

UDC 341.1/8

**LEGAL ASPECTS OF THE GLOBAL TAX REFORM**

**Serzhankyzy Akerke**

5489

Tax laws are subject to frequent changes, adapting to changing conditions in the economy. These processes take place in individual states, however, since the end of the XIX century they affect an increasing number of them. This is due, in particular, to the processes of deepening the economic integration of countries that accompanied by dynamic development, harmonization of taxes and tax policy. In essence, the process of tax harmonization dates back to the end of the 19th century, when the first customs unions of states arose to conduct a unified customs policy.

Harmonization of taxes involves the unification of the tax systems of different countries in certain areas of taxation. The process of harmonization of taxation covers new and new areas, however, at the same time many of them still remain problematic. For example, the harmonization of taxation of investment activities by specialists is considered one of the most unresolved areas in the reform of tax theory and practice.

Over the past two decades, tax reform has covered most countries. It began with a massive tax reform in the UK. The main reason for this reform was the desire by taxes to increase the efficiency of the UK economy. Reform in the UK was followed by reforms in Austria, Belgium, Italy, etc.

Since 1986, the United States began to simplify the tax system based on the Law on Tax Reform, adopted in 1986. The main reasons for the tax reform in the United States were its extreme complexity, inconsistency and complexity.

The current processes to unify the structure and principles of taxation, the general directions of tax reforms give grounds for specialists to talk about a new wave of harmonization of the main indicators of the tax system and national tax law. Moreover, tax transformations in various countries were of such a large-scale and radical nature (especially in the countries of Central and Eastern Europe, Russia, the CIS) that the phenomenon as a whole was called "global tax reform.

Indeed, the mid-80s. XX century was marked by the fact that many states sought to build their tax systems, fully oriented to the market. At the same time, each of them, individually or within the framework of an integration association, is trying to carry out reforms of fiscal systems aimed, first of all, at simplifying the structure of taxes and reducing tax benefits. Such activation of states is also caused by attempts to reduce the budget deficit, increase the tax burden due to inflation, etc. For example, the main slogan of tax reform in Germany in the late 80's. there was the slogan "Better low rates and few benefits than high rates and many exceptions." Similar tax reforms have led in some countries to lower tax rates while expanding the tax base and reducing tax benefits. Thus, in the United States, as a result of a tax reform, only 4 categories were introduced instead of the 14-bit income tax scale. In Bolivia, during the major tax reform of 1986, about 400 taxes were eliminated. They were replaced by a total of 6.

More significant reasons predetermined the implementation of tax reforms in Eastern Europe, including the countries of the former USSR. First, the transition from a central planning system to a market economy required the creation of new tax systems in these countries that meet the general task of integration into the global economy. Secondly, the application of the new legislation revealed the needs faced by economically developed countries (for example, reducing the number of payments). At the same time, the main feature of transition states, including Russia, is that for them this stage is characterized by a radical transformation in the field of taxation. The transformations concern both the development of new concepts and approaches to determining the functions and role of taxes in society, as well as the formation of the structure of taxes and their legal base.

It should be noted that in the 90s. XX century two main trends in tax reform have been outlined. One group of states (USA, Canada, Japan, etc.) made the main emphasis on transforming the direct taxation system, while the other (especially European Union states) focuses on increasing the value of consumption taxes.

However, despite the variety of reasons for tax reforms in various countries, tax reforms in all these countries have a number of common goals, among which are the following: improving the efficiency of the tax system; ensuring neutrality of taxation so that taxes do not distort economic decisions; more consistent implementation of the principle of justice and equity in taxation; simplification of the tax system and reduction in the number of taxes; tax rate reduction while expanding the tax base; reduction of tax benefits and exemptions.

The well-known Russian specialist N. Krylova notes that in its main content the global tax reform has gone in two directions. Firstly, these are major transformations in the system of indirect taxation and the transition from value added tax and sales tax to value added tax; secondly, a change in the structure of income tax - both tax on income and profits of enterprises, and individual income tax on citizens.

In the 80-90s. in most countries of the world, value added tax (VAT) has become widespread. Currently, it operates in more than 80 countries. It should be recalled that for the first time in the history of tax law it was introduced in the mid-50s.

In the Republic of Kazakhstan, the Law "On Value Added Tax" was adopted on December 24, 1991, but on July 18, 1995, it was repealed by presidential decree. Today, the Code on taxes and other obligatory payments to the budget (the Tax Code), which has a section on value added tax, is in force. For Kazakhstan, it was a new type of indirect taxation.

As in other countries, VAT very quickly turned into one of the main taxes that provide most of the tax revenues of the state budget.

In all countries that have introduced VAT, there is a general tendency to expand the tax base. In OECD countries, the expansion of the base is mainly due to the inclusion of new types of services subject to VAT. This approach is explained by the fact that almost half of the national product falls on the service sector.

Important in the taxation of value added is the solution to the question of according to which principles certain types of goods and services are included in the tax base or, on the contrary, are excluded from it.

The list of goods and services exempted from VAT is established by the tax laws of each country. In this case, most countries apply the principle of favorable treatment for essential goods and services, which usually include essential food items; medicines; books and newspapers; clothes and shoes; electricity and fuel; public transport. As a general rule, financial services and insurance are exempted. When listing groups of goods and services exempted from VAT, domestic legislation as a whole follows international experience.

According to the British specialist A. Tate, VAT should have the broadest possible base and, therefore, the tax base should cover 80% of total family consumption as a general rule, and 20% should not be taxed.

The laws of foreign countries practice a variety of options for setting the VAT rate. In approximately one third of all countries that have introduced this tax, a single rate is applied (Great Britain, Finland, Japan, etc.). Its size can vary from 3 to 28%. The lowest rate - 3.6% - in Japan; the highest - 22% - in Denmark. High flat rates were set when the tax was introduced in some CIS countries - Belarus, Kazakhstan (28%). On average, for countries with a single rate, its size is 17-18% (UK, Canada, Finland, etc.).

Most countries enter several rates - from two (Germany, Norway) to five (Ireland, France) or six (Belgium). One of them - standard, or basic - is on average 17-18%. Along with it there is a reduced rate (from 1-2 to 10%). There may be a few reduced rates. For a number of goods, an increased rate (one or more) applies.

Experts are discussing how many rates can be considered the most acceptable and effective. Most advocate a flat rate. However, a single VAT rate cannot be put into practice. Therefore, many experts believe that VAT should be levied at no more than two rates. This position is shared by the EU Commission. Moreover, in 1987, she tried to introduce a system of two VAT rates for all member states. The standard rate was to be from 14 to 20% and lowered - from 4 to 9%.

Another major area of global tax reform is the fundamental transformation in the structure of income taxes.

In most countries, corporate income tax and personal income tax exist as two separate taxes. However, there has been a trend towards their integration (for example, tax reform in the Scandinavian countries).

Corporate income tax in different countries is designated differently, but most often it is called corporation tax (The Corporation Tax) or corporate income tax (The Corporation Income Tax) or income tax (Profit Tax). In Russia, it is called the income tax of enterprises and organizations. Here we are talking about the taxation of profits, other income from certain activities, the taxation of income from capital, wages, etc.

In all countries, income taxes are levied at the national level. In addition to this, in some countries (mainly with a federal form of government) there is a regional income tax at the level of subjects of the federation.

In some countries of the unitary form of government (for example, Norway) there is an intermediate between the central and local level of profit taxation. In Austria, a municipal commercial income tax is levied, which is a type of corporate income tax.

The laws of industrialized countries use several criteria to determine whether a company's income is subject to income tax. The main thing is the residence of the person extracting income, and the source of income.

For all the differences in legislation in most industrialized countries, a similar procedure is used for determining the tax base. Usually it includes income arising from all sources, including production and commercial activities, as well as income not related to doing business. Taxable income is calculated, as a rule, on the basis of the "practice of sound business reporting". The differences relate mainly to financial reporting standards in individual countries. In principle, all expenses incurred to obtain taxable income, as well as to maintain the assets used in the activities of the company, are deductible.

Revenues to the state budget for income tax depend not only on the adopted procedure for determining the tax base, but also on the rate. In most countries, a common rate is set for all companies. Sometimes a lower rate is introduced for companies that receive small profits (Belgium, Great Britain, Canada, USA, Finland, Switzerland, Japan). Income taxes may be levied at a flat rate or on a progressive scale using multiple rates.

In the US, the rate was reduced from 45 to 34%. If the annual income does not exceed 50 thousand dollars, the rate is 15%; the next 25 thousand dollars - 25%, and with incomes exceeding 75 thousand dollars, - 34%.

Currently, the rate in the Russian Federation roughly corresponds to the level that was reached in most industrialized countries during the global tax reform. In most OECD countries, the amplitude of rate fluctuations is on average 35-45% (UK - 35%, Japan - 37.5%). The lowest rate in Norway is 28%.

Individual income tax is one of the most difficult. In some countries, there are quite significant differences in the determination of rates, tax base and taxation criteria, categories of tax payers, and the provision of benefits and exemptions. In general, during the global tax reform, there has been a general trend towards a transition from a scheduled income tax to a global one. In case of scheduled taxation, different sources of income - salary, interest, profits, etc. - taxed separately, in isolation from each other. Each source of income has its own tax base, rate, and benefits. In the global system, one rate is applied to all sources of income.

In 1/3 of the OECD countries, individual income tax is the main source of government revenue. It gives from 52 to 12% of all tax revenues to the budget. Moreover, in connection with the conversion of this tax from the elite (at the beginning of the 20th century) to the mass, its share in the budget is constantly increasing. For example, in the United States before the start of World War I, less than 1% of the population paid this tax, and in 1970 - 81%.

Strengthening the integration of the global economy due to an unprecedented reduction in transport and communications costs, the elimination of artificial barriers to the movement of goods,

services, capital, knowledge and (to varying degrees) people across the state's borders places higher demands on good governance and a methodology for ensuring the exercise of power at the disposal of the political, economic and social resources of countries for development.

Under the influence of new socio-political, economic and tax systems, tax system reform is making tax administration cheaper. Tax breaks led to overcoming the economic downturn that began in mid-2007 after the financial and banking crisis, originating in the US mortgage market. The countries of the Group of 20 countries have chosen such budgetary measures as tax cuts and increased costs to overcome the current global financial crisis. Programs adopted specifically to increase aggregate demand cost about 2 percent of the G20 countries' GDP in 2009, and in 2010 their cost is projected at 1.6 percent of GDP. The United States approved a package of financial injections and overpaid taxes in the amount of 800 billion US dollars.

The states are improving tax systems in the conditions of overcoming the economic downturn in order to guarantee the receipt of the public income necessary for the fulfillment of fundamental functions, as well as for ensuring sustainable economic growth and investment, increasing the competitiveness of the economy. A study by the World Bank, the International Finance Corporation and PricewaterhouseCoopers audit company, "Paying Taxes 2010. An International Review" confirms that tax reform remains a pressing issue for many countries. So, from June 2008 to May 2009, the tax payment procedure was simplified in 45 countries, which is 25% higher than the previous period. Over the past five years, 171 reforms affecting taxation issues have been carried out in 104 countries of the world. According to the number of reforms carried out, the countries of Eastern Europe and Central Asia are leading the third year in a row. During this period, five economic systems of the European Union implemented tax reforms: Belgium, the Czech Republic, Finland, Poland, and Spain.

An important characteristic of the modern tax system is the high level of public agreement with the tax policy of the state. Consolidation is facilitated by the transparency, transparency and openness of the state fiscal policy, the democratization of the process of making state decisions, and the establishment of partnerships at the national, regional and local levels. The educational work of tax administrations is aimed at increasing the responsibility of taxpayers before the law, on their awareness of their rights and obligations, the mission and goals of the tax system. Tax administrations create advisory groups with the participation of interested parties, provide taxpayers with quality services, taking into account the type of tax or type of taxpayer by telephone, through audiovisual aids or video tapes, computer programs. Admittedly, Switzerland is a model of a country where excellent relations between taxpayers and the state have developed, which demonstrates a high level of honesty for taxpayers. A high level of honesty is not due to the severity of the punishment. Tax evasion in Switzerland is not a criminal offense, although any natural or legal person who is unlawfully evading his tax obligations faces a serious financial penalty. A criminal offense is tax fraud, which means falsification of documents. The public's trust in their state is explained by the fact that "the Swiss themselves vote for their taxes, have a high degree of control over how tax revenues are distributed, and consider their tax system to be fair, transparent and understandable". The OECD referred to the Swiss Code of Conduct for Tax Authorities, Taxpayers and Tax Advisers as an example of promoting what it calls "strengthening the relationship between taxpayers and tax authorities." That is, the tax policy reflects the general tendency of modern public administration, which consists in an increasingly pronounced orientation of relations between the state and society towards the use of policy instruments that are associated with less coercion. The modernization of tax systems provides for the extension of the rights of taxpayers to challenge decisions of tax authorities.

Systems and procedures for resolving conflicts of interest between taxpayers and tax authorities are successfully developing in the world: administrative tribunals or special courts for tax disputes are being created. An important area of reforming tax systems is the improvement of administrative and legislative measures to combat tax evasion, illegal export of capital and other tax violations.

In the tax system of the Republic of Kazakhstan, taxes are divided into national and local taxes - up to 70 percent of all budget revenues. One of the main taxes are: VAT, excise tax, corporate income tax, taxes of subsoil users. All payments to extra-budgetary funds are consolidated in a single social tax.

Tax relations are based on the Constitution of the Republic of Kazakhstan, are regulated by the Code of the Republic of Kazakhstan "On taxes and other obligatory payments" (Tax Code), as well as regulatory legal acts, the adoption of which is provided for by the Tax Code.

According to the message of the President of the Republic of Kazakhstan in the concept of "Third modernization of Kazakhstan: global competitiveness" reduced fiscal policy to new economic realities. The tax policy should be aimed at stimulating the exit of the business from the "shadow" and expanding the tax database in the non-resource list of tax incentives and introducing new special tax regimes in anticipation of universal declaration from 2020.

In terms of tax administration, horizontal monitoring has been introduced, which allows taxpayers meeting certain requirements to enter into an agreement on the exchange of information with tax authorities with access to the relevant taxpayer information systems for accounting and tax accounting).

Benefits for taxpayers:

- as a general rule, tax audits will not be conducted for taxpayers who are subject to horizontal monitoring (instead, tax authorities will issue tax recommendations based on the results of verification of data received from taxpayers);
- taxpayers subject to horizontal monitoring receive the right to an automatic (that is, without the need for a tax audit) refund of up to 90% of excessively paid VAT;
- in the event that tax authorities detect a tax violation during horizontal monitoring, the violator will only be required to pay a fine, but not an administrative fine;
- taxpayers subject to horizontal monitoring will be entitled to request clarification from the tax authorities regarding transactions.

Since 2019, the new rules of electronic checks in the Republic of Kazakhstan came into force. According to these rules, taxpayers are allowed to create a tax data file in a standard form and submit it to the tax authorities. The purpose of this procedure is to reduce the time for tax audits (up to 10 calendar days instead of the usual 30) and to eliminate the need for personal contact between the taxpayer and tax authorities.

And starting from January 1, 2020, the general limitation periods will be reduced from five to three years. However, a five-year limitation period will be retained for: (a) the 300 largest taxpayers who are under tax monitoring, as well as (b) subsoil users.

A new principle of taxpayer integrity has been introduced, which provides, inter alia, for the following:

- all uncertainties and unresolved issues of tax legislation are interpreted in favor of the taxpayer;
- the burden of proof of a tax violation rests with the tax authorities;
- if the tax obligation is fulfilled in accordance with a previously received written explanation of the tax authority, which was subsequently withdrawn, then the tax obligation is subject to adjustment without charging the fines and penalties to the taxpayer.

The introduction of the principle of good faith is an important measure aimed at achieving a balance of interests of the taxpayer and the state.

Starting from January 1, 2020, significant changes (such as setting a new tax or raising rates) can be introduced into the law no more than once a year and be put into effect no earlier than January 1 of the year following the year of their adoption. Changes and additions can be made to the legislation only through the adoption of separate laws on taxation issues and cannot be included in the texts of laws containing an independent subject of legal regulation.

The types of activities have been expanded in which taxpayers must use online cash registers (online cash registers).

During the year, 633 types of activities will be transferred to online KKM:

- from April 1, 2019 - 323 activities;
- from July 1, 2019 - 86 types of activities;
- from October 1, 2019 - 224 activities.

Since 2018, certain categories of VAT payers that are participants in the information system of electronic invoices have the right to use special bank accounts (control accounts) for receiving and making VAT payments. The advantage of using control accounts is that in this case, payers will have the right to an accelerated return of the debit balance of VAT (15 working days, and 55-155 working days - in general).

In addition to exporters who pay VAT, for which a zero VAT rate is applicable, the right to use control accounts is granted to VAT payers who purchase or receive on a financial lease certain goods intended for production. Purchased goods should not be sold within two years after the date of purchase.

Starting from 2019, VAT amounts indicated on the invoice issued exclusively in electronic form can be taken into account for VAT.

If the invoice is issued on paper to the supplier, and if the buyer has an obligation to issue invoices in electronic form, then the amount of VAT on the purchased goods, work, services is not subject to offset.

The Code of the Republic of Kazakhstan “On taxes and other obligatory payments to the budget” (Tax Code) dated December 25, 2017 No. 120-VI 3PK with regard to controlled foreign companies (CFCs) includes such innovations:

- a Kazakhstan tax resident will be deemed to have a CFC if he owns at least 25% of the shares in the CFC (previously the threshold value was 10%). In addition, if previously the threshold value was calculated only on the basis of direct or indirect ownership of shares (shares), now shares (shares) belonging to the next of kin or relatives of an individual are also taken into account;
- Previously, controlled companies included only companies registered in countries with preferential taxation (“tax havens”), the list of which was compiled by tax authorities.

Now, these companies also include companies registered in any state (regardless of whether it is included in the list of “tax havens” or not), in which the corresponding company is subject to income tax at an effective average rate of less than 10% on average for the reporting and two previous tax periods;

- In order to avoid double taxation, the taxable income of the CFC will now be reduced by income taxed in Kazakhstan or in the country of registration of the CFC at a rate of at least 20%. In addition, the taxable income of the CFC will be reduced by the amount of dividends paid in favor of the CFC by Kazakhstan companies. At the same time, income tax paid by CFC in other countries at a rate lower than 20% can be set off against the repayment of the income tax obligation in the Republic of Kazakhstan;

- within 60 days after the acquisition of 25% or more of the shares in the CFC (and subsequently annually), the resident of the Republic of Kazakhstan must submit to the tax authorities a statement in the established form on his participation in the CFC.

Since 2019, the following significant changes have been introduced regarding the taxation procedure of non-residents:

1) exemption from taxation of income from growth in value and dividends:

- the three-year period of exemption will not be interrupted by the reorganization of the shareholder or participant (for example, if he joins another legal entity);
- companies that extract common minerals (for example, sand) for their own needs are not considered “subsoil users”;
- Earlier, dividends paid by mining companies involved in further processing (as opposed to primary processing) of at least 35% of the minerals they produce were exempted from tax at the source of payment. Now the same tax exemption is provided for at the source of payment of value-added income and the specified threshold has been raised: up to 40% in 2019, up to 50% in 2020 and up to 70% in 2022;

- taxpayers having both income taxable income and tax exempt income are entitled to benefit from dividend tax exemption only if the share of taxable income in total income is less than 50%.

2) income from sources in the Republic of Kazakhstan.

Engineering and marketing services provided outside of Kazakhstan are now recognized as income from a source in Kazakhstan, taxed at source at a rate of 20%.

3) a permanent establishment. The definition of “permanent establishment” now includes commission agents acting in the Republic of Kazakhstan on their own behalf, but at the expense of the committees (previously only agents acting on behalf of the committees were considered to be permanent establishments). This change was made based on the recommendations of “Activity 7” under the BEPS Plan.

4) tax benefits for foreign personnel.

Earlier, foreign workers sent by a non-resident contractor to Kazakhstani clients for a period of up to 183 days during a consecutive 12-month period for the implementation of service agreements were not subject to individual income tax. Now this exemption has been canceled, and such workers must pay 10% income tax on their wages received during their stay in the Republic of Kazakhstan.

In accordance with the recommendations of “Action 13” of the BEPS Plan, the Law on Amendments to the Tax Legislation provides for a three-level reporting system for transfer pricing (which will replace the existing system that applies only to the 300 largest taxpayers).

Starting in 2019, tax authorities may require the submission of basic statements with a general overview of the activities of the international group. This requirement applies to Kazakhstan companies of the group (or foreign companies having a branch, representative office or permanent establishment in Kazakhstan) if: these organizations have made transactions that are subject to control; and, as a rule, the group’s total income (according to its consolidated financial statements for the previous year) was at least 750 million euros. The main statements must be submitted within 12 months after receiving from the tax authorities the requirements for its submission in the prescribed form.

In addition, the new system of local reporting on the provision of detailed information on significant intra-group transactions involving local members of an international group applies to Kazakhstan group companies (or foreign companies having a branch, representative office or permanent establishment in Kazakhstan), which: (a) have been subject to control of the transaction and (b) have revenue for the financial year preceding the reporting year of at least 5 million monthly calculation indices (approximately \$ 36 million SHA). Local reporting must be submitted within 12 months after the end of the relevant financial year.

## Literature

1. Караваева И. Налоговые методы регулирования инвестиций в западной экономике // Право и экономика, 1997. № 4, с. 61.
2. Козырин А. Налоговое право зарубежных стран: вопросы теории и практики. М., 1993
3. Sandford C. Successful Tax Reform. L., 1993, p. 9
4. Tax system in the North Africa and European Countries // Ed. L. Bernard, J. Owens. Boston. 1994.p.55
5. Крылова Н. Глобальная налоговая реформа 80-90-х гг. в России и за рубежом // Хозяйство и право, 1996, №9, с. 51.
6. Messere K.C. Tax Policy in OECD Countries. Choices and Conflicts. Amsterdam, 1993, p. 399
7. The Role of Tax Reform in Central and Eastern European Economies. L.. 1991. p. 207.
8. Baldacci E., Gupta S., Mulas-Granados C. How Effective Is Fiscal Policy Response in Systemic Banking Crises? IMF Working Paper 09/160. Washington: International Monetary Fund. 2009
9. Boskin M. Выход из глобальной катастрофы // <http://www.project-syndicate.org/commentary/boskin2/Russian>



10. Paying Taxes 2010. The global picture  
<http://www.doingbusiness.org/documents/FullReport/2010/Paying-Taxes-2010.pdf>
11. Мирабауд П. (Pierre Mirabaud). В защиту банковского дела Швейцарии  
<http://www.project-syndicate.org/commentary/mirabaud1/Russian>
12. Обзор налоговых систем государств-членов Евразийского экономического союза, -  
Москва, 2019. URL:  
<http://www.eurasiancommission.org/ru/Documents/%D0%9E%D0%B1%D0%B7%D0%BE%D1%80%20%D0%BD%D0%B0%D0%BB%D0%BE%D0%B3%D0%BE%D0%B2%D1%8B%D1%85%20%D1%81%D0%B8%D1%81%D1%82%D0%B5%D0%BC%20%D0%98%D0%B7%D0%B4%D0%B0%D0%BD%D0%B8%D0%B5%20%D0%95%D0%AD%D0%9A%202019.pdf>