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INCREASING TAX CAPACITY AND INTERNATIONAL TAX JURISDICTION

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Abstract: Budgeting and collection of tax payments is one of the key tasks of the state, designed to ensure its viability, as well as the well-being of its citizens, since most of the collected tax payments go to ensure the implementation of social goals and objectives.

Keywords: tax jurisdiction, international tax relations, taxes, profits, incomes, taxation, tax payments, tax potential.

Introducing

Tax system gives us the source of money that supports us to accomplish social goals, and this fact predetermines the increased interest of the legislator and representatives of the scientific community in the analysis and study of problems associated with the collection of taxes in general, as well as with the determination of the tax jurisdiction of the state. Despite the lack of a uniform definition of the designated term, both in the current legislation and in the scientific community, in the most general form, the corresponding category can be defined as follows: the tax jurisdiction of the state is the possibility of the state (represented by its bodies and officials) establish the rights and obligations in the field of taxation and fees for persons related to economic interaction with the relevant state government.

The fundamental principle of taxation in international practice: the principle of the extension of tax jurisdiction to taxpayers - residents and non-residents. States extend their tax jurisdiction either on the basis of the principle of citizenship (residency), or on the basis of the principle of territoriality. In accordance with the principle of citizenship, tax may be levied on the income of citizens of a given country or companies incorporated (i.e. created and registered in it) only on the basis of their legal relationship with that country.

International tax relations - relations between countries regarding the mutual regulation of the limits of tax jurisdiction (the scope of tax legislation) and other issues of taxation. This regulation is necessary mainly for income taxes calculated on the basis of the total amount. Income of taxpayers, including income received from abroad (based on the principle of residency), which inevitably causes an invasion of the tax

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jurisdiction of another state. Tax jurisdiction determines the extent to which a particular tax authority is given the right to establish and levy taxes. Tax jurisdiction may be territorial (subject-to-object), sub-subject and mixed (territorial-sub-subject). Territorial tax jurisdiction is based on the right of the state (sovereign right) or the administrative-territorial division of the state (within the framework of the rights determined by the monarch or the main law of this state) to carry out tax regulation on its territory. A few exceptions to the application of territorial tax jurisdiction are the premises of embassies (on the basis of reciprocity) and representative offices of some international organizations (on the basis of agreements concluded by the host state with these organizations), as well as territories of foreign military bases (based on relevant international agreements).

The limits and methods for the implementation of tax jurisdictions differ in the types of taxes applied. The most developed tax jurisdiction rules apply to income taxes. The tax jurisdiction of states in respect of income taxes is based on the territorial principle of the right of each state to tax such income generated in its territory and income derived from activities carried out in the territoryof this state. The regulation of international tax relations can be carried out by countries unilaterally or on the basis of bilateral and multilateral international tax agreements. Unilateral regulation is carried out by issuing legislative acts defining the particular conditions of taxation both for foreign legal entities and foreign individuals in the territory of a given country, and for its legal entities and individuals who earn income or carry out activities abroad. One-sided measures to eliminate international double taxation for nationals and companies are various kinds of tax credits for the amount of taxes paid abroad (foreign tax credit). These measures are used by capital exporting countries to facilitate the export of goods, services and capital. The most widespread bilateral agreements on the avoidance of double taxation on income and propertyregulation regarding subjects of taxation, the scope of which is determined by the tax legislation of the state, laws on the rights and obligations of local authorities (self-government bodies) or the charters of relevant public organizations. Mixed tax jurisdiction combines the application, as the main, territorial tax jurisdiction, and as a complementary - subjective tax jurisdiction.

The tax jurisdiction of a state is based primarily on its sovereignty over its territory. Each state protects its right of sovereignty and allows the application of foreign tax legislation on its territory only with its consent and within the framework established by it. The member countries of the Organization for Economic Co-operation and Development (OECD) are almost completely covered by a network of

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such bilateral agreements (some of them have concluded additional agreements on the provision of administrative and legal assistance in tax matters).

Problems of international tax relations are the focus of such international organizations like the UN (UN Model Convention), OECD (OECD Model Convention), GATT and the World Trade Organization (levying customs duties and taxes, restrictions on the application of non-tariff regulation measures), the European Union (abolishing customs duties in trade between the EEC countries, creating general market, unification of systems of taxation of VAT and other taxes and fees). A specialized international non-governmental organization dealing with problems of international tax relations is the international tax association. The traditional problems of international tax relations include:

- practical problems of applying unilateral, bilateral and multilateral agreements on the avoidance of double taxation;
- unification of the rules for calculating taxable profits of legal entities and taxable income of individuals received outside the country of permanent residence;
- the effect of changes in the exchange rate on taxable income (the problem of taxation of exchange rate differences);
- the impact of inflation on taxation and application of methods of tax indexation;
- Removing tax barriers to international capital flows and creating conditions for international economic integration;
- application of tax benefits in order to attract foreign capital;
- offsetting losses incurred in one country for the purposes of taxation of profits in another country;
- avoiding discrimination nationally and internationallytaxation;
- unification of domestic consumption taxes;
- transfer pricing and the application of measures against tax avoidance, both in the presence and absence of information on comparable market prices;
- interpretation of the permanent establishment for tax purposes;
- taxation of intellectual property and income from its use in international economic relations (taxation of import and export of technology, know-how, patents and other intangible assets and technical assistance);
- international tax issues related to mutualparticipation in capital and reorganization of foreign subsidiaries;
- tax problems of international cooperation between developed and developing countries (application of the most favored nation regime, regimes provided to developing countries using a preference scheme and least developed countries using

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a preference scheme, as well as the provision of a foreign tax credit to people receiving income from developing countries);

- standardization of measures against tax avoidance applicable to dividends, interest and royalties paidrelated parties;
- Thin capitalization and uniform application of measures against tax avoidance when paying interest;
- taxation of real estate and income from its use and sale in international economic relations;
- elimination of international double taxation of inheritances and gifts with differences in taxation methodology in the country of permanent residence of the donor and the country of permanent residence of the recipient;
- avoidance of double taxation of capital income ininternational economic relations when using different taxation methods in the country of source of income and country of registration of the company (country of permanent residence of an individual)
- the distinction between the concepts of "tax avoidance" and "tax evasion for the purposes of applying the norms of national tax laws, international agreements on the avoidance of double taxation, international agreements on cooperation and mutual assistance in compliance with tax laws.

The latest issues of international double taxation include:

- application of measures against tax avoidance in relation to taxpayers using schemes involving companies and international trusts established in offshore zones and countries (territories) with preferential tax treatment;
- taxation of computer software andincome from its sale (sale and rental);
- the problem of protecting the confidentiality of information transmitted in the framework of international cooperation of tax authorities of different countries;
- taxation of income from operations with derivatives of financial instruments;
- taxation of investment funds and income from investments in such funds;
- taxation of income derived from electronic commerce (e-business).

Double taxation and methods of its elimination. It was already noted that the modern practice of international relations proceeds from the principle of non-interference of states in each other's internal affairs, which suggests that the rules of life and work of citizens in the territory of the corresponding country are established exclusively by the authorities of that country. Obviously, the same principle should apply to the tax jurisdiction of states. However, along with territorial tax jurisdiction,

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many countries also apply for taxation of objects located outside their national territory, that is, they try to invade the national jurisdiction of other countries.

Is it possible that while maintaining the priority of the sovereign territorial rights of states, and countries are affected by this practice reconciled with this approach? The first reason is the fact that such an expansion of the state's tax rights has now become commonplace. The second reason is that the principle of reciprocity is at the core of this practice. Indeed, in fact, the sovereignty of the state on its national territory remains valid in the field of tax law. No one disputes the right of any state to apply any taxes and tax any objects on its territory with these taxes. And of course, that any person (physical or legal) operating in the territory of a state is potentially a taxpayer of that state. To mitigate (or eliminate) the effect of double taxation, as a rule, the following basic methods are used:

- the method of deducting expenses from the tax base for the payment of foreign taxes;
- the method of excluding income received abroad from the tax base (property located abroad);
- the tax credit method (set off taxes paid abroad to reduce the taxpayer's obligations to pay tax in their country).

Sometimes a method is also applied to defer taxation of foreign income until it is brought into the country of permanent location of the taxpayer. The first method is usually used when taxing gifts and inheritances, and it is the most disadvantageous for the taxpayer, the second and third - for calculating the taxpayer's obligations to pay taxes on income and property. Tax agreements may amend the application of these methods or provide for the replacement of the method in accordance with the law with another method that is more favorable for the taxpayer (as a general rule, tax agreements cannot be used to worsen the taxation conditions for the taxpayer, and if this still happens, then the taxpayer always has the right to choose between the internal norm and the norm provided by the tax agreement).Features of determining the tax status of individuals.Most countries base their tax jurisdiction on the right to tax:

a) all income arising in the country, regardless of the national or legal status of their recipients;

b) all income owned by residents of this country or paid in their favor from all sources, including those located outside its national territory.

Thus, the criterion of residency is crucial from the point of view of determining the tax status of a person who is taxed: as a resident of a given country, a person is responsible for paying tax on all his income in it, and non-residents should pay tax in this country only on income derived from sources located on its territory, citizenship,

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domicile and other signs characterizing the position of a particular individual in the field of civil law are usually not taken into account when defining determination of its tax status. However, there are a few exceptions: for example, the United States (and to a certain extent the Philippines) retain the right to levy “global” incomes not only for its residents, but also for all US citizens, including those who are long-term or permanent residents; France bases the determination of the tax status of individuals on the criteria of citizenship and domicile; The domicile criterion is also partially applied in the tax laws of Great Britain, Switzerland, etc.

When it comes to general provisions characterizing the concept of residence forindividuals, it is advisable to consider the example of the UK. In its tax law, the definition of "resident" is missing, but its general content is established by the decisions of the British courts in specific cases. Accordingly, in tax practice, the concept of "resident" characterizes the residence of an individual in the UK strictly within one tax year and cannot be extended to longer periods. Therefore, in respect of an individual, residence is established for only one year each time. A person recognized as a resident of the United Kingdom in a given tax year is subject to taxation in that country in respect of all his income (regardless of its source) received this year or relating to that tax year.

An individual can be recognized as a resident of the UK in a given year if he was physically present, at least part of the year in the UK; while staying an individual on the territory of Great Britain for more than six months (183 days) in any year automatically qualifies this person as a resident for tax purposes in that year. An individual cannot appeal against his recognition as a resident of the United Kingdom solely on the grounds that he or she is already a resident of another country this year. In such cases, the problem of double residency arises, and if it is not resolved within the framework of the relevant bilateral tax agreement (that is, when the agreement does not provide for the procedure for resolving such issues or when the UK does not have an agreement with this country at all), then the immediate result double taxation of all or part of its income may be for the taxpayer.

In most other Western European countries, there are similar rules for determining residency and regulation of tax regimes for residents and non-residents. So, in Denmark, Italy, Norway, Spain, Portugal, Germany and Sweden, in order to acquire a resident status, you need to live in the national territory for more than six months in each calendar year. Italy, in addition, considers its residents to be persons, although they have not lived on its territory within the established term, but having there "the center of their life or business interests."

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In the United States, not only residents of this country, but also US citizens, including those permanently residing abroad, are taxed in respect of all income from all sources. Moreover, even former US citizens who changed their citizenship less than ten years ago can be taxed in full on a par along with residents.

Features of determining the tax status of legal entities. In countries that use the criterion of residency, in respect of legal entities that carry out any activity there or receive income from sources in these countries, a different tax regime is envisaged depending on whether the legal entity is a resident or non-resident. Therefore, it is so important to determine cast whether a legal entity is a resident in terms of taxation in a given country. UK law establishes that resident companies of this country "are subject to corporation tax with respect to all their income and profits, regardless of where they are received and derived, and regardless of whether such income and profits are transferred to Great Britain or not. "In this case, a resident company is any corporate entity whose activities are managed and controlled from the UK. British courts, based on this definition, consider any company as a resident, a council whose directors usually meet regularly in the UK. The fact that the company is registered and formed according to the laws of the United Kingdom, as a rule, does not matter much, although it can serve as one of the main arguments in deciding the issue of its tax status. Companies that do not meet the above national standards are considered non-residents of the UK and are subject to corporate tax there only if they operate in that country through a branch or agency located there. As such a branch or agency, "any intermediary, person managing the property by authority, place of management or office" may be recognized.

In addition, the British courts, as a rule, include in the definition of a branch or agency the activity of accepting orders for the supply of goods and the provision of services, the signing in the UK of contracts for the sale of goods and services, etc. Under the terms of tax agreements with other countries, the United Kingdom limits taxation of non-resident companies in cases where these companies have on their territory in “permanent business establishments”.

Such a concept is narrower than the concept of “branch or agency” (in particular, it does not include agents and intermediaries who are not authorized to sign contracts on behalf of the company they represent). Non-resident companies operating in The UK through a branch or agency is subject to corporate tax with respect to business and trading income carried out through a branch or agency;

income from property or from industrial and other rights used or belonging to their branch or agency; income (in the form of capital gains) from the sale of assets belonging to their branch or agency.

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Non-resident companies that do not have branches or agencies in the UK are not subject to corporate tax. However, income earned by such companies from sources in the UK is taxed "at source" at a rate of 24% (or at a lower rate if agreed upon with the recipient country). Income subject to UK taxation "at source" is considered to be regular payments on transactions, contracts, court decisions made, concluded or adopted in the UK and include annual interest payments on the debts of resident companies, as well as other interest payments in favor of non-residents, annuities, payments for the use of patents and other similar rights, some other payments of a regular nature.For corporate tax purposes, non-resident companies are required to either appoint a local agent or intermediary as their representative, who is fully responsible for paying the tax due from the company, or if they maintain their branch in the UK, provide all necessary reporting to the tax authorities this branch. Moreover, in order to determine the taxable income of the department, all its calculations with the head office should be based on free market prices.If the determination of net profit relating to activities in the UK is difficult, the tax authorities may determine the amount of profit by administrative procedure; in this case, a certain percentage of that share of the total turnover is charged in the form of taxa company that is carried out through an agent. The size of this share is established by the tax authorities depending on the nature of the company. In the United States, domestic tax law divides legal entities into domestic and foreign companies. The local company is identified based on the principle of incorporation, according to which the local company is any corporate entity formed by the laws of one of the fifty states that are part of the United States, or by federal laws of the United States. Other legal entities that do not fall within this definition are treated as foreign companies. Foreign companies having their branches in the USA are subject to corporate income tax with respect to not only all of their income associated with the activities of these branches, but also to "passive" income (dividends, interest, royalties, rent payments, etc.) "effectively connected" to this unit. If there is no "effective connection", then this kind of income paid in favor of a foreign company is subject to withholding tax at a rate of 30%. In France, in accordance with the territorial criterion, corporate profits tax is subject only to "profits from activities carried out in France, as well as profits taxed by France by virtue of international agreements on the elimination of double taxation". The application of this rule in relation to companies resident in France means that they are not taxable in respect of any of their activities completely carried out outside France (with the exception of the income of French companies from their foreign investments - such income in the form of dividends, interest and annuities is subject to taxation in the usual manner). Non-

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resident companies in France are taxed on profits only with respect to their income recoverable in France.

Almost the same rules for determining the residency of legal entities are contained in the laws of Germany, Belgium and some other countries. Italy considers as its residents any legal entities having their registered central authority in Italy, the place of actual management or carrying out their main activities in Italy. Switzerland, like the United States, considers its residents all legal entities formed under the laws of this country.

To summarize the above, it can be said that today between developed countries there are very significant differences in the rules for determining residence, which can lead to controversial cases of dual residency in relation to some companies. In practice, these differences are resolved thanks to bilateral agreements between the countries, according to which the location of the "center of actual leadership" is usually the decisive and final criterion.

REFERENCES.

1. Yu.K. Krasnov The impact of the tax burden on the economy: the main results of the reform and trends // Tax policy and practice.–2013. - №2.
2. T. K. Ostrovenko - The tax burden on the enterprise: generalizing and particular indicators of the system // Audit statements. –2013. - №9
3. M.D. Suleymanov - Realization of investment potential of Russia in the conditions of economic sanctions– M.: МНИ, 2016- p.138
4. A.V. Troshin Comparative analysis of methods for determining the tax burden on enterprises // Finance– 2015//№5. – p. 44-47
5. URL: // https://re.hse.ru/cfarmission/ - site of the Center for Fundamental and Applied Research of the Institute of Tax Management and Real Estate Economics of the Higher School of Economics.

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