine includes participants of administrative and legal relations, one of which is necessarily a public authority or a legal entity of public or private law, to which the relevant full powers have been delegated. It is proved that the system of makers of state tax policy of Ukraine should be understood as an interrelated, interdependent set of state and public institutions, joint by a common goal of achieving an optimal balance between filling the budget and maintaining an enabling environment for economic growth and increasing public welfare. The author focuses on the fact that the list of makers of state tax policy is not exhaustive, since the scope of functional purpose of each maker of state tax policy is different and differs in the range of relevant full powers. **Conclusions.** The key features of the system of makers of state tax policy are identified: 1) the existence of a common goal and objectives of functioning; 2) the elements of the system are interrelated to achieve a common goal, which is reflected in the competence of these actors, prescribed by law; 3) the elements of the system constantly interact; 4) the elements of the system are created in order to perform a separate function of making state tax policy of Ukraine, while in the aggregate they ensure the achievement of the goal of an optimal balance between filling the budget and maintaining an enabling environment for economic growth and increasing public welfare, performing social functions.

Key words: system, system of actors, public administrators, tax legal relations, tax policy, making state tax policy, bodies of general competence, bodies of sectoral competence, bodies of special competence, bodies of subject-matter competence in the field of implementation of state tax policy.

1. Introduction

Positive economic changes in the society are impossible without a well-formulated and balanced state tax policy, which has recently been unsystematic and disordered in our country. These processes are affected by many different factors that directly impede its full implementation. One of such important factors is the institutional aspect. Recently, the institutional component has been in a permanent state. The change of power, reforms and reorientation of the vectors of state development towards European standards of human rights observance in general and in the field of taxation have negatively affected the state of affairs in tax policy, as constant changes and instability in the practice of law application hinder its full implementation. One of the key aspects that requires

attention is the definition of makers of state tax policy, since the latter are an important chain in its implementation and, as a consequence, the filling of the budget and the implementation of social functions of the state.

It should be noted that the issues of the institutional component of making state tax policy are under focus by both practitioners and scientists, such as: V.B. Averianov, O.O. Bandurka, O.R. Barin, V.T. Belous, Yu.P. Bytiak, O.O. Bryhinets, V.M. Harashchuk, O.V. Dzha-farova, M.P. Kucheriavenko, S.M. Levchuk, N.A. Litvin, I.S. Myronenko, V.I. Melnyk, R.V. Myroniuk, L.A. Savchenko, V.I. Teremetskyi, S.O. Shatrava and many others. The scientists who have studied this issue from the perspective of public administration are: A.V. Lepekha, O.M. Lypchuk, N.A. Lypovska, O.M. Koretskyi,

L.O. Matveichuk, and others. It is necessary to mark that the mentioned scientists have made a certain contribution to the development of scientific approaches to improving the institutional component of the mechanism for making state tax policy, but given the changes in our country, many issues remain unexplored and require scientific substantiation. This also concerns the issue of determining the system of actors of state tax policy implementation, and the scientific article will focus on this issue.

The purpose of the article is to define the concept of the system of makers of state tax policy and to establish its main features, as well as to identify a certain system of actors of implementation of state tax policy, relying on the scientific perspectives of experts in administrative law and provisions of current legislation.

2. The concept and system of making state tax policy

It is essential to start the research with the definition of the essence of the category “system”, as the latter enables to determine the totality of makers of tax policy of the Ukrainian State. The concept of “system” has an ancient Greek origin. The review of various scientific and information sources reveals that the perspectives regarding the understanding of the latter are as follows: 1) order caused by the correct, methodical arrangement and mutual connection of parts of something (Wikipedia, n.d.); 2) elements of a multiplicity should have real connections with each other, otherwise it will be an ordered multiplicity, but not yet a system; systems are characterised by the presence of system-forming, i.e. clearly defined, not just any connections; the properties of the system are non-additive with respect to the properties of its elements and subsystems (Tjuhtin, 1968, pp. 48–49); 3) a totality of subsystems, elements, components that form a new integrity and quality in interaction and interconnections (Melnyk, 2010, p. 78). Therefore, the system in general will be considered as a set of individual components, which in totality and interaction with each other enable to effectively perform the tasks set before the latter. If we are talking about the “system of actors”, then accordingly these actors are participants of certain legal relations. Before defining the system of actors of legal relations in the field of making state tax policy, let us consider the latter. Since it is impossible to define the system of the latter without understanding the legal nature of relations, the actors of which are the latter.

According to Wikipedia, tax legal relations are organisational and property social relations between the state/territorial community and taxpayers, as well as other persons

regarding the establishment, introduction and collection of tax payments to the state (territorial community), tax control and prosecution for committing a tax offense (Wikipedia, n.d.). In general, without objecting to such an approach, we believe that the latter is too narrow, since it does not cover a whole layer of legal relations that arise in connection with the collection of taxes. The emphasis in the proposed definition is placed on the organisational and property characteristics of the latter, which is debatable, in our opinion. This is only a part of legal relations covered by the proposed definition. For example, the relations arising during the process of making state tax policy have not been covered, as well as the managerial relations regarding the implementation of the latter are not mentioned. In addition, the complex legal nature of the latter should be under focus. Many scholars support the idea of an independent branch of law – tax law, emphasising that the latter regulates tax legal relations by the tax law provisions. We advocate another scientific school, which provides for the division of law into public and private and the absence of complex branches of law. Tax law and, accordingly, tax relations as the basis of the latter is a sub-branch of administrative law, the rules of which regulate the relevant legal relations. In support of our position, T.O. Kolomoiets highlights that legal relations constituting the subject matter of administrative law are formed: 1) in the process of public administration of economic, socio-cultural and administrative-political sectors, as well as in the exercise of full powers by local self-government bodies, public organisations and some other non-governmental institutions – delegated full powers by executive authorities; 2) in the process of activities of executive authorities and local self-government bodies, their officials to ensure the implementation and protection of the rights and freedoms of citizens in the administrative procedure, providing them, as well as legal entities with various administrative (managerial) services; 3) in the process of internal organisation and activity of all state bodies, administrations of state enterprises, institutions and organisations, as well as in connection with public service (civil service or service in local self-government bodies, etc.); 4) exercise of jurisdiction of administrative courts and restoration of violated rights of citizens and other actors of administrative law; 5) as well as during the application of measures of administrative coercion, including administrative liability, against individuals and legal entities (Kolomoiets, 2012, p. 4). Relying on this doctrinal approach, we believe that it is advisable to add to the legal relations that

constitute the subject matter of administrative law the relations related to the formation of public policy in a particular sector of social relations.

Following this perspective, we make an intermediate conclusion that the system of makers of state tax policy of Ukraine includes participants of administrative and legal relations, one of which is necessarily a public authority or a legal entity of public or private law, to which the relevant full powers have been delegated.

In order to form the author's perspective on the "system of makers of state tax policy", we will analyse the existing scientific positions on the understanding of "maker of state policy" in various fields.

For example, V.Ya. Dauhul understands "the system of public administrators in the field of land relations" as the actors of administrative law, endowed with special administrative legal personality, which is determined by the limited nature of opportunities to enjoy rights and perform duties and a specific legislative list of possible areas of activity in the settlement of land relations and is represented by a set of joint, interconnected and interacting with each other public administration bodies, who have legally acquired full powers to make state policy on land relations (Dauhul, 2019, p. 17). Based on the proposed definition, the researcher identifies the categories "public administrator" and "public policy maker". The opinion is interesting, but not without criticism.

Regarding the makers of state customs policy, S.V. Ivanov emphasises that the latter, being endowed with the administrative and legal status inherent in each of them, differ due to this status by their place and role in the regulatory mechanism for customs relations in the state (Ivanov, 2018, p. 404). Analysis of this definition does not fully describe the relevant actors. This definition is general, which makes it difficult to understand the specifics of the "system" of such actors.

According to S.P. Ponomarova, the "system of security and defence sector actors" should be understood as a set of state and non-state bodies, civil society institutions and citizens authorised by law to act in the field of national security, which, within the scope of their full powers, carry out, permanently or temporarily, purposeful and coordinated activities using appropriate forms and methods to ensure the sovereignty and independence, territorial integrity of Ukraine, protection of law and order, protection of human rights and freedoms (Ponomarova, 2018, p. 109). In our opinion, it is quite justified that the proposed definition emphasises the relevant elements that characterise the category "system of actors".

Yu.O. Svitlychna's approach is interesting because of conditional classifying the makers of state policy on foreign investment into two groups: the first group is the actors that exercise the rights and legitimate interests granted to them in the use of foreign investment; the second group is the actors that assist the first group in the implementation of their rights and legitimate interests in the field of investment by creating an appropriate legal framework and consolidating legal instruments for attracting and using foreign investment (Svitlychna, 2018, pp. 33–34). The analysis of this definition reveals that the researcher divides the relevant participants in public legal relations depending on the areas of state policy in this field.

The approach to the definition of the "system of actors of permitting activities in the oil and gas complex", which is a set of joint, interconnected and interacting with each other public administration bodies, which have legally acquired full powers to make the permitting policy in the oil and gas complex, activities thereof are purposeful and relate to ensuring national security and its separate component – environmental safety, seems to be quite interesting (Voronin, 2016, p. 426). The definition proposed by Ya.H. Voronin is quite complete and reveals the content and peculiarities, as well as the scope of responsibility of the latter. Analysis of existing scientific perspectives shows that today no unified definition of the category "state policy maker" exists. The review of the legislation shows that today only the range of actors of the state regional policy is provided by law. For example, according to part 2 of vol. 4 of the Law of Ukraine "On the Basics of the State Regional Policy", the latter include the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, the Verkhovna Rada of the Autonomous Republic of Crimea, the Council of Ministers of the Autonomous Republic of Crimea, central and local executive authorities, local self-government bodies, their officials (Verkhovna Rada of Ukraine, 2015b).

To sum up, we will propose our approach to the concept and features of the system of makers of state tax policy in Ukraine. The basis of which is O.V. Dzhafarova's approach that one of the principles of the formation of public administration bodies is the principle of institutional division of functions between public administration bodies that provide services and exercise control over the latter, as well as between those involved in policy development and its current administration, etc. (Dzhafarova, 2015, pp. 69–70).

Therefore, the system of makers of state tax policy of Ukraine should be understood as an interrelated, interdependent set of state and public institutions, joint by a common goal of achieving an optimal balance between filling the budget and maintaining an enabling environment for economic growth and increasing public welfare.

The main features of the system of makers of state tax policy include: 1) the existence of a common goal and objectives of functioning; 2) the elements of the system are interrelated to achieve a common goal, which is reflected in the competence of these actors, prescribed by law; 3) the elements of the system constantly interact; 4) the elements of the system are created in order to perform a separate function of making state tax policy of Ukraine, while in the aggregate ensure the achievement of the goal of an optimal balance between filling the budget and maintaining an enabling environment for economic growth and increasing public welfare, performing social functions.

3. The regulatory and legal framework for the implementation of state tax policy

Analysis of the current legislation enables to identify the makers of state tax policy, as follows: 1) the Verkhovna Rada of Ukraine is the maker of such policy; 2) the Cabinet of Ministers of Ukraine, which, in accordance with part 3 of art. 116 of the Constitution of Ukraine, performs the function of ensuring the implementation of financial, pricing, investment and tax policy (Verkhovna Rada of Ukraine, 1996); 3) the Ministry of Finance of Ukraine ensures making of a unified state tax policy (Cabinet of Ministers of Ukraine, 2014b); 4) the State Tax Service of Ukraine is a direct actor of implementation of state tax policy (Cabinet of Ministers of Ukraine, 2014a); 5) local self-government bodies, in terms of making local state tax policy on the establishment of local taxes and fees of clause 24 of art. 26 of the Law of Ukraine "On Local Self-Government" (Verkhovna Rada of Ukraine, 1997); 6) the Bureau of Economic Security of Ukraine, in terms of implementation of policy; 7) military-civilian administrations, in terms of formation and establishment of rates of local taxes and fees in accordance with the Tax Code of Ukraine, if there is no decision of the relevant council on these issues; as well as in terms of implementation, making decisions on granting, in accordance with the law, benefits on payment of local taxes and fees, if there is no decision of the relevant council on these issues (Verkhovna Rada of Ukraine, 2015a; Cabinet of Ministers of Ukraine, 2022); 8) public institutions, in terms of making state tax policy regarding the discussion and examination of draft regulations related to this issue

and participation in public councils at the relevant authorities, also the public is the actor of implementation as in the framework of public control reveals the facts of violations in the field of taxation.

The above list of makers of state tax policy is not exhaustive, since the scope of functional purpose of each maker of state tax policy is different and differs in the range of relevant full powers.

In order to form a complete picture of the number of the latter, the classification criterion should be selected to most comprehensively determine the role of each maker of state tax policy.

It should be noted that the most complete list of criteria for classification of public administration bodies in general has been formulated by I.A. Artemenko. For example, the researcher identified the following criteria: a) by functional purpose; b) by the order of creation; c) depending on the presence or absence of full powers; d) depending on the territory of influence; e) according to administrative and procedural legal personality; f) by the actor of formation (the state, territorial community, legal entities and individuals of public and private law); g) by the terms of functioning (permanent and temporary); h) by the range of administrative and procedural relations in which a certain actor participates; i) depending on the procedural form of decision-making and others (Artemenko, 2017). However, among the above criteria for division, a criterion such as the scope and nature of the competence vested in a certain entity to achieve the purpose and functions is absent. Therefore, depending on this criterion, the system of actors of state tax policy implementation is grouped into: 1) bodies of *general competence* for the implementation of state tax policy; 2) bodies of *sectoral competence* in the field of implementation of state tax policy; 3) bodies of *special competence* in the field of implementation of state tax policy; 4) and bodies of *subject-matter competence*, etc.

The bodies of general competence regarding the implementation of state tax policy are the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, the Council of Ministers of the Autonomous Republic of Crimea, local state administrations, military-civilian administrations.

The bodies of sectoral competence are the public administrators, making state policy in a particular sector (industry) in our case, these are the Ministry of Economy of Ukraine, the Ministry of Finance of Ukraine and their territorial units. The bodies of special competence include the State Tax Service of Ukraine,

the Bureau of Economic Security of Ukraine, the State Customs Service, the National Agency for the Prevention of Corruption and other law enforcement bodies. Finally, the bodies of subject-matter competence include territorial bodies of the State Tax Service, which are the bodies of revenues and fees and territorial bodies of the State Customs Service of Ukraine, as well as local governments.

4. Conclusions

To sum up, it should be emphasised that all classification criteria are conditional, but they contribute to the delineation of administrative legal personality of public administration bodies in the implementation of state tax policy, which in general enables to improve the practice of law enforcement in this sector and avoid legal and technical conflicts, etc.

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ХАРАКТЕРИСТИКА СИСТЕМИ СУБ'ЄКТІВ РЕАЛІЗАЦІЇ ДЕРЖАВНОЇ ПОДАТКОВОЇ ПОЛІТИКИ В УКРАЇНІ

Анотація. Мета. Мета роботи полягає в необхідності на підставі наукових позицій учених-адміністративістів і норм чинного законодавства визначити поняття системи суб'єктів формування й реалізації державної податкової політики та з'ясувати її основні ознаки, а також виокремити певну систему суб'єктів реалізації державної податкової політики. **Результати.** У статті здійснено науковий пошук щодо визначення сутності категорії «система», оскільки це сприятиме можливості встановити сукупність суб'єктів, які задіяні в реалізації податкової політики Української держави. Наголошено на тому, що система суб'єктів формування й реалізації державної податкової політики України включає в себе учасників адміністративно-правових відносин, одним із яких обов'язково є орган публічної влади або юридична особа публічного чи приватного права, яким були делеговані відповідні повноваження. Доведено, що під системою суб'єктів формування та реалізації державної податкової політики України доцільно розуміти взаємопов'язану, взаємозумовлену сукупність державних і громадських інституцій, які об'єднані спільною метою щодо досягнення оптимального балансу між наповненням бюджету та підтримкою умов економічного зростання й підвищення суспільного добробуту. Акцентовано на тому, що перелік суб'єктів формування та реалізації державної податкової політики не є вичерпним, оскільки обсяг функціонального призначення кожного суб'єкта у формуванні й реалізації державної податкової політики є різним, відрізняється за колом відповідних повноважень. **Висновки.** Виокремлено основні ознаки системи суб'єктів формування та реалізації державної податкової політики, зокрема: 1) наявна спільна мета та завдання функціонування; 2) елементи системи взаємопов'язані виконанням спільної мети, що відображається в нормативно закріпленій компетенції цих суб'єктів; 3) елементи системи постійно взаємодіють; 4) елементи системи створюються з метою виконання окремої функції – формування й реалізації державної податкової політики, при цьому вони в сукупності забезпечують досягнення мети її запровадження, а саме оптимального балансу між наповненням бюджету та підтримкою умов економічного зростання й підвищення суспільного добробуту, виконання соціальних функцій.

Ключові слова: система, система суб'єктів, суб'єкти публічної адміністрації, податкові правовідносини, податкова політика, формування та реалізація державної податкової політики, органи загальної компетенції, органи галузевої компетенції, органи спеціальної компетенції, органи предметної компетенції у сфері реалізації державної податкової політики.

The article was submitted 21.07.2022

The article was revised 11.08.2022

The article was accepted 30.08.2022