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DOUBLE TAXATION: CONCEPT, CAUSES AND PROCEDURE FOR ELIMINATION

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Abstract

The subject of the research is the current state of double taxation, the causes of its occurrence and the ways to eliminate it. Double or multiple taxation has always existed, both within one state and between countries. Nowadays, scientists and practitioners are searching for the ways to eliminate it, since it has a negative impact on the general welfare of the economy. The authors note that the term “double taxation” means the simultaneous taxation of an object by the same tax payments in different states for a tax period. The article states that the main reasons for double and multiple taxation are imperfect norms of tax legislation, such as: taxation of the same income at the same time in different states for the tax period; application of different principles of taxation. It is reasonable to avoid double taxation in every possible way, since it entails adverse consequences, such as: an increase in the tax burden of the payer, an increase in tax offenses, and a reduction in the number of foreign investors. The paper demonstrates that nowadays different countries apply various methods for avoiding double, multiple taxation, including deduction, offset, tax exemption and others. According to the results of the study, the following relevant conclusions are made: elimination of double or multiple taxation by applying various methods will lead in the future to the attraction of foreign investment, increased tax potential, reduction of tax violations, that is, to the economic development of all countries.

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1. Introduction

The issue of multiple taxation has a rather long history, although it gained the greatest relevance in the 20th century.

In current Russian practice, double taxation is one of the most pressing issues that tax relations participants must deal with. Double taxation has a negative impact on the domestic economy of the country, in particular, it leads to an increase in tax violations, an increase in the “shadow economy” and an increase in the tax burden.

2. Problem Statement

The legislation of the Russian Federation does not contain a unified definition of double taxation, despite the fact that this concept is used, in particular, in the Tax Code of the Russian Federation when it comes to agreements on the avoidance of double taxation (for example, Articles 214, 269 of the Tax Code of the Russian Federation), as well as its individual articles. However, none of these articles neither gives a definition of double taxation nor indicates its characteristics. Only general conditions allowed us to conclude that, in practice, the fact of double taxation is present.

We share the opinion of most specialists that the concept of “double taxation” means the simultaneous taxation of an object by the same tax payments in different states. It is important to consider that a tax non-resident must pay taxes at the place of his actual location and citizenship.

3. Research Questions

The subject of this study is the concepts and causes of double, multiple taxation in Russian and international practice, as well as the vectors for their elimination.

4. Purpose of the Study

The purpose of this research is to study and analyze the current state of the institution of double, multiple taxation in Russian and international practice considering theoretical principles, the regulatory framework and international experience, as well as to develop proposals for resolving identified problems in the research topic.

5. Research Methods

Various general scientific methods were used in the study. Thus, the study is based on dialectical methods of cognition of legal reality, methods of synthesis and analysis. To justify the main conclusions, proposed in this paper, the author used logical, comparative, legal, and other classical research methods. The author has drawn relevant conclusions to improve the current state of the issue, using the method of scientific abstraction.

6. Findings

In the issue of double taxation, a large role is played by taxpayer status: resident or non-resident. As it is known, a tax resident is a person who is present in the Russian Federation territory 183 calendar days for 12 consecutive months. A non-resident is a person who does not fall under this condition.

The most rational way to prevent the payment of the same tax payments at the same time in different states is the conclusion of double taxation avoidance agreements, according to which a tax or fee should be charged either in one of the states, or the taxation should be regulated by the relevant provisions of national legislation. When a person pays a tax or a fee in different countries, this situation is called a mixed tax payment procedure.

Among the varieties of double taxation external and internal varieties are distinguished (Nazneen & Wei, 2013) The internal taxation occurs within one country, where one payment is charged at different levels. For example, both in the USA and in Russia, personal income tax is paid at different levels of the budget system. Another example of internal taxation is when certain taxes are paid only at one level of the budget system, for example, in Russia VAT is paid only to the federal budget. An external taxation occurs when it is difficult for the government to determine either the taxpayer or fee-payer or the taxation object itself. External (international) taxation occurs when different countries charge similar taxes.

Modern international double taxation started to develop in the 90s. Its features are determined by financial integration, globalization processes and international tax competition. This stage is characterized by a huge number of standards and rules for the avoidance of double taxation, which may be contained in international agreements and national legislation.

It is important to consider that multiple taxation doesn't respect the taxation principle of equity. When charging taxes, the rights of one group of payers in comparison with another one should not be infringed. If a regulatory act infringes the rights of one group of payers compared to another, such an act must be declared unlawful, violating the principle of equity. Violation of the principle of equity in the tax system leads to deliberate tax evasion by the payers.

Multiple taxation results in the increase in the tax burden of the payer. It is, in fact, a tax discrimination, both against a foreign entity, and against its own, Russian entity (Kang, 2019).

According to the Russian Tax Code "Taxes and fees cannot be discriminatory and apply differently based on social, racial, national, religious and other similar criteria. It is not allowed to set differentiated rates of taxes and fees, tax benefits depending on the form of ownership, citizenship of individuals or the place of origin of capital" (Article 3, Clause 2 of the Russian Tax Code). It is obvious that the existence of double taxation is clearly contrary to this provision of the tax legislation.

In this regard, the injustice of multiple taxation forces the payer to evade payment of taxes and fees. The budgets of the budget system of the Russian Federation as a result of this receive a significantly lesser amount of financial resources. The state must develop mechanisms to prevent deviant tax behavior (that is, rejection of generally established norms) and the ways to combat it, which could have been avoided if there had been no multiple taxation.

Let us consider the reasons that contribute to the emergence of double taxation in Russian and international practice.

The root cause of double, multiple taxation is the contradictory tax laws (Sergeyev, 2019). That is, in different countries the objects of taxation are regulated differently by tax legislation, tax norms are interpreted ambiguously, multidirectionally from a legal point of view.

A generally accepted rule is the rule of international double taxation, according to which the collection of taxes and fees is first carried out in a country with territorial ties and only then in the country of residence or citizenship (Alexeev et al., 2016) Double taxation of foreign persons arises since a resident of one country acquires income from sources of another country and owns property.

When tax resident of one state pays taxes in another state, the procedure for payment should be regulated by the legislation of these two countries. Moreover, each state has the right to charge taxes in accordance with its tax legislation for foreign persons.

To eliminate double taxations, it is necessary that the taxations rules of different countries don't contradict each other and are fixed in the provisions of the international treaty, thus regulating the taxation procedure. Inconsistency of legislation between countries will certainly lead to double taxation. (Pinskaya et al., 2015).

It is important to consider that the amount of tax payments to be accounted for in the state where the person receives income cannot exceed the amount of taxes paid by the person abroad, calculated in accordance with the tax laws of the states. If this situation occurs, a refund is provided. Recalculation is carried out after the payer presents a document confirming the tax payment in the state where the person receives income. For example, a resident of the Russian Federation for the tax period received income from sources of a foreign state in the amount of 200 thousand rubles at an interest rate of 15 %. The amount of personal income tax paid in this country amounted to 30 thousand rubles. (tax deductions are not provided). In the Russian Federation, his income for the same period amounted to 360 thousand rubles at an interest rate of 13 %. The income received from all sources should be added to this amount. The total income is 560 thousand rubles. (200 thousand rubles + 360 thousand rubles). The amount of personal income tax paid in the Russian Federation will amount to 42 thousand 800 rubles ((560 thousand rubles * 13/100) – 30 thousand rubles). Thus, a resident of the Russian Federation, who received income from sources of another state, paid tax from the total income received once. The recalculation (offset) of tax shown in the example allowed to circumvent the fact of double taxation.

A serious flaw in the Russian tax legislation regarding double taxation is the absence of provisions on the offsetting of certain types of taxes paid by residents of the Russian Federation in another country. For example, when a resident of the Russian Federation paid a tax in another country, which doesn't exist in the Russian system of taxes and fees. It is reasonable to provide and stipulate such nuances in international agreements (treaties).

Meanwhile, in international treaties agreed by countries, the rights of all sides must be fair and equal (Lednev, 2019). There should be no discriminatory taxation on any party. Tax liabilities of one side should not infringe the interests of the other side.

Double taxation may arise due to the application of different principles, when the principle of residence is applied in one country, and the principle of territoriality is applied in another country. Let us explain that the first principle means taxation, in which all income is taxed in the country where the person is recognized as a resident. According to the principle of territoriality, the state has the right to

charge taxes on non-residents only in cases when he has an object of taxation in the territory of a given country or abroad, but in connection with activities in the territory of that country.

Of course, double, multiple taxation adversely affects the general state of the economy, since it prevents the development of mutual economic cooperation between states, as well as foreign investment.

Thus, having studied the theoretical material on the causes of double taxation, it is advisable to draw the following main conclusions:

- Inconsistent and contradictory tax laws, both within the country and between countries, are the main reason for double taxation;
- the application of different principles of taxation in interacting states generates double taxation (the principle of residency in one country, the principle of territoriality, in another);
- taxation of the same income at the same time in different states leads to double taxation.

In order to eliminate the facts of double taxation that has arisen between the countries, first, it is reasonable to coordinate international tax relations and secure them with an international agreement, which is valid along with legislation within the state.

Prevention of double taxation will undoubtedly contribute to the subsequent economic development of all countries participating in this process. It is fair to clarify that favorable business conditions attract foreign investors and, thereby, the income base of countries grows. In addition, the elimination of double, multiple taxation will reduce the number of tax offenses (Fan et al., 2019).

The issues of double, multiple taxation and its overcoming is now one of the most important problems in forming a developed tax legal culture and overcoming law nihilism within the country, as well as in the field of international cooperation.

The use of effective methods to eliminate double, multiple taxation, their optimization is the goal of researchers and lawmakers.

In order to eliminate double, multiple taxation, the state can find a solution to this problem unilaterally. As previously noted, there are special articles in the tax legislation (norms) devoted to the elimination of double taxation, which provide for such methods of overcoming double, multiple taxation as offset, deduction, exemption or other tax preferences. It is important to note the method of overcoming double and multiple taxation, according to which the legislation provides for the conclusion of tax agreements (conventions) between countries on the avoidance of double taxation. These agreements are recognized as a way of distributing jurisdiction between different countries, since they deal with such mechanisms of eliminating double and multiple taxation as a tax credit (in the form of set-off, deduction), tax exemption, tax benefits.

Knowing the procedure for avoiding double, multiple taxation makes it possible to carry out tax planning and develop a business (Aguzarova & Aguzarova, 2018).

It is important to take into account that elimination is achieved either through the use of internal special legislation, which provides for the adjustment of tax obligations, or by drawing up and concluding international agreements (treaties), where each country has the right to the highest priority taxation of certain types of income (Marius, 2012). Thus, it is proposed to recognise the domestic and international legal regimes for eliminating double taxation.

7. Conclusion

The problem of double and multiple taxation has always been relevant, both in Russian and international tax practice, since it has a direct impact on the general economic condition of countries.

Tax legislation does not provide a single definition of the category of “double taxation”, even though it is mentioned. Let us define the concept of “double taxation”, which is understood as the simultaneous taxation of an object by the same tax payments in different states.

We have noted that injustice and discrimination in terms of double, multiple taxation forces the payer to avoid paying taxes and fees. As a result, the budgets of the budget system of the Russian Federation do not receive the proper amount of financial resources.

The main reasons contributing to the occurrence of double and multiple taxation in Russian and international practice include: imperfect tax laws of countries (in different countries, objects of taxation are regulated differently by tax legislation, articles are interpreted ambiguously and multidirectionally); the lack of clear provisions on the offsetting of certain types of taxes paid by residents of the Russian Federation in another country (for example, a resident of the Russian Federation paid tax in another country, which does not exist in the Russian system of taxes and fees); the application of different principles of taxation in interacting states (in one based on the principle of residency, in the other based on the principle of territoriality); taxation of the same income by tax payments simultaneously in different countries.

The economic literature mentions various methods of eliminating double, multiple taxation. However, the most effective of them is the prevention of payment of the same tax payments at the same time in different states, which should be enshrined in international agreements. Moreover, the Tax Code provides for the following methods of overcoming double and multiple taxation: deduction, offset, tax exemption and others. The elimination of double, multiple taxation will lead in the future to attracting foreign investment, increasing tax potential, and reducing tax violations, thus, to attracting foreign investment, increasing tax potential, and reducing tax violations the economic development of all countries.

References

- Aguzarova, L. A., & Aguzarova, F. S. (2018). Planning of Tax Payments as a Factor of Economic Growth. *Europ. Res. Studies J.*, 21(S2), 195–206.
- Alexeev, A., Good, D. H., & Krutilla, K. (2016). Environmental Taxation and the Double Dividend in Decentralized Jurisdictions. *Ecolog. Econ.*, 122, 90–100.
- Fan, Y., Li, H., & Zhu, Q. (2019). Tax Burden Reduction and Tax Cuts in China’s Vat Reform. *J. of Tax Reform*, 5(1), 23–41.
- Kang, M. (2019). Pareto-Improving Tax Policies Under Hyperbolic Discounting. *Int. Tax and Public Finance*, 26, 618–660.
- Lednev, Yu. (2019). Conflict of Interest in the Implementation of International Treaties on Avoidance of Double Taxation in Russia. *J. of foreign legislat. and comparat. law*, 2(75), 49–54.
- Marius, E. R. (2012). International Double Taxation. *Procedia – Soc. and Behavioral Sci.*, 62, 403–407.
- Nazneen, A., & Wei, X. (2013). End of double taxation: Is the policy better when announced? *J. of Policy Model.*, 35(6), 928–942.
- Pinskaya, M. R., Milogolov, N. S., & Malis, N. I. (2015). Rules of Taxation of Controlled Foreign Companies: a Comparative Study. *Asian Soc. Sci.*, 11(3), 274–281.
- Sergeyev, S. V. (2019). History of Development of Legal Regulation of Taxation of Foreign Organizations in Russia. *Bull. of the Univer. named after O.E. Kutafin (MSA)*, 7(59), 131–140.