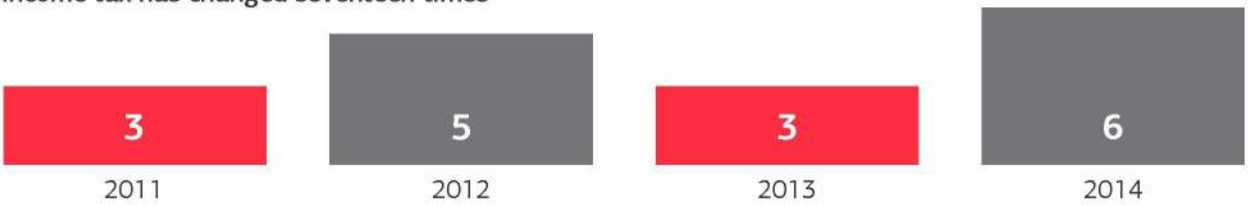
CORPORATE INCOME TAX: PROBLEMS AND PROSPECTS FOR REFORM

From 2011 to 2014 the fiscal authorities issued

1500[1] responses

30 generalized tax consultations

Since the adoption of the Tax Code the chapter dedicated to corporate income tax has changed seventeen times



Average time required to comply with the corporate income tax, hours per year

But even if the indicator is falling, it is still two to three times higher than the indicators for EU countries.

Current problems with the corporate income tax:

- The legislative regulation does not correspond to the substance of the corporate income tax, which in practice leads to double and even triple payment of the tax, without the possibility of using the available tax overpayment due to, among other things, the unclear status of overpayment;
- Ambiguous rules result in multiple interpretations of taxpayer rights and obligations. In practice, this leads to an abundance of tax clarifications on certain rules, issued so that the law can be enforced in a uniform manner. It also leads to tax disputes;
- Unstable corporate income tax legislation, which is a consequence of the ambiguity that has plagued the rules from the very beginning;
- Ambiguity of the mechanism for calculating and paying advance payments (including advance payment during dividend payment); a complicated procedure for distributing tax liabilities between branches; demands for the provision of an endless pile of original documents the formal flaws of which are used as the basis for tax disputes and additional tax assessments;
- The complexity in corporate income tax administration, caused by among other things the discrepancies between the corporate income tax return form and the Tax Code of Ukraine, leads to tax disputes.

1. As of November 03, 2014 726 responses of the tax authorities were effective and 806 were non-effective.
2. http://www.doingbusiness.org/reports/thematic-reports/~/media/GIAWB/Doing%20Business/Documents/Special-Reports/Paying-Taxes-2011.pdf http://www.doingbusiness.org/reports/thematic-reports/~/media/GIAWB/Doing%20Business/Documents/Special-Reports/Paying-Taxes-2012.pdf
3. http://www.doingbusiness.org/reports/thematic-reports/~/media/GIAWB/Doing%20Business/Documents/Special-Reports/Paying-Taxes-2013.pdf
4. http://www.doingbusiness.org/~/media/GIAWB/Doing%20Business/Documents/Special-Reports/Paying-Taxes-2014.pdf

Prospects for reform:

Tax reform, including corporate income tax reform, to ensure Ukraine's economic growth is an essential task, but it must be effective, which requires significant changes to the existing rules.

Draft law No. 5079, as proposed by the Ministry of Finance of Ukraine, does not perform this task:

1. legislative regulation of the corporate income tax has nothing to do with its economic substance
2. the proposed changes are just attempts to align the bookkeeping and tax accounting, which given high inflation and devaluation actually introduces an additional tax on inflation
3. the limitation of certain types of deductible expenses leads to artificial overstatement of the taxable base
4. the intention of the fiscal authorities to audit the taxpayers' bookkeeping is unacceptable because of its duality

An alternative and truly reformative option would be establishing rules for distributed profit taxation (the so-called tax on dividends). Under such a system distributed profit, not earned profit, is subject to taxation.

Estonia introduced a similar tax in January 2000. In addition, any investments by Estonian companies, including those made in other countries, are tax exempt. This stimulates growth, provides job-creation opportunities, and contributes to the overall growth of social welfare, as Estonia's experience shows.

"In this regard, the following approach might be useful for Ukraine:

For large enterprises there should be a tax on dividends, which provides for taxation of distributed profits. However, the transfer pricing rules are to be changed significantly to make them more simple and transparent. Among other things the mechanism for calculating arm's length prices should be simplified and applicable penalties reduced.

For medium-sized enterprises and small enterprises there should be an alternative: either to pay the tax on dividends, like large enterprises, or to start paying the single tax, established as a percentage of turnover."

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