

Dmytryk Olga

2nd PhD, Professor, Head of the Department of enforceability of National innovative system functioning of Institute of Providing Legal Framework for the Innovative Development of NALS of Ukraine, Professor at the Department of Financial Law of the Yaroslav Mudryi National Law University

e-mail: o.o.dmytryk@nlu.edu.ua

ORCID: 0000-0001-5469-3867,

Tokarieva Kateryna

PhD, Senior researcher of the Scientific and Research Institute of Providing Legal Framework for the Innovative Development of NALS of Ukraine, Associate Professor of Law Enforcement and Police of Kharkiv National University of Internal Affairs

e-mail: katerina.tokarieva@gmail.com

ORCID: 0000-0001-7891-226X

***SOME ASPECTS OF REGULATION OF FINANCIAL RELATIONS IN THE
CONDITIONS OF THE LEGAL REGIME OF MARITIME STATE IN
UKRAINE***

The publication focuses on the regulation of financial relations under martial law in Ukraine. It was stated that the legislative innovations are aimed at reducing the tax burden on taxpayers, supporting businesses. Emphasis is placed on the fact that the Verkhovna Rada of Ukraine also adopts laws aimed at the introduction of Industry 4.0 technologies in Ukraine. These are the Law of Ukraine "On Virtual Assets", as well as acts of long-term legislation that are inextricably linked to it, in particular, innovations in the legal regime of taxation of such assets.

Key words: financial relations, martial law, special regime, taxation, virtual assets.

Дмитрик Ольга Олександрівна

завідувачка наукового відділу загальних проблем формування та реалізації інноваційної політики НДІ правового забезпечення інноваційного розвитку НАПрН України, завідувачка кафедри фінансового права Національного

*юридичного університету імені Ярослава Мудрого, доктор юридичних наук,
професор*

e-mail: o.o.dmytryk@nlu.edu.ua

ORCID: 0000-0001-5469-3867,

Токарєва Катерина Олегівна

*кандидат юридичних наук, старший науковий співробітник НДІ правового
забезпечення інноваційного розвитку НАПрН України, доцент кафедри
правоохоронної діяльності та поліціїстики Харківського національного
університету внутрішніх справ*

e-mail: katerina.tokarieva@gmail.com

ORCID: 0000-0001-7891-226X

ДЕЯКІ АСПЕКТИ РЕГУЛЮВАННЯ ФІНАНСОВИХ ВІДНОСИН В УМОВАХ ПРАВОВОГО РЕЖИМУ ВОЄННОГО СТАНУ В УКРАЇНІ

У публікації зосереджено увагу на регулюванні фінансових правовідносин в умовах воєнного стану в Україні. Констатовано, що законодавчі новації спрямовані на зниження податкового навантаження на платників податків, підтримки суб'єктів господарювання. Акцентовано увагу на тому, що Верховна Рада України приймає також закони, спрямовані на впровадження в Україні технологій Індустрії 4.0. Йдеться про Закон України «Про віртуальні активи», а також про акти перспективного законодавства, які нерозривно з ним пов'язані, зокрема, новації щодо правового режиму оподаткування таких активів.

Ключові слова: *фінансові правовідносини, воєнний стан, спеціальний режим, оподаткування, віртуальні активи.*

Today, almost the whole world is in a state of significant transformation of social relations under the influence of the events taking place in Ukraine, given the military invasion of the territory of our state by the occupying forces of the Russian Federation. This causes a radical change in the legal regulation of many social relations. The whole world, like Ukraine, lives by the rules established in the legislation

of the country, the rules of international law, as well as in accordance with generally accepted principles of law. This means that the implementation of relations, including financial, is in accordance with the legal regime established in the state; such a regime is traditionally called general, while everything else becomes special.

At the same time, special regimes are different depending on the circumstances underlying them. In general, the legal regime is an appropriate order of regulation, expressed in a set of legal means, characterized by a special grouping of interacting permits, prohibitions and positive obligations. It should be emphasized that the legal regime is definitely an external legal form. The difference between external and internal legal forms is that the internal form is the connection between the elements of law, and the external form is the connection between law and non-legal phenomena that require regulation. The basis of the legal regime is the appropriate social regime that actually exists in society.

Special conditions form the content of the special legal regime that will be applied in a particular situation, because such a regime can combine different types of legal regulation and provide a comprehensive impact on public relations. Scholars rightly point out that each regime can be defined through a metasystem: emergency legal regime - special legal regime; special legal regime - legal regime; legal regime social regime. This means that when introducing the regime, it is important to adhere to the principle of adequate response, designed to prevent excessive interference of public authorities in the constitutional status of the individual. Thus, the choice of a particular regime depends on the conditions that we call special, the degree of crisis of the emergency and the characteristics of its elements: the degree and type of security threat; the nature of the affecting factors; the scale and timing of the emergency; diversity of consequences, etc. In such situation it is important to characterize such conditions realistically, without substituting concepts, on the basis of the rule of law, proportionality, social justice, reasonable expectations, consistency of legal regulation, inadmissibility of leveling the law by the procedure of its implementation, etc.

Thus, on February 24, 2022, Ukraine adopted the Presidential Decree "On the imposition of martial law in Ukraine" № 64/2022 [1], now this situation continues until

April 25, 2022 [7]. According to Art. 1 of the Law of Ukraine "On the legal regime of martial law" [6] martial law is a special legal regime imposed in Ukraine or in certain localities in case of armed aggression or threat of attack, danger to state independence of Ukraine, its territorial integrity and provides appropriate public authorities, military command, military administrations and local self-government bodies have the necessary powers to avert the threat, repel armed aggression and ensure national security, eliminate the threat to Ukraine's independence, territorial integrity, and temporary threat and restriction of constitutional rights and restrictions. freedoms of man and citizen and the rights and legitimate interests of legal entities, indicating the term of these restrictions. Therefore, the imposition of martial law implies a certain transformation of all spheres of public life compared to their normal functioning and legal regulation, respectively, given the presence of armed aggression by the attacker. Such transformations also affect the regulation of financial relations. Consider some legislative innovations during martial law in Ukraine.

It is noteworthy that in this context, on March 15, 2022, the Law of Ukraine "On Amendments to the Tax Code of Ukraine and other legislative acts of Ukraine on the peculiarities of taxation and reporting during martial law" was adopted [3]. This normative legal act provides for amendments to the tax legislation and the establishment of relevant provisions for the period of martial law. The above act provides a number of provisions that, in our opinion, are important. In particular, among them it is expedient to single out such as:

- 1) release from liability of payers in case of inability to perform their duties;
- 2) tax audits do not begin, and ongoing audits are suspended;
- 3) operations on voluntary transfer or alienation of funds, goods, including excisable, provision of services for the benefit of the Armed Forces of Ukraine and territorial defense units, without prior or subsequent reimbursement of their value, are not considered sales operations for tax purposes;
- 4) it is envisaged to take into account the full amount of funds and property transferred to the Armed Forces of Ukraine and other units;

5) the amount of reimbursement of the cost of fuel spent on transportation services to meet the needs of the Armed Forces of Ukraine and territorial defense units is not included in the taxable income of individuals who provide such services;

6) the validity of licenses for the production of excisable products is extended;

7) features of production and import of tobacco products, etc. are established.

Apparently, the analyzed law regulates a number of provisions that are stimulating in nature and aimed at reducing the tax burden on taxpayers under martial law. This approach is quite understandable and appropriate, which will be an effective means of supporting businesses.

Let's mark one more normative-legal act which regulates relations concerning submission of the reporting and other documents during martial law. This is the Law of Ukraine "On protection of the interests of subjects of reporting and other documents during martial law or state of war" [5], which establishes the right of individuals, natural persons - entrepreneurs, legal entities: (1) to submit accounting, financial, accounting, settlement, audit reports and any other documents required to be submitted in accordance with applicable law in documentary and / or electronic form, within three months after the cessation or abolition of martial law or war for the entire period of non-reporting or the obligation to submit documents. It is stipulated that persons who do not have the physical ability to submit reports or documents in connection with the direct consequences of their participation in hostilities within the period specified by this Law shall be released from administrative and / or criminal liability and submit reports or documents within one month from the date of completion of the consequences that made it impossible to submit them;

(2) abolition of administrative and / or criminal liability for non-submission or late submission of reports and / or the above documents;

(3) the abolition of any checks on the timeliness and completeness of the submission of any reports or reporting documents by the competent authorities shall not be carried out.

Thus, we see that the legislator has made appropriate concessions for reporting entities for the period of martial law. However, we note that such relaxations have a

limited temporal effect. After the end of the state of war, these entities are obliged to fulfill the obligation to submit reports.

In addition, we note some acts of budget legislation adopted by the Verkhovna Rada of Ukraine. For example, in order to effectively and efficiently make management decisions to finance the state's priority needs to repel armed aggression, ensure national security and social protection of Ukrainian citizens, the law "On Amendments to Section VI" Final and Transitional Provisions "of the Budget Code of Ukraine and other legislative acts of Ukraine "[4]. Based on the analysis of this law, we note that it prohibits the application of certain provisions of the Budget Code of Ukraine during martial law. In particular, it is a question of non-application during martial law of provisions concerning:

transfers of funds between general and special budget funds only within budget allocations by amending the law on the state budget (local budget decision) (Part 7 of Article 13);

development of the Public Debt Management Strategy for the medium term (Part 10 of Article 16);

obligatory coordination with the Committee of the Verkhovna Rada of Ukraine on Budget (relevant commission of the Verkhovna Rada of the Autonomous Republic of Crimea, local council) of the Cabinet of Ministers of Ukraine (Council of Ministers of the Autonomous Republic of Crimea, local state administration, executive committee of the relevant local council) granting loans from the budget, transfer of budget allocations, as well as the obligation to agree with the Committee of the Verkhovna Rada of Ukraine on Budget decisions of the Cabinet of Ministers of Ukraine in accordance with the Law on State Budget (Article 23);

requirements for information on the implementation of the state (local) budget (Part 5 of Article 28);

preparation of the Budget Declaration, forecasts of local budgets (Articles 33 and 75-1);

compliance with the deadlines for submission of monthly and quarterly reports on the implementation of state and reports on the implementation of local budgets (Articles 59, 60 and 80);

compliance with the deadline for submission of the annual report on the implementation of the law on the state budget (Part 1 of Article 61);

restrictions on decision-making by the Verkhovna Rada of the Autonomous Republic of Crimea, the relevant local council on amendments to local budgets (Part 7, 8 of Article 78);

mandatory approval of the Committee of the Verkhovna Rada of Ukraine on Budget decisions of the Cabinet of Ministers of Ukraine on the distribution and redistribution of subventions and additional subsidies from the state budget to local budgets between local budgets (Part 6 of Article 108, paragraph 1, paragraph 22, paragraph 1 § 22-1);

granting permission to the Cabinet of Ministers of Ukraine to make decisions on additional provisions governing the process of state budget execution (item 2, item 22, item 2, item 22-1);

directing the balances of subventions from the state budget to local budgets as of January 1, 2022 on territorial defense measures, measures aimed at supporting the civilian population in martial law (paragraphs 22-2);

non-application of measures of influence for violation of budget legislation, established by paragraphs 2-4 of the first part of Article 117 of the Code, to managers and recipients of budget funds of the national security and defense sector, managers and recipients of budget funds involved in solving tasks related to martial law with the introduction and implementation of measures of the legal regime of martial law (new paragraph 22-3);

non-accrual of fines and penalties during martial law and within six months after its completion or cancellation in case of overdue debt of the business entity to the state on a loan (loan) raised by the state or under state guarantee, as well as a loan from the budget new paragraphs 22-4), etc.

Given these considerations, we state that the proposed changes are aimed at improving the procedure and methods of fulfilling the powers of participants in the budget process in order to effectively and efficiently adopt and implement management decisions to finance the state's priority needs to repel armed aggression, ensure national security and social protection. We believe that the legislative changes adopted under martial law to regulate some financial relations are positive. Thus, legislative innovations in regulating tax relations in a state of war are stimulating.

And one more aspect to consider. We have noted above the innovations associated with the change in relations due to the imposition of martial law in Ukraine, and, accordingly, the change in the legal regime of financial relations. At the same time, the Verkhovna Rada of Ukraine as a legislative body of our state today adopts not only those laws that ensure the functioning of economic and other entities in crisis, but also those that generally improve the image of our country as a developed country with ample opportunities for modern technologies. We are talking about the adoption on March 17, 2022 of the Law of Ukraine "On Virtual Assets". This normative legal act enshrines the concept of a virtual asset as an intangible asset that is an object of civil rights, has value and is expressed in a set of data in electronic form. In this case, the existence and turnover of a virtual asset is ensured by the system of ensuring the turnover of virtual assets, and a virtual asset can certify property rights, including claims to other civil rights. This Law also specifies the entities that will regulate the market for virtual assets.

In particular, we are referring to the National Commission on Securities and Stock Market. (NSSMC) and the National Bank of Ukraine (NBU). At the same time, the division of powers of these bodies is envisaged. Thus, the NBU will control the turnover of virtual assets secured by currency values, determine the list of currency values for which cryptocurrencies can be exchanged, and the procedure for such exchange. In addition, the NBU is authorized to monitor the activities of service providers related to the exchange of secured cryptocurrencies, to determine the requirements for cybersecurity and to impose sanctions for violations of relevant legal norms. The National Commission on Securities and Stock Market is authorized to carry

out licensing, as well as to control the activities of crypto market participants, to conduct inspections, issue warnings and instructions on the elimination of violations. In addition, within six months, the NSSMC should develop a procedure for maintaining a state register of providers of services related to the circulation of virtual assets.

It will be recalled that paragraph 1 of the Final and Transitional Provisions of the Law of Ukraine "On Virtual Assets" [2] states that the law will enter into force upon adoption of the law amending the Tax Code of Ukraine on taxation of virtual assets. At present, such a legal act has been submitted to the Ukrainian Parliament. However, we believe that the adoption of this legal act on the functioning of virtual assets, as well as the development of a legal mechanism for their taxation will enhance the use of virtual assets in our country, will be an important step for further introduction of Industry 4.0 technology in Ukraine technologies that will be essential for the return of Ukrainian business to a modern, well-functioning and favorable environment for further development.

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