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## The Legal Nature of the Tax Duty: Comparative Characteristics of Legislation of Ukraine and the Republic of Estonia

Charakter prawny obowiązku podatkowego: charakterystyka porównawcza ustawodawstwa Ukrainy i Estonii

In any civilized country of the world by the priorities of the national policy are defined: economic development of the state, completeness and timeliness of tax revenues, the growth of the level of social protection and welfare of its citizens. In this aspect, Ukraine and the Republic of Estonia, which have common historical and political past, is no exception.

However, these States are united not only historical and political past. Besides the existing numerous international agreements in the sphere of economy and taxation, in December 2013 in Tallinn, the Republic of Estonia and Ukraine signed an intergovernmental agreement on cooperation in various spheres, mainly in the economy, as well as the agreement on mutual investment<sup>1</sup>.

From the above it is expedient to make a conclusion that the Republic of Estonia and Ukraine are disposed to further strengthen political, economic and cultural interstate ties and as a result, have joint goals, both in foreign and domestic policy, including in the part of bringing the national legislation of each of these States to the international standards of legal regulation.

Despite the significant level of improvement of tax legislation, proposed by Tax code of Ukraine, its provisions require further refinement in accordance with international principles of taxation in general and the provisions of the right of European Union, in particular. Ukraine has an active policy of integration into international and European structures, and in this connection, one of the basic

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<sup>1</sup> Эстония и Украина договорились о сотрудничестве в экономике: РИА / Новости в Украине (Estonia and Ukraine agreed on cooperation in economy: RIA/News in Ukraine). – Available at <http://rian.com.ua/economy/20131210/339523887.html>.

moments of the Euro-integration policy is the approximation of the national legislation of Ukraine to the legislation of the European Union.

Adaptation is the main way of approaching the legal norms of Ukraine to the legislation of the European Union. It is in the process of development and adoption of normative legal acts use, with the aim to achieve full compliance with Ukrainian law with European law.

The law of Ukraine “on National program on adaptation of Ukrainian legislation to European Union legislation” dated 18 March 2004, No. 1629–IV defines a mechanism to achieve compliance with Ukraine the third Copenhagen and Madrid criteria of membership in the European Union. This mechanism involves the adaptation of legislation, creation of appropriate institutions and other additional measures necessary for effective law-making and law enforcement<sup>2</sup>.

At the domestic level, by the decree of the President of Ukraine No. 28/2013 from 12 March 2013, approved the national action plan for 2014 to implement economic reforms for 2010–2014 “Prosperous society, competitive economy, effective state”, the aim of which is the adaptation of Ukrainian legislation to the legislation of the European Union and the world trade organization, strengthening of financial and budgetary discipline<sup>3</sup>.

It should be noted that the national legislation (including tax legislation) member States of the European Union already adapted to European standards of law. Logical and wise on the part of Ukraine is borrowing the positive experience of legal regulation of social relations (including tax relations) member States of the European Union.

Among the designated States, the most interesting is the experience of legal regulation of tax relations in the Republic of Estonia, which is a member state of the European Union, almost ten years (from 2004).

As of today in Ukraine there are no special comprehensive studies of the legal nature of the tax debt in Ukraine and the Republic of Estonia on the basis of the comparative characteristics of legislation of these States. Separate questions backbone category “tax duty” were in the sphere of attention of scientists,

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<sup>2</sup> Про Загальнодержавну програму адаптації законодавства України до законодавства Європейського Союзу: Закон України від 18.03.2004 р. No. 1629–IV // Відомості Верховної Ради України (On the National program for adaptation of Ukrainian legislation to European Union legislation: The law of Ukraine dated 18.3.2004, No. 1629–IV // Bulletin of the Verkhovna Rada of Ukraine). – 2004. – No. 29. – p. 367.

<sup>3</sup> Про Національний план дій на 2013 рік щодо впровадження Програми економічних реформ на 2010–2014 роки «Заможне суспільство, конкурентоспроможна економіка, ефективна держава»: Указ Президента України від 12.03.2013 р. No. 128/2013 // Офіційний вісник України (About the National Action Plan for 2013 the implementation of the Program of economic reforms for 2010–2014 “Prosperous society, competitive economy, and effective government”: Decree of the President of Ukraine from 12.03.2013, No. 128/2013 // Official Bulletin of Ukraine). – 2013. – No. 21. – p. 700.

namely: A. Bryzgalin, V. Gureev, V. Kirichenko, D. Kobylnik, I. Kucherov, M. Kucheryavenko, A. Oliynyk, M. Perepelitsa, C. Pepelyaev, A. Khrabrov and others. Thus, the level of studies of the legal nature of the tax duty in Ukraine and the Republic of Estonia on the basis of the comparative characteristics of legislation of both States, should recognize insufficient, to be exact, even missing.

The aim of this article is mapping of the current legislation of Ukraine and the Republic of Estonia and the formulation of conclusions about the legal nature of tax duty in these countries.

Legal regulation of tax debt is carried by norms of the national legislation of each individual state. The legal category “tax duty” has backbone importance in tax law, as his state of execution depends on the replenishment of budgets of all levels, and compliance with the state social guarantees in respect of citizens (foreign citizens, persons without citizenship).

Proceeding from the positions of the theory of tax law, the contents of tax duty has considered in the narrow and broad value.

In the narrow sense of “tax duty” is reduced to a mere duty on payment of certain amounts of taxes and other obligatory payments. In the broad sense of ‘tax duty’ includes three interrelated duties: 1) the duty to conduct the tax records; 2) the duty to pay taxes and other obligatory payments; 3) the duty to provide reporting (p. 169)<sup>4</sup>.

Most often, the tax duty in the narrow sense is reflected in the constitutional norms (in the norms of the national legislation).

So, in Ukraine the tax duty in the narrow sense is of the constitutional duty of every person to pay taxes and fees in the amount and order stipulated by the law, regulated by part 1 of article 67 of the Constitution of Ukraine on 28 June 1996 (with changes and additions). In addition, all citizens have shall annually submit to the tax Inspectorate at the place of residence Declaration about their property status and income for the past year in accordance with the legislation.

By the article 92 of the normative legal act, indicated above, determined that exclusively by the laws of Ukraine shall be established: state budget of Ukraine and the budgetary system of Ukraine; system of taxation, taxes and levies; principles of establishment and functioning of financial, monetary, credit and investment markets; the status of the national currency and also the status of foreign currencies on the territory of Ukraine; the procedure of formation and repayment of the state domestic and foreign debt; procedure of issuance and circulation of state securities, their types and forms (p. 141)<sup>5</sup>.

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<sup>4</sup> Кучерявенко Н.П. Курс налогового права : науч.-метод. пособ. : в 6 т. / Н.П. Кучерявенко. – Х.: Legas, 2004. – Т. II: Введение в теорию налогового права (Introduction to the theory of tax law). – p. 600.

<sup>5</sup> Конституція України зі змін. та доп.: Закон України від 28.06.1996 р. No. 254к/96-ВР // Відомості Верховної Ради України. – 1996. – No. 30. – С. 141.

However, a similar legal norm, that would regulated the tax duty in the narrow sense, is not reflected in full in the Republic of Estonia at the constitutional level.

So, the Constitution (Main Law) of the Republic of Estonia, adopted on 28 June 1992, Chapter 2 ‘Freedom, Rights and responsibilities’ among the obligations do not reflect the responsibilities of an indefinite number of persons to pay taxes and charges in the order and terms established by law.

By the article 10 of the normative legal act, indicated above, determined that the listed this Chapter the rights, freedoms and obligations do not preclude other rights, freedoms and duties derived from the content of the Constitution or coordinated with it and meet the principles of human dignity, social, democratic and legal state.

Article 106 of this same Basic Law regulated that the referendum cannot be submitted questions of budget, taxation, financial obligations of the state, ratification and denunciation of international treaties, the introduction and cancellation of state of emergency, as well as the state of defense. State taxes and other mandatory payments established only by Law and may not be changed or cancelled by the Decrees of the President of the Republic, it is said in the articles 110 and 113 of the Constitution (Basic Law) of the Republic of Estonia, adopted on 28 June 1992<sup>6</sup>.

From the above, it is reasonable to conclude that the tax duty in the narrow sense is not enshrined as a constitutional duty of every human by the norms of the Basic Law of the Republic of Estonia. But, from the contents of rights and obligations analyzed above, payment of taxes and other obligatory payments in the manner and amount established by the law is exactly the constitutional tax duty in the Republic of Estonia of the following grounds:

- the people through a referendum (national voting) is not entitled to make any questions regarding taxes, and therefore has only the obligation to comply with the laws on issues of taxes, already approved legislation by the state. The logical meaning of the above provision is a reflection of the basic methods of the tax law, and which are the methods of tax duty – the imperative method and method of power requirements;

- state taxes and other mandatory payments (payment of which, incidentally, is the tax obligation in the narrow sense) are established only by Law and may not be changed or cancelled by the Decrees of the President of the Republic of Estonia (from the content of the norms, it also follows that cannot be set, changed, or canceled by other bodies of Executive power, etc.).

However, the constitutional legal norms (in our case concerning the stipulation of the obligation to pay taxes and other obligatory payments) have a number of specific qualities and characteristics, one of which is their special weight and

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<sup>6</sup> Конституція Естонської Республіки від 28.06.1992 р., в редакції станом на 20.01.2014 р. (The Constitution of the Republic of Estonia from 28.06.1992, in edition as of 20.01.2014). – Available at [www.zakony.ee/index.php?id=99](http://www.zakony.ee/index.php?id=99).

value it in national law. Constitutional norms have a dominant position and an obvious influence on the legal norms and legal relations of any branches of law.

Constitutions of both States (Ukraine and the Republic of Estonia) exclude the possibility of the establishment of national taxes and other mandatory payments by the President and Executive authorities.

Constitutional requirements, regarding the establishment of state taxes and other mandatory payments exclusively in the legislative procedure, represent one of the principles of a legal democratic state and are intended to guarantee the rights and legal interests of taxpayers from arbitrary and illegal interference of the state authorities (except for the legislative).

Only the Law, by virtue of certainty, stability, of the special order acceptance can provide the taxpayer reliable data concerning the occurrence, change and termination (including execution) of the tax duty. In our opinion, if the essential elements of the government tax and other mandatory payment will be ascertained, modified or terminated by the President of the Republic or Executive authorities, then there is the threat to the principle of certainty of the tax duty, since the tax duty for the taxpayer can be changed in a simplified way for the worse.

The main legal act of Ukraine, regulates relations arising in the sphere of taxes and dues, in particular, gives an exhaustive list of taxes and duties and the procedure of their administration, the payers of taxes and fees, their rights and duties, powers of control agencies, powers and duties of their officials during the implementation of tax control and responsibility for violation of tax legislation is the Tax code of Ukraine dated 02 December 2010 (amended and restated).

Since the adoption and entry into force of the Tax code of Ukraine, the legal category of “tax duty” has found its regulatory consolidation.

So, articles 36–38 of the above legislative act stated that the tax liability for recognizes the duty payer of the tax to calculate, declare and/or pay the amount of the tax and the fee in order and terms defined by this Code, laws on customs issues. The tax obligation arises from the taxpayer for each of the taxes and collection. Tax liability is absolute priority relative to other non-tax obligations of the taxpayer, except as provided by law.

Execution of the tax debt can be carried out by the taxpayer itself or by his representative or by the tax agent. The taxpayer is liable for nonperformance or improper performance of tax obligations, except for cases provided by the present Code or laws on customs issues.

Grounds for initiation, change and termination of tax duty, procedures and conditions of its implementation are established by the Tax code of Ukraine or by the laws on customs issues. The tax obligation arises from the taxpayer from the moment of occurrence of the circumstances to which the Tax code of Ukraine and the laws on customs issues associate the payment by him of the tax. Grounds for the termination of the tax duty besides its execution are:

- liquidation of a legal entity;
- the death of a physical person, the recognition of him/her as incapable or missing;
- the loss of signs of the taxpayer by a person as defined by this Code;
- the repeal of the tax duty in the manner provided by the legislation.

Payment in full by the taxpayer of the relevant amount of tax within the prescribed by the tax legislation of the term is recognized as the execution of the tax duty in Ukraine. Payment of tax and collection is carried out by the taxpayer directly, and in cases, stipulated by tax legislation, by the tax agent or representative of the taxpayer. Method, order and terms of performance of tax duty are established by the Tax code and the laws on customs issues.

With the aim of the full legal characteristics of the tax duty in Ukraine (in the broad sense), it is expedient to consider the identification of all subjects of the tax duty.

Tax payers in Ukraine recognized physical persons (residents and nonresidents of Ukraine), legal entities (residents and nonresidents of Ukraine) and their separate subdivisions, which have, receive (transmit) the objects of taxation or carry out activities (operations), is subject to taxation in accordance with this Tax code of Ukraine or tax laws, and who are obliged to pay taxes and duties in accordance with this Code. Each of the taxpayers may be the taxpayer for one or several taxes and duties (article 15 of the Tax code of Ukraine).

The tax agent is the person, which by this Code is entrusted the duty to calculate, deduct from incomes that is accrued (paid, provided) to the payer and the transfer of taxes in the relevant budget on behalf and at the expense of funds of the taxpayer. Tax agents are equated to taxpayers and have the rights and fulfil the responsibilities established by this Code for the taxpayers (article 18 of the Tax code of Ukraine).

The representatives of taxpayer are persons who can carry out representation of his legitimate interests and management of Affairs related to payment of taxes, on the basis of law or power of attorney. Power of attorney issued by the taxpayer – physical person on the representation his interests and management of Affairs related to payment of taxes, must be certified in accordance with the current legislation. Representative of the taxpayer enjoys the rights established by this Code for the taxpayers (article 19 of the Tax code of Ukraine).

The taxpayer conducts business related to payment of taxes, personally or through his representative. Personal participation of the taxpayer in tax relations not deprive him of the right to have his representative, as the participation of the tax representative is not deprives the taxpayer of the right to personal participation in such relations<sup>7</sup>.

<sup>7</sup> Податковий кодекс України станом на 02.12.2012 р. (Tax code of Ukraine as of 02.12.2012.) – Available at <http://zakon1.rada.gov.ua/laws/show/2755-175>.

The main legal act of the Republic of Estonia, which establishes the rights, duties and responsibility those, who manage by the taxes and subjects of the tax, the procedure in cases regarding taxes, the order of resolution of tax disputes, the provisions of which apply to all state taxes (if by Laws on taxes there are no provided special rules), to the taxes to be paid during import and export (besides the provisions regulated by the Customs code of the Community) to local taxes (if the laws on local taxes as otherwise stated) is the Law on Taxation of the Republic of Estonia dated 20 February 2002 (with changes and additions).

The aforementioned Law does not provide a definition of the legal category of 'tax duty', but from its content follows the availability of the tax duty of subjects of tax. In the further text of the article, the analysis of the norms of this Law stipulates that all subjects of tax in the Republic of Estonia are "the subject of the tax duty (article 6)".

Articles 31–32 of the Law on Taxation of the Republic of Estonia dated 20 February 2002 (with changes and amendments), determined that of the tax laws or with this law may arise following monetary obligations: 1) the duty of taxpayers to pay the amount of tax (personal income tax); 2) the duty of tax collectors for the withholding and transfer of paid sums of taxes (obligation to withhold); 3) the obligation of third parties for the payment of tax arrears of taxpayers or tax collectors (obligation to third party liability); 4) the duty of subjects of tax payment of interest, penalties or costs of the subsidiary fulfillment (public duty).

The above duties are terminated: 1) by payment or implementation of the enrollment; 2) by the term of prescription; 3) by repayment of indebtedness of taxes; 4) in other cases established by Law.

Taxes payable on the content of this Law is the sum of the tax is not paid by the subject of the tax before the established deadline, interest accrued and unpaid within the prescribed period, relative to the amount of debt, and is not paid within the prescribed period, the amount of tax arising from a customs debt and calculated interests.

Article 6 of the above normative legal act has the name "the subject of the tax duty", in our opinion, this is a person with respect of which there is a tax duty. Among them are three categories: 1) taxpayers; 2) tax collectors; 3) other persons bearing the responsibility before the law for the duty of taxpayers and tax collectors to pay taxes.

Tax payers in the Republic of Estonia is a natural or legal person or state, rural municipality or city institutions are obliged in the established Laws of the conditions and in order to pay taxes and perform other monetary and non-monetary obligations imposed on them in connection with the duty to pay taxes.

Tax collectors are individuals or legal entities or a state, rural municipality or city agencies who obliged on the conditions established by the Laws and in the manner receive the amounts of taxes payable by other persons, and transfer them

to the appropriate accounts, and also perform cash and non-cash duties imposed on them in connection with the duty to withhold taxes.

This article determined that the Law may establish the cases, when: 1) an association of persons or an aggregate of property that have no status of legal entity are treated as taxpayers or tax collectors; 2) several legal entities are treated as a single entity tax; 3) structural subdivisions of legal entities or the enterprises, owned by them are treated as independent subject of the tax.

The state, municipalities and cities are not payers of taxed or tax collectors, unless otherwise provided by the law on taxes. Foreign states or municipal institutions, other private law institutions and representations of international organizations also can be by the taxpayers and tax collectors.

Concerning legal capacity, capacity and legitimate representation of the subject of the tax, for taxation apply the relevant provisions of the law General part of Civil code, unless otherwise follows from the Law of the Republic of Estonia "On taxation" dated 20 February 2002 (with changes and additions) or the law on taxes.

On behalf of minors or other persons with limited capacity, duties, following from the above Law or the law on taxes, perform their legal representatives. Minors aged from 15 to 18 years, whose capacity expanded, perform duties independently, stipulated by this Law or the law on taxation, if they follow from deals that minors have to do personally.

The legal representative of the legal or physical entity is obliged to provide the immediate and full implementation of monetary and non-monetary obligations of the person which he represent, following from this Law and the law on tax.

The executive head of the company or other association of persons without status of legal entity or the property manager of the unauthorized aggregate property are obliged to provide immediate and full implementation of monetary and non-monetary obligations following from this law and the law on taxes associated with the property of the association or managed the aggregate property.

If the association of persons, which do not have the status of a legal entity, does not have the executive head, the commitments must perform the members of the association.

If unauthorized aggregate property does not have the manager, these commitments must perform the owners of the aggregate property.

The representative of the non-resident taxes is the person who has received the appropriate license from the Manager of the government taxes and can be authorized by the resident for his representation in the Republic of Estonia to perform the duties, following from the tax laws or this Law. The legal entity or a branch of a foreign legal entity, based in the Republic of Estonia, which is listed in the Estonian commercial register, can act as a representative of taxes.

The representative of taxes has all rights and obligations of the registered entity of the tax – non-resident. The representative of taxes must ensure timely



and full implementation of the monetary and non-monetary obligations of the represented person, arising from this Law and laws of taxes.

The representative of taxes provides a petition to the Manager of the government taxes for obtaining the license, in which must be mentioned: 1) his name and address; 2) his registration number; 3) the scope of his activity and place.

The representative of taxes should be solvent and have an impeccable reputation. The representative of taxes cannot have tax debts and to provide a guarantee at the request of the Manager of the taxes.

The tax administrator shall decide on the granting of a license to the representative of the taxes within 20 calendar days from the date of receipt of the petition. When deciding on the granting of a license, is verified the compliance of the person with the requirements set out above. The tax administrator may consider as a person previously performed the duties arising from the laws of the taxes. Also, the tax administrator to check the solvency has the right to demand from the petitioner, the evidence about its property status. Furthermore, the tax administrator has the right to suspend a license or recognize void, if relatively of the representative of taxes started liquidation proceedings or bankruptcy, if this person violates the obligations specified in part 2, or does not meet the requirements specified in part 4 of article 8–1 of the Law of the Republic of Estonia “On taxation” dated 20 February 2002 (with changes and additions). Tax administrator publishes a list of the representatives of taxes on its website<sup>8</sup>.

From the foregoing is evident that despite differences of the presentation and structure of normative acts, there are the *common features* of the legal nature of the tax duty which regulated by Main Laws and special normative-legal acts of Ukraine and the Republic of Estonia, namely:

1. Despite the fact that the Law of the Republic of Estonia «On taxation» dated February 20, 2002 (with changes and additions) does not provide a definition of the legal category of “tax duty” from its contents follows the availability of this duty relative to the subject of the tax duty.

Both in Ukraine and in the Republic of Estonia concerning the subject of the tax duty there is a duty on payment of taxes and other mandatory payments established by the Law.

2. In Ukraine and the Republic of Estonia the obligation to pay taxes and other obligatory payments are established solely by the Law. That is, the establishment, the alteration, the termination of the tax duty in respect of the subject of the tax duty is the exclusive competence of legislators of each of the States.

3. Both in Ukraine and in the Republic of Estonia, the tax duty of the subject of the tax duty arises to each individual tax or other obligatory payment established by Law.

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<sup>8</sup> Про оподаткування: Закон Естонської Республіки від 20.02.2002 р. (on Taxation: Law of the Republic of Estonia from 20.02.2002). – Available at <http://www.zakony.ee/index.php?id=33>.

4. In Ukraine and in the Republic of Estonia is very similar composition of the subject of the tax duty. So by the subject of the tax duty in Ukraine are: 1) tax payers; 2) tax collectors; 3) other persons bearing the responsibility before the law for the duty of taxpayers and tax collectors to pay taxes.

It should be noted that according to its legal nature, the category «taxpayer» has the same definition as in Ukraine and in the Republic of Estonia. The legal category of ‘tax agent’ (in Ukraine) and “tax collector” (in the Republic of Estonia) have a similar content (definition these legal categories provided above). As to the ratio of the definitions of “representative” (in Ukraine) and “other persons” (in the Republic of Estonia), the legal category of ‘others persons’ is broader than “representative”, but it already includes the subject of the tax duty – the representative that, in our opinion, a more common feature than difference.

5. Tax duty in both States is the subjective legal duty – type and extent of the proper or (the required) behavior of the subject of the tax law, that established by legal norms to meet the interests of the eligible person and provided by the state.

The above list of common features is not exhaustive, but, in our opinion, clearly reflects the similarity of the conception of tax obligation, reflected at the regulatory level both in Ukraine and in the Republic of Estonia.

Among the fundamental differences between the legal nature of the tax duty in Ukraine and the Republic of Estonia, should be noted the following:

1. Tax debt in both States is a constitutional duty (a measure of the proper conduct stipulated by the norm of the Basic Law, that is, the taxpayer may not refuse to perform his duty).

However, in Ukraine the obligation to pay taxes and other obligatory payments is directly established constitutional norm in relation to an indefinite number of persons. In the Republic of Estonia the similar constitutional norm is missing (although payment of taxes and other obligatory payments follows from its content and has all the signs of duties, not a subjective right).

The social value of the constitutional obligation to pay taxes and other obligatory payments in the manner and amount established by the law, as a legal form of interconnection between a state and an individual, is that he acts as a legal tool to perform state functions, and in this aspect is to contribute to the protection of the sovereignty, territorial integrity and independence of Ukraine, protection of constitutional order, rights and freedoms of man and citizen, ensuring economic and environmental security of the state, law and order, the implementation of the state’s social function.

2. Special normative legal act regulating the rights and obligations of the subject of the tax duty in the Republic of Estonia does not reflect the legal category of ‘tax duty’, not given its definition and content.

3. Grounds for the termination of the tax duty in Ukraine are: 1) liquidation of a legal entity; 2) death of physical person, the recognition of him/her as inca-

pable or missing; 3) loss of face signs of the taxpayer as defined by this Code; 4) the repeal of the tax duty under the legislation of the way; 5) the execution of the tax duty.

Responsibilities of the subject of the tax duty (constituting the content of the tax duty) in the Republic of Estonia terminate: 1) by payment or implementation of enrollment; 2) by the prescription; 3) by repayment of arrears of taxes; 4) in other cases established by Law.

4. In contrast to the legislation of Ukraine, the legislation of the Republic of Estonia foresees a certain classification of representatives of the taxpayers, who are the subjects of the tax duty. So, in the Republic of Estonia the representatives of the legal relations are divided into legal representatives and representatives from non-residents of taxes. In Ukraine is not defined any classification of representatives of the subject of the tax duty at the regulatory level.

The above list of policy differences is not exhaustive and only reflects a basic and essential moments of the legal nature of the tax duty in Ukraine and the Republic of Estonia that do not coincide, either in form or inner content.

From the above, it is expedient to make a conclusion that Ukraine and the Republic of Estonia has more common features of the legal nature of tax duty, than fundamental differences.

In our opinion, the positive experience of legal regulation of tax duty, which can be used by Ukraine on the example of the Republic of Estonia, is the consolidation of the legislative implementation of enrolment as a ground for termination of the tax duty. As of today the Ukrainian legislation has no similar legal norm.

Also by the lawmakers of Ukraine expedient consider broadening the range of subjects of tax duty in terms of determining the heirs as subjects of execution of the tax duty of the taxpayer because the persons who accepted the inheritance, inherit all property, property and non-property rights and responsibilities of the taxpayer, including before the state. In Ukraine in case of reorganization of a legal person, the fulfillment of all duties, including the payment of taxes transferred to the transferee.

In our opinion for the Republic of Estonia will also be interesting the experience of legal regulation of tax duty in Ukraine. Personally, we would advise to consider to the legislators of the Republic of Estonia possibility of borrowing the experience of Ukraine in the field of regulation of duties on payment of taxes and other mandatory payments to the level of the Main Law.

The Constitution is the fundamental Law of the Republic of Estonia and regulates constitutional duties, on the basis that they are objective for the development of state and society in General, and regarding a specific person this means that the exercise of rights and freedoms is possible only at the availability of execution of the duties by the subject of this right or freedom and other subjects. This is fully consistent with international standards, as article 29 of the universal Declaration

of human rights States that ‘everyone has duties to the community in which alone the free and full development of his personality’<sup>9</sup>.

Also, expedient from side of the legislators of the Republic of Estonia is consideration of the possibility of exclusion of the prescription as grounds for termination of duties of the subject of the tax duty. The prescription is the period within which a person may apply to the court with the claim for protection of his right or interest. That is, upon expiration of the prescription, the state represented by tax body loses the right to protection of its right or interest, but the right to claim for the implementation of the tax duty is not lost and never stops.

Although it happens quite not often (both in Ukraine and in the Republic of Estonia) life circumstances of the subject of the tax duty, who has delayed performance of tax duty, may change (will appear the additional funds, will be above level of sense of justice and conscience). Such person at any time has the right to execute outstanding tax duty, even if the prescription for its execution has passed. Given that the tax revenues are used by each state on the fulfillment of social responsibilities to the people, even any overdue tax revenues will not be redundant.

Deeper study of the legal nature of the tax duty with the use of comparative and comparative-legal methods are needed both in Ukraine and in the Republic of Estonia, because tax relations are the most dynamic in any country and related to the economic activities of the state and physical and legal persons. Since the tax duty is the Central category of tax law, improvement of legislation, which governs it, is an important tool to prevent imbalance private and public interests, and to ensure their coexistence and intelligent combination.

#### SUMMARY

The article discussed the content of the obligation to pay taxes as one of the main duties of the taxpayer. From the choice of a foreign policy priority of Ukraine’s integration into the European Community, the most relevant question was bring the regulatory legal acts of Ukraine, especially regulating tax relations, in compliance with norms and standards of European Union legislation.

Given that the national legislation (including tax legislation) member States of the European Union already adapted in respect of the norms of the legislation of the European Union, it can be concluded that one of the main elements of a successful European integration of Ukraine is also borrowing positive experience of legal regulation of social relations (including tax relations) European Union member States (including the Republic of Estonia).

The aim of this study is determine the place of tax duty in the system of taxpayer obligations according to the norms of legislation of Ukraine and the Republic of Estonia and development of proposals about the possibility of making changes regarding the improvement of legal regulation of the tax duty in Ukraine and the Republic of Estonia.

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<sup>9</sup> Всеобщая декларация прав человека: Принята и провозглашена в резолюции 217 А (III) Генеральной Ассамблеи Организации Объединенных Наций от 10 декабря 1948 года (The universal Declaration of human rights: Adopted and proclaimed, resolution 217 A (III) of the General Assembly of the United Nations on 10 December 1948). – Available at [http://zakon4.rada.gov.ua/laws/show/995\\_015](http://zakon4.rada.gov.ua/laws/show/995_015).

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Legal nature of the constitutional duty for taxes and fees payment has been investigated on the basis of analysis of the Fundamental Law of Ukraine and Republic of Estonia. Subject to the provisions of the Tax Code of Ukraine and legislation Republic of Estonia examines the nature of the obligation to pay taxes. The attention is focused on the content of the category of “fiscal responsibility”, in particular on the problem of its relations with the term “tax liability”.

It has been proposed further improvements in the legal national tax legislation of both States.