



**Center of Public Finance
and Governance**
at Kyiv School of Economics



**Swedish Association
of Local Authorities
and Regions**



**Швеція
Sverige**

Research:

Personal Income Tax Place of Collection in Ukraine – Legal Background and Current Practice

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Introduction

After the Value Added Tax, Personal Income Tax is the largest source of public revenue in Ukraine (in 2020 - UAH 223.87 billion, 16,26% of total public revenues). It is the single largest source of local government revenue and on average represents 37,7% of local budgets revenue or 57,15% of own local government revenue (without transfers and grants).

PIT is thus key to the ability of local governments to finance their expenditure responsibilities, and in particular for their ability to maintain and improve social and communal infrastructure used by citizens.

At the same time, the tax agent for the payment of personal income tax in Ukraine is the employer. That is, the employee does not pay this tax himself. Instead, the company he works for does it for him. In addition, in Ukraine the employer is responsible for transferring the PIT payments of its employees to the local governments in which they work. This is unusual because in other countries the allocation of PIT payments to local governments is done by the national government.

Due to the vagueness of legislation governing what is considered a place of work, there is no single established practice in Ukraine as to which local budget employers, as tax agents, should pay PIT for its employees. As a result, employers sometime credit the PIT of their employees to the local government in which they have regional divisions: to the local government in which employees actually work, to local government in which the firm is legally registered, and sometimes even to the local government in which an employee lives but does not work.

Thus, employers pay part of the PIT to other local budgets than those where the employee works, creating significant distortions in the burden on different budgets - because part of the PIT revenue paid for employees is not received by those communities in which employees use social and communal infrastructure, which is maintained at the expense of the local budget.

Therefore, the question of which local budget receives PIT paid from an employee is important both for each individual community and for the success of decentralization reform as a whole.

Discussions on this issue have once again become politically relevant since the beginning of 2021. In April 2021, the Cabinet of Ministers of Ukraine was instructed to develop amendments to the current legislation **on the inclusion of part of the personal income tax in local budgets at the place of registration of the place of residence of a natural person - a taxpayer**. Also, a number of draft laws have been registered in the parliament, proposing various options for changes in the way personal income taxes are allocated to local government budgets.

After Ukraine's transition to a new administrative-territorial system, in which communities are a democratically elected local governments that have been assigned significant service

responsibilities, and which are supposed to improve those services in ways that correspond to the expressed preferences of their electorates, the issue of PIT distribution became critical for all local governments, as the current system helped to obtain a larger share of PIT for large cities, which housed the headquarters of most large companies.

At the same time, the changes under discussion are based on general understanding of the issue, rather than on research on the principle and budgets to which employers currently pay PIT; what is the scale of the problem, and what are the best ways to solve it. According to the logic of the current legislation, the employer transfers PIT for employees at the actual place of their work (ie the actual physical location of their workplace). But due to the uncertainty in the definitions in practice, this is not always the case and this is one of the main issues. Moreover, if deficiencies are corrected and all definitions in the legislation are unambiguous, this may lead to another problem - the need for employers to reconfigure their management accounting systems required to pay taxes for their employees, which will incur additional expenditures (changing IT systems and everything related to it).

These questions are the subject of this study.

The Research Methodology

This study was conducted in three stages.

At the **first stage**, an analysis of the history of legislation in terms of regulating the transfer of personal income tax to local budgets was conducted in order to identify key stages in the development of legislation. At this stage, in-depth interviews were conducted with 5 experts in the research issue and have information on historical developments and current issues of PIT payment to local budgets.

In the second stage, it was planned to collect available statistics from authorized state bodies, primarily from the State Tax Service (STS). The hope was that the tax authorities could provide us with data on the PIT payments of citizens by where they actually work, by where companies actually submitted the PIT payments of their employees to the national government, and by where citizens actually live. However, at the request of the research team, the State Tax Service (STS) did not provide information on the number of employees in Ukrainian enterprises actually working and living in communities other than those where companies pay PIT for them, stating that the satisfaction of the relevant request for information requires new information and analytical work (which does not comply with the Law on Access to Public Information). And in terms of information about the actual residence of employees - indicated that the collection of such information is not required by law and therefore is not carried out.

The State Statistics Service provided information that as of January 1, 2021, the USREOU/EDRPOU (National State Registry of Ukrainian Enterprises and Organization) had **14,895 legal entities with separate subdivisions** (excluding the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol). Of them:

- **8976 legal entities** that have separate subdivisions with a code of the territory under COATUU (Classification of objects of the administrative-territorial system of Ukraine), different from the code of the territory of the main organization within one oblast of Ukraine;
- **5919 legal entities** that have separate subdivisions with a code of the territory of COATUU, different from the code of the territory of the main organization in different oblast of Ukraine.

However, the available data do not allow us to draw conclusions about the number of structural units of enterprises that do not have the status of "separate subdivisions", which imposes on them the obligation to pay (transfer) personal income tax for employees at the location of such a unit. Therefore, it is impossible to separate data on how many people work in such structural units, as well as the amount of personal income tax paid (transferred) for the employees.

Therefore, another method was chosen to study the questions: to conduct in-depth interviews with companies that are among the largest employers in Ukraine. Thus, **the third stage** of the study involved the collection and analysis of information based on in-depth interviews directly with companies that transfer personal income tax for their employees to the tax authorities.

Within this stage, a list of 60 employers that are large payers of personal income tax and / or have an extensive structure of separate subdivisions in different settlements, and which should be interviewed in the study. The list of the largest taxpayers in Ukraine was taken as a basis, to which was added the list of state bodies / budgetary institutions with the widest network of regional branches.

Requests for information / semi-structured interviews were sent to each of them. In summary, the list of questions for the interview was as follows:

- What is the number of separate subdivisions of your company that have employees in their staff? What is the total staff of your company?
- Does your company pay PIT for these employees at the actual location of these separate subdivisions?
- If not, on what principle does your company pay PIT? (For example, by company registration / location of key divisions?)
- What is the number of such separate subdivisions in which personal income tax is paid at their location? - in absolute terms, in% to the total number of separate subdivisions.
- Under what conditions could your company pay personal income tax at the location of all structural units? Aren't you ready to do that? Why?
- Does your company have the ability / data to pay PIT at the place of residence of your employees)? Do you collect such data?

According to the research methodology, it was necessary to obtain at least 20 qualitative answers to the research questions, for which it was planned to conduct from 20 to 50 (maximum) companies. As a significant share of employers are state-owned companies and government agencies, about a third of inquiries were sent to them.

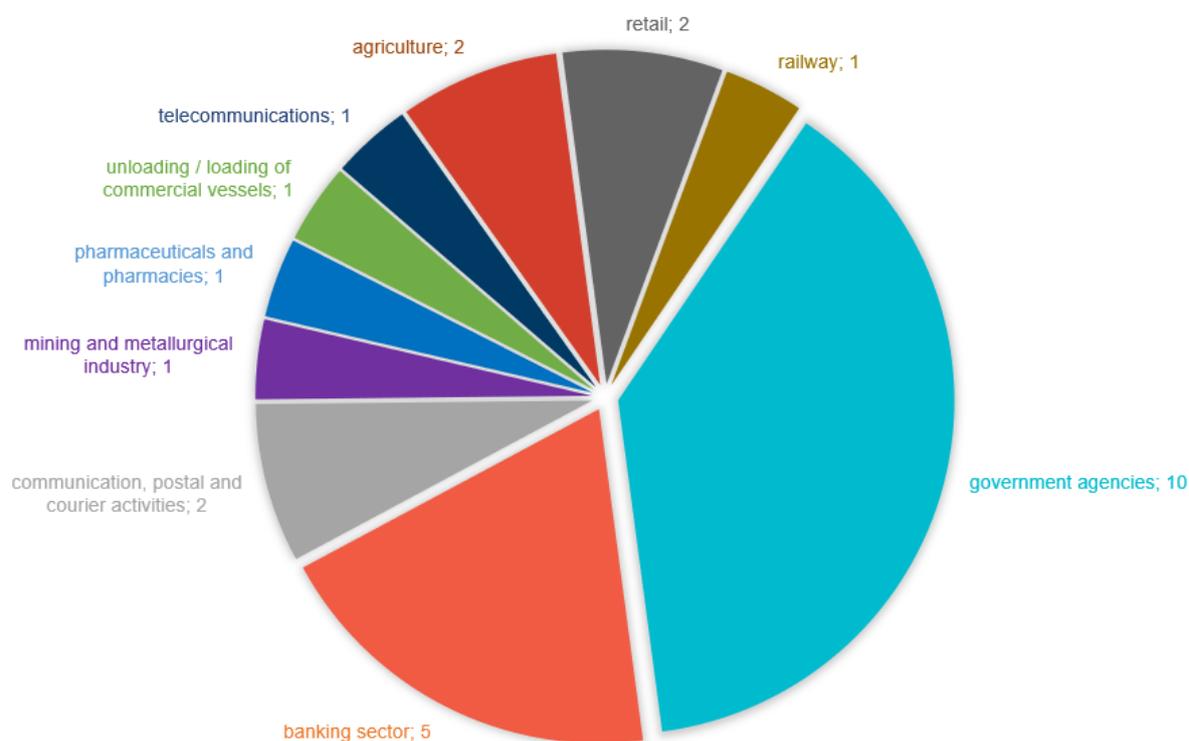
32 responses were received (15 government agencies and 17 business entities (private and public companies), of which 25 responses were in fact and / or continued by direct communication (in-depth interviews). The study did not take into account NGOs and other organizations of the public sector.

Responses to official requests for information were received from all these **government agencies (10)** and clarifying telephone conversations were held with all of them with the executors responsible for preparing the response to the request. In-depth interviews were conducted with representatives of **11 businesses**, and information was received **from 4 companies in response to an official letter**.

In general, among the surveyed companies there are 4 public sector companies, the rest - private.

The distribution of surveyed employers by industry is in Fig. 1.

Fig. 1. The surveyed employers by industry



The total number of employees in the surveyed organizations - **about 650 thousand people** (including in public agencies - **about 150 thousand people**, in public and private companies - **about 500 thousand people**). Most of the respondents refused to report the amount of PIT paid, describing it as confidential information, but it is estimated that this amount is **7-10 billion hryvnias**.

During the survey, responses were received (in the form of interviews and / or official written responses) from **13 men** and **11 women** who were representatives of the respondents (in addition, in some cases the response was collective, but in this case we took into account the main representative), **one** of the official answers did not contain information about the gender of the performer. Most of the answers were received from the **heads of accounting services** and **directors of human resources departments**. In some cases (13 respondents, including all government agencies) the answer was signed by the **head (deputy head)** of the agency/company, but the answers were clarified by phone with the responsible executors specified in the letter.

In order to ensure a qualitative analysis of all data obtained (including those provided by respondents as confidential), information on the answers provided in this study is depersonalized.

The History of Development of Legislation on the PIT Payment in Ukraine

According to the results of the study, the difficulties of accounting for the allocation of PIT among local government budgets is caused by a lack of clarity in the legislation about what constitutes a structural unit of an enterprise that employs people in multiple locations. From the start of the process, however, the lack of clarity in the legislation to a great degree reflected the fact that firms and state agencies did not have the accounting systems that would allow all of them to abide by a single, clear definition of a business unit.

Immediately after gaining Independence in the 1990s, legislators focused on regulation of PIT payments, and who and how determines in what proportion PIT should be paid and transferred to different levels of local budgets. The decision to "delimit" (the term used in the legislation) part of the national taxes (including income tax ("prybutkovyi") - "predecessor" of personal income tax) between the regional budget and the budgets of districts and cities was given to the regional, Kyiv and Sevastopol city councils. The legislation also stipulates that employers are obliged to transfer the tax to the local budget in proportion to the share of their employees working in the district / settlement in the total number of employees (*see Annex 1 for details*). It is likely that in the absence of a capable accounting and IT system, such a proportional distribution of PIT by the company to local budgets at that time was the only "working" option for both parliamentarians and businesses. It should be noted that the legislators almost completely ignored the issue of the possibility / expediency of paying personal income tax for employees not at the place of their work, but at the place of their actual residence.

In the early 2000s, the question arose as to how to oblige legal entities to transfer PIT for employees working in their separate subdivisions, precisely at the location of such divisions. Legislators have tried to introduce a practice according to which the employer must transfer the PIT obligation of its salaried employees, not just in proportion to the number of employees working in given a place, but the actual amount of PIT for employees working in a given local government.

For this purpose, in 2003 a law on state registration of business entities and in the same year a separate law "**On personal income tax**" was introduced, which introduced the term "separate subdivision" for the purpose of personal income tax. A rule was also introduced requiring the company to pay PIT for employees at the location of the separate subdivisions in which such employees work.

A similar norm was added almost simultaneously to the Budget Code of Ukraine stating that from January 1, 2004 the personal income tax paid by employees should be credited by his/her employer "**to the relevant local budget at its location and the location of its separate subdivision in the amount of tax accrued by employees of these units**".

At the same time, the problem was the vague interpretation of the "separate subdivision". According to the norm in force at that time, "*a separate subdivision of a legal entity is a branch,*

another subdivision of a legal entity located outside its location that manufactures products, performs works or operations, and provides services in a single closed technological process with a legal entity or representative office. representing and protecting the interests of a legal entity”.

On January 1, 2011, the new Tax Code of Ukraine also came into force. During the first 1.5 years of its existence, the TCU (until May 24, 2012) for the purposes of PIT payment, the term “separate subdivisions” was used in it in the meaning used in the Civil Code. After May 2012, amendments to the TCU came into force, according to which for issues related to the payment of personal income tax, the term "separate subdivisions" is used in the meaning defined by the Commercial Code of Ukraine, which interprets them more broadly. According to the Commercial Code, - "the company has the right to create branches, representative offices, offices and **other separate subdivisions.**" Thus, the interpretation of such subdivisions was expanded - and, consequently, the **list of cases in which legal entities were – at least in theory – legally obliged to credit the PIT payment of their employees to the budgets of the local governments in which they actually worked was increased.**

But neither the use of term from the Civil Code nor from the Commercial Code has solved the problem of unclear definition of the term "separate subdivision". After all, it is not clear whether **any** separate territorial subdivisions belong to separate subdivisions - production structural subdivisions (productions, shops, branches, sections, brigades, bureaus, laboratories, etc.), or functional structural subdivisions of the administrative apparatus (departments, divisions, bureaus, services, etc.).

As a result, the definition was interpreted ambiguously by companies that did not always register their separate subdivision with the tax authorities.

And as of January 1, 2016, this definition was completely removed from the law, which allowed companies to transfer personal income tax for their employees in a way convenient for them, including completely in the community budget, where the company's head office is located. That is, the state essentially recognized the fact that in practice attempts to force employers to work on the distribution of taxes between different local budgets always met with reasonable resistance and de facto did not work. Today's draft laws can be regarded as another attempt to reincarnate this idea. **Thus, we can conclude that in Ukraine there has never been a system that would clearly oblige employers to transfer PIT for employees in the budget of the territory where they physically worked.**

With this in mind, to date, employers may in fact have different interpretations of which structural units to register as separate subdivision and which not. And, accordingly, whether to transfer personal income tax according to the location of such a unit or not.

The State Tax Service tries to challenge this practice, including in the courts. But the analyzed case law says that so far the State Tax Service has not been able to prove its position in the courts.

In fact, the existing case law suggests that even if companies have the necessary software, it is not the employers but the national government that is responsible for which budgets PIT should be paid into. In other words, the courts say that companies should be tax agents for

collecting PIT but insist that its allocation to different levels of government is a function of the national government, and businesses cannot be held responsible for doing it "wrongly." This position has been maintained by the courts whether it is firms bringing cases against the Tax Administration for trying to enforce the existing legislation, or local governments bringing cases against firms. In its decisions, the Ukrainian court states: "<employer> has fully fulfilled the statutory obligation to accrue, withhold and transfer (transfer) personal income tax to the budget, paying the amount of tax at its location to the budget", and in relation to that the obligation of the state to distribute taxes adds: "Bodies of the State Treasury of Ukraine in the order established by the Budget code of Ukraine distribute the specified means according to the specifications defined by the Budget code of Ukraine and direct such distributed sums to the corresponding local budgets."

One of the clearest examples of court appeals is the case that began in 2012 and went through all instances up to and including the Supreme Court, which on September 11, 2019, put an end to the dispute.

The Court Cases Review

a. Lawsuit between Lviv Railway and the State Tax Inspectorate regarding the payment of personal income tax - the firm is challenging the Tax Authorities claim that they have misallocated the PIT payments of their employees

- In the summer of 2012, the State Enterprise DTGO Lvivska Zaliznytsia (Lviv Railway) filed a lawsuit with the State Tax Inspectorate in the Vynohradiv District of the Main Department of the Ministry of Revenue in the Zakarpattia Region to declare illegal and cancel the tax notice-decision as a result of an unscheduled documentary inspection of a separate subdivision "Uzhgorod Directorate of Railway Transportation" DTGO "Lviv Railway" on the transfer of personal income tax at the location of the latter, not at the location of separate subdivision.
- By the decision of the Lviv District Administrative Court of July 26, 2012, upheld by the decision of the Lviv Administrative Court of Appeal of May 28, 2015, the administrative claim was satisfied in full. The tax notice-decision of the State Tax Inspectorate was declared illegal and canceled
- The first instance court, with the decision of which the appellate court agreed, concluded that the controlling body, adopting the contested tax notice-decision, acted contrary to and not in accordance with the requirements of current tax law, as obligations to accrue, withhold and pay (transfer) of personal income tax to the budget in general.
- The State Tax Inspectorate then appealed these decisions, arguing that the courts had failed to recognize the legal obligation of firms to distribute PIT to the local governments in which their separate subdivisions are actually located.
- However, the Supreme Court of Ukraine ruled that the Tax Inspectorate had not provided the courts of first and appellate instances with any proper and admissible evidence of the powers of the stations to act on behalf of the Uzhhorod Railway Separation Unit of Lviv Railway labor relations with employees.

As a result, the Supreme Court of Ukraine ruled to uphold the decision of the courts of lower instances and not to satisfy the complaints of the tax authorities. The employer won the lawsuit, his complaint was upheld in full and his right to independently determine (in its provisions) the status of separate subdivisions and at its discretion to determine them as separate subdivisions or not

b. Local self-government body against the tax authority regarding the payment of personal income tax by PJSC Ukrtelecom

- The local self-government body filed a lawsuit with the tax authority alleging that they were not taking sufficient control measures to ensure that the PIT payments of people

employed in their jurisdiction were allocated to the right local budget. The employer has a subdivision on the territory of the council, but does not define it as a separate subdivision, but as a structural subdivision of another separate subdivision. The court denied the claim, explaining that the functions, rights and responsibilities of separate subdivisions of the enterprise are determined by the provisions on them, which are approved in the manner prescribed by the company's charter or other constituent documents.

- On May 8, 2018, the Zaporizhia District Administrative Court received a claim from the Melitopol City Council of the Zaporizhia Region (hereinafter - the plaintiff) to the Main Department of the SFS in the Zaporizhia Region (hereinafter - the defendant), a third party - Public Joint Stock Company "Ukretelecom" represented by the Zaporizhia Branch of PJSC Ukretelecom, in which the plaintiff asks the court to recognize the illegal inaction of the defendant, which consists in the absence of actions for accrual, administration, provision and collection of personal income tax working in the telecommunication services center №536 in Melitopol, to the local budget Melitopol.
- In support of the claims, the plaintiff refers to the fact that in the city of Melitopol PJSC "Ukretelecom operates a telecommunications services center №536 Zaporizhia branch. Melitopol City Council sent a request to the PF PJSC "Ukretelecom" to transfer personal income tax to the local budget of Melitopol (the location of the city center of telecommunications services №536)
- PJSC "Ukretelecom respond by saying that telecommunications service center 536 is not a separate subdivision of its Zaporizhia branch, and therefore PIT is paid at the place of registration of the Zaporizhia branch, namely to the budget of the Voznesenivsky district of the city of Zaporizhia. The SFS objected to the satisfaction of the claims.
- The Court, having examined the case file, assessed the evidence provided, its sufficiency and the relationship as a whole, **concluded that the claim could not be satisfied on the following grounds:**
 - According to Article 64 of the Commercial Code of Ukraine, the company may consist of production units (industries, shops, offices, sections, teams, offices, laboratories, etc.), as well as functional units of management (offices, departments, offices, services, etc.) . **Functions, rights, and responsibilities of structural units of the enterprise are determined by the provisions on them, which are approved in the manner prescribed by the charter of the enterprise or other constituent documents.**
 - According to the requirements of paragraph 168.4.4 of paragraph 168.4 of Article 168 of the Tax Code of Ukraine, a legal entity at its location and location not authorized to pay tax separate subdivision, a separate subdivision, which is authorized to accrue, withhold and pay (transfer) to the budget , at its location simultaneously with the submission of documents for the receipt of funds for the payment of income due to taxpayers, pays (transfers) the amounts of tax

withheld to the relevant accounts opened in the bodies providing treasury services of budget funds at the location of separate subdivisions.

- Bodies that provide treasury servicing of budget funds in the manner prescribed by the Budget Code of Ukraine distribute these funds in accordance with the standards set by the Budget Code of Ukraine, and direct such allocated amounts to the relevant budgets.
- In view of the above, the court notes that the provisions of Article 168 of the Tax Code of Ukraine do not provide for the payment of personal income tax by non-separate subdivisions or for such non-separate subdivisions. In this case, PIT for such units must be paid by a legal entity or an authorized separate subdivision, depending on to whom such unit is subordinated, according to the organizational structure.
- Thus, the court notes that in this case the Zaporizhia branch of PJSC Ukrtelecom belongs to the category of separate subdivisions that are authorized to accrue, withhold and pay (transfer) to the budget personal income tax, which was observed by a third party.
- The Court notes that in understanding the provisions of the PC of Ukraine it is a separate subdivision - Zaporizhia branch of PJSC "Ukrtelecom" is legally endowed with the status of a tax agent, and therefore the plaintiff's allegation of payment of personal income tax for employees of telecommunications services center of Melitopol is not based on the provisions of current legislation of Ukraine and are unfounded.
- In such circumstances, given that the Zaporizhia branch of **PJSC "Ukrtelecom" properly and fully fulfills tax liabilities from personal income tax, the supervisory authority has no grounds to take measures to collect this tax in favor of the local budget of Melitopol.**

c. Local government against the taxpayer

The local government filed a lawsuit against the company, which transferred personal income tax for its employees at the place of their direct activity. Workers worked in a shop that did not have the status of a separate subdivision. Therefore, the city council demanded to pay tax to its budget - where in fact there was a separate subdivision, which included the shop. The case passed all instances up to the Supreme Court, but was not considered on the merits - the Grand Chamber of the Supreme Court agreed with the conclusions of the courts of first and appellate instances on the refusal to initiate proceedings under paragraph 1 of Article 175 of the Commercial Procedure Code of Ukraine. subject to consideration under the rules of commercial litigation. The dispute in the case belongs to the jurisdiction of the administrative court.

In December 2019, the Novovodolazka village council filed a lawsuit with the Kharkiv Regional Commercial Court against Agrokom Nova Vodolaga Limited Liability Company, requesting that the court:

- 1) to recognize illegal actions of LLC "Agrocom Nova Vodolaga" to pay personal income tax for the period from January 1, 2019 for employees of the shop LLC "Agrocom Nova Vodolaga" at: Vatutine, Novovodolazk district of the Kharkiv region, which is not a separate subdivision of the company, at the expense of the Vatutine village council, which is not a part of the Novovodolazk community;
- 2) to oblige LLC "Agrocom Nova Vodolaga" to pay personal income tax on the income of employees of the shop "LLC Agrokom Nova Vodolaga" at the address: Vatutine, Novovodolazk district of the Kharkiv region, which is not a separate subdivision of the company, to the settlement budget of the Novovodolazk settlement council in the order provided by the Budget code of Ukraine.

The claims are substantiated by the fact that the amount of income tax accrued in favor of individuals working in the shop of LLC "Agrocom Nova Vodolaga", which does not have the status of a separate subdivision, must be transferred to the village budget of the Novovodolazk village council in accordance with the provisions of the Tax Code of Ukraine.

According to the position of the Supreme Court, the satisfaction of any of the claims stated by the plaintiff will not lead to the restoration of the plaintiff's rights, and hence he chose inappropriate ways to protect their rights. Therefore, the claim was not considered by the court

Similar to this is the case № 902/835/17, in which the Kalinov City Council filed a lawsuit against the Kalinov Central District Hospital to declare inaction on non-payment of personal income tax to the city budget of Kalinovka City Council illegal and the defendant's obligation to pay personal income tax. from the income of employees. The Commercial Court of Cassation of the Supreme Court in its decision of May 10, 2018 stated that the recognition of the inaction of Kalinovka Central District Hospital on non-payment of personal income tax to the city budget of Kalinovka City Council illegal should be proved as a basis for a claim to restore the right. At the same time, the requirement of the defendant's obligation to pay to the city budget of the Kalinov City Council PIT deducted from the income of employees has no specific expression. That is, based on the above, the application of the method chosen by the applicant to protect their rights will not actually lead to their restoration. Consequently, in № 902/835/17 the courts dismissed the action on the ground that there was no private law relationship between the parties and because of the ineffective method of defense chosen by the plaintiff. Again - **the claim was not considered by the court at all.**

The Current Practice of the PIT Payment

According to the results of the study, the problem of transferring personal income tax to the place of work of the employee is significant for not large number of companies. But one of them is one of the largest employers in the country. Although any funds not received from the PIT are important for the local budgets of individual communities, in general in the scope of the study - even among those companies that transfer part of the PIT not to the actual place of work of employees, the share of such employees is not significant. (exception, only two companies, which transfers 95% of PIT to the budget of the regional center, as described above).

Thus, the study allows us to identify two typical and one atypical model of PIT payment for its employees among Ukrainian companies. Typicality was determined based on the frequency of use of this model by employers.

The first model is the payment (transfer) of personal income tax at the place of actual work of the employee, regardless of whether the structural unit of the company in which he works is registered as a separate subdivision or not.

Among the companies and institutions we surveyed, **19 followed this practice.**

In particular, all 10 government agencies **that responded** to the survey transfer PIT for employees to the local budget of the community where their separate subdivision is located, regardless of the status of such a unit (legal entity or not, as well as the type of separate subdivision).

There are some exceptions to this practice in territorial communities (where the reorganization of the service structure continues), when a small number of employees work in one municipality, but are employees of another unit and PIT is paid there. There are also precedents where local authorities "turn a blind eye" to such non-payment if they benefit from the location of such public institutions, as they bring other revenues to the budget (e.g. administrative fees) than the PIT of several employees.

According to the same model, **2 public and 7 private companies and banks transfer personal income tax.**

In particular, according to the interlocutors of one of the companies, from April 2021 the company on its own initiative switched to the transfer of personal income tax for its employees not only in individual cities, but in the case of Kyiv - in certain areas where its separate subdivisions are located. To this end, the company has **registered 38 new separate subdivisions** in order to transfer PIT according to the location of such divisions.

Another company pays personal income tax to local budgets, taking into account the actual place of work of the employee - namely up to 17 STS offices in different regions of the country

+ 1 STS office at the place of registration of the company. And it does so even though the company does not have "separate" divisions.

An important nuance is that not in all settlements where the structural departments of the surveyed companies are represented, there are units of the State Tax Service. In particular, according to one of the companies, which has a staff of almost 60,000 people, works in 362 settlements - in 4 settlements there are no tax inspections, as a result of which the company cannot transfer personal income tax to these local budgets.

Among private companies of the first type there are certain exceptions to the payment of personal income tax. In several companies, it extends to support staff, such as security.

In one of the companies with a total number of employees over 3000 people, such an exception is employees who are not tied to a particular office (for example, IT professionals), who can live and work in any part of Ukraine (or even abroad)). For such specialists, personal income tax is paid at the place of registration of the legal entity. But this is rather a small exception, such specialists make up only about 2.5% of the total number of employees.

The second model is the payment of personal income tax at a place other than the place of actual work of employees.

This practice is much less common - **only 5 companies among the respondents have it.**

One large company with several thousand branches transfers more than 95% of PIT centrally, at the level of oblast divisions - that is, to the budget of the regional center in which such divisions are located. This was done in order not to fragment the administration of payments at the level of villages and small settlements.

Another company, which has about 30,000 employees, transfers PIT to the budgets of 127 communities, although it has several thousand separate subdivisions. This company has determined for itself that a separate subdivision is a group of smaller, "lower" branches located in the same community. Therefore, the funds are paid to the budgets of those settlements where these subdivisions are located.

The third company has a staff of over 600 employees, but the entire business is organized in the format of one legal entity. The company does not allocate its structural subdivisions as separate subdivisions, so it does not pay PIT for the respective employees according to the actual location of these separate subdivisions. The entire amount of PIT for all employees is paid to the budget where the main company is located - Kyiv (although most separate subdivisions are also located in Kyiv).

Another company transfers PIT to the budget where the parent company is registered. The company pays (transfers) personal income tax on employees at the actual location of the head office. According to the company's representatives, personal income tax for all employees is paid to the local budget, where the employer company is registered. The physical location of the company coincides with the legal address. Thus, virtually all PIT payments for more than 1,600 employees of the company are made to the budget of one territorial community (rural), in which the head office is registered.

The third model of PIT payment for employees was found only in one of the surveyed companies. This model is payment based on the actual place of residence of employees. According to the head of the company, the company took such a step to increase the loyalty of the leaders of the communities in which it operates. "We were asked about this by the local authorities. For us, as a company, it was not important in which budget to pay (transfer) personal income tax for employees - so we went to a meeting with local authorities, and pay at the place of actual residence of employees. It is extremely important for our industry to have good relations with local authorities", - the respondent explains. In turn, according to him, local authorities are making efforts to address security issues for this company. It should be emphasized that this method is illegal in accordance with current legal requirements. This is also another indication that the current legislation is not clear enough and this leads to its non-compliance by some tax agents.

In general, an important nuance of PIT payment is that private companies sometimes use PIT as a tool of "bargaining" with local authorities (as in the case of a company that transfers more than 95% to the budgets of regional centers).

According to the interlocutors in the companies, this approach is used to increase the motivation of local authorities to provide normal working conditions for company employees. For example, ensure the availability of heating, sanitation (availability of a working toilet in the room), or the availability of Internet access in public premises, which the company rents from local authorities to equip offices. According to one of the interlocutors, the problem for the company is the extremely low working conditions of employees, who depend on local authorities, and the unwillingness to go to a business meeting to solve these problems. That is why the transfer of personal income tax has become a powerful tool for the company to "negotiate" and increase the motivation of local authorities in this matter.

At the same time, all three types of companies (except government agencies) list the cases in which companies are still forced to transfer personal income tax at the place of registration of the central / regional office. These cases can be summarized as follows:

- personnel of management companies in which PIT for employees is paid at the place of registration of companies (which coincides with the location);
- end-to-end functions of the central office (security service, IT support);
- the nature of the employee's work is mobile.

Problems Faced by the Business when Changing the Transfer of PIT for Employees

The study asked companies two types of questions about possible changes in approaches to PIT transfer.

Those companies that currently do not fully pay (transfer) PIT at the place of actual work of employees, whose income is subject to this tax, were asked what prevents them from paying (transferring) PIT at the place of actual work of employees. Also, all private companies were asked under what conditions they could switch to PIT at the actual place of residence of employees.

The aggregate responses of the companies are as follows.

Regarding the transition to the payment (transfer) of personal income tax at the employee's place of work:

(1) Lack of sufficient IT capacity / readiness of IT systems for such accounting of employee data, and its connection with the formation of tax reporting. As a result - the need for significant additional costs for the organization of the process of payment (transfer) of personal income tax at the place of actual work of the employee. For the correct formation of payments (and later reports), companies will need to increase staff, which will increase the cost not only in terms of wages, but also in other parts (business trip to reconcile with the tax, etc.);

(2) Today, not all tax inspections can work with databases, because they do not have the technical support, trained human resources and skills to work with company representatives;

(3) Penalties imposed by the tax authorities for changing the place of payment of personal income tax per employee. Several companies reported that when transferring the payment of personal income tax to another territorial department of the State Tax Service (at the place of actual work of the employee), it is perceived negatively by the "previous" office of the State Tax Service, because each territorial department has its own plan to collect tax revenues PIT is accrued, it is perceived as a risk of shortfall by "previous" bodies of the State Tax Service. Therefore, if part of the current payments from one territorial office of the State Tax Service will be transferred to another, and this will reduce the amount of tax listed in the first, there is a risk that the pressure of this tax authority on the company may increase (additional checks).

(4) The problem of information processing by the State Tax Service / Treasury Service. According to the company, which has about 34,000 employees and transfers personal income tax to 127 local budgets, today it provides the tax authorities with all the necessary information on the payment of personal income tax by employees (by name). This information is already enough for the state to be able to distribute the tax as it sees fit.

(5) A particular problem for businesses is that in order to transfer PIT to a separate / new local budget, it (company – it's separate subdivision) must be registered with the relevant local tax authority. In fact, it is an unnecessary bureaucratic procedure that complicates the company's tax process.

(6) The problem of insufficient technical support of the authorities, in particular the problem of weak servers. One of the companies complains that reports for the State Tax Service and the Pension Fund are already being uploaded to state resources for several days.

(7) Some companies have the majority of divisions in the same city where the parent company is registered, so they do not see the expediency of organizing the transfer of personal income tax in a small percentage of their separate subdivisions in different areas of the same city;

According to the respondents, the introduction of PIT payment at the place of registration of the employee will lead to a significant increase in time spent on maintenance and transfer to the PIT budget, in particular:

- entering data on the place of registration of employees and its changes in the relevant software,
- formation of a much larger number of payment orders for the payment of personal income tax,
- control over such payments,
- the need to register at a non-core place of registration as a taxpayer in a large number of local tax authorities,
- verification with local tax inspections, etc.

Regarding the transition to the payment of personal income tax at the place of actual residence of the employee:

In addition to the factors listed above, several other factors are added to implement this approach.

(1) As we noted above, the legislators almost completely ignored the issue of the possibility / expediency of paying personal income tax for employees not at the place of their work, but at the place of their actual residence.

Throughout the history of changes in the legislation governing the payment (recalculation) of personal income tax, there has never been a valid legal act that would oblige to take into account the place of registration of the employee.

(2) In fact, the key factor is the lack of information from companies about the actual place of residence of the employee. Most companies report that they collect formal information about an employee's place of residence only at the time of hiring. After that, there are no formal tools for collecting relevant information about his place of residence from companies.

Moreover, after the legislative abolition of the institution of residence, the employee has the full right not to provide such information to the company. At the same time, an employee can be registered in one place (even a settlement) and actually live and, accordingly, work in

another; the employee may not notify / untimely notify the employer of the change of place of registration.

In case of transfer of PIT for an employee to the wrong address, the company as a tax agent will bear the risk of penalties. At the same time, it will not have any legal documents / levers to confirm its position. This is the most frequently mentioned reason for companies to oppose the introduction of PIT payment at the employee's actual place of residence.

Thus, the collection of information about the actual place of residence under current legislation will be a difficult task for companies to implement.

(3) The implementation of such an initiative will be difficult both in terms of time and in terms of financial costs. Today, HR forms and personnel systems are not technically ready to automatically recalculate PIT at the place of registration of the employee. To establish such reporting, businesses need to make significant investments.

If there is a need to collect data on the place of registration of employees on a regular basis, it will require the involvement of an additional employee in the personnel administration to process all the information. And even in this case, there will be difficulties, because some employees do not have direct access to human resources (for example, loan officers in stores). In the company, they communicate only with their supervisor.

As an example of the following time costs, one company cited a recent example of data collection for a new form for the Disability Fund's report: at the request of the Fund, the company collected data on the actual place of residence of employees for three months (in this case, it concerned only persons with disabilities, which is about 4% of the total).

In general, all surveyed private companies take the position that the state should independently distribute personal income tax between different budgets, based on the data provided to it by employers when calculating this tax.

The courts hold the same position in their decisions - the employer as a tax agent is obliged to fully comply with the statutory obligation to accrue, withhold and pay (transfer) personal income tax to the budget. The role of the state in the distribution of amounts paid to the relevant budgets is decisive - "Bodies of the State Treasury of Ukraine in the manner prescribed by the Budget Code of Ukraine distribute these funds in accordance with the norms of the Budget Code of Ukraine, and direct such allocated amounts to relevant local budgets". It is obvious that changing the approach to the distribution of PIT to local budgets on a different principle will require the improvement of IT management accounting systems, which will also remain the responsibility of the national government.

Recommendations for Reforming Approaches to the PIT Payment

The transition of companies to mandatory payment of personal income tax both at the place of actual work of the employee and at the place of his actual residence will require legislative changes, and time, and investment in IT infrastructure, both by employers and the state.

In the case of payment at the place of actual work of the employee, taking into account the above data, the following approach is optimal.

Companies now effectively have the choice of whether to credit the PIT payments of their employees to the local government in which they actually work, or to some other local government in which they do not work. In general, it seems that choices that companies make are driven by their IT and accounting systems: Companies whose IT and accounting systems make it easy to direct the PIT payments of all employees to the local governments in which they actually work, do so. But companies without these capacities do not. In addition, and independent of the issue of accounting systems, companies also tend to attribute the PIT payments of employees who work for the 'whole company' to their head offices, independent of where these employees are actually located, at an employee's actual place of employment or, how they approach it depends primarily on the level of development of the company's IT support, as well as the time investment of HR and accounting departments.

The task of companies is to have an internal accounting system that will inform the state about where their employees live / work - and therefore where exactly the state should transfer PIT (to which community to transfer).

In order to facilitate the collection of such information, companies could collect from employees not the full address of physical residence, but only the code of the administrative-territorial unit in which the employee resides (for example, COATUU).

In turn, companies should send information to the authorities on the payment of personal income tax for each employee, along with information on the community in which the employee works and the community in which the employee lives (not the residence permit, but the place of actual residence).

Therefore, the dissemination of this practice to all employers will mean the need for additional investment by all companies that do not yet follow this practice.

At the same time, the function of PIT distribution between local budgets, based on the actual place of work / residence of the employee should not be on the company, but on the state, through the use of IT tools of the State Tax Service, State Treasury, etc.

The question is whether the government and its tax authorities have sufficient capacity for their IT systems to properly distribute PIT payments between local budgets, depending on the actual place of work of the employee for whom the employer transferred PIT. The answer to this question is, we know, that government currently does not have this capacity.

To facilitate this process, certain classification codes may be added to the tax returns submitted by companies when paying personal income tax (for example, the COATUU for which the employee actually works / lives). Thus, employers will provide the state with all the data, but the state will be the leader in the process of collecting and distributing PIT between budgets. Alternatively, some companies are proposing to create a single state base in which individual tax codes and addresses of actual residence would be compared.

Relevant changes should also be recorded at the level of the Tax Code. At the same time, the Tax Code should eliminate the conflict that allows employers to freely interpret the concept of "separate subdivisions", and thus - to choose the method of payment of personal income tax per employee.

It is also advisable to consider imposing measures of influence at the legislative level (eg, penalties) on companies that do not comply with the requirements of the Tax Code, without registering their units as a taxpayer in the relevant territory at their location.

Otherwise, the introduction of PIT payment at the place of registration of the employee will lead to a significant increase in time and administrative burden on employers (for data on the place of registration of employees and its change in the relevant software, the formation of much more payment orders for PIT and control over such payments, the need to register at a non-core place of registration as a payer of individual taxes in a large number of local tax authorities, verification with local tax inspections, etc.).

In case of introduction of the norm on obligatory payment (transfer) of personal income tax on the employee's income at the place of his actual residence, the following should be added to the above:

At the legislative level, it is necessary to oblige the employee to inform the employer about his current place of residence.

A general register of individuals should be established to reflect their place of registration / actual residence within the tax service, linking to their TAX ID number

At the same time, companies should not be responsible for whether a citizen has correctly provided information about their place of residence / work

The state must also ensure that there are no penalties for a sufficient transitional period, until the approach is fully and universally implemented, according to which personal income tax is paid at the employee's place of residence.

New forms of interaction between the state and business should include digital automation of administrative tasks that have traditionally belonged to the competence of the employer, such as collecting contributions, remittances to the institution or tax authority, record keeping and compliance with reporting requirements. This is evidenced by the positive experience of other countries - the collection of contributions through platforms has been successfully introduced in some countries on a voluntary basis, such as Singapore, where through electronic tools contributions are transferred to social insurance institutions. In France, digital platforms can generate income tax returns and transfer contributions to social security bodies. In Switzerland, the platforms can automatically transfer social contributions and taxes to the relevant government agencies.

Annexes

Annex 1. The History of the Legislation Governing the Allocation of the Personal Income Tax

The first law that regulated the issue of crediting personal income tax was the Law of the Ukrainian SSR of December 5, 1990 "**On the Budget System of Ukraine**". At that time, the "income tax" was used in the tax system, which was later transformed into a personal income tax (PIT). Income tax was levied on all types of income of citizens - including income received in kind; **income from business and other activities** (later this part of the income began to be taxed by a special local tax - a single tax), etc.

The income tax on all citizens living in the territory of the local council, as well as the tax on the wage fund of collective farmers **was credited in full to the local budget**. The decision to "**delimit**" the tax between the regional budget and the budgets of districts and cities was **determined by the regional, Kyiv and Sevastopol city councils; and regarding the delimitation between city, district, settlement and village budgets - the city (city of regional subordination), district council**.

In July 1991, the Law of the Ukrainian SSR of July 5, 1991 "On Income Tax on Citizens of Ukraine, Foreign Citizens and Stateless Persons" was adopted. This law supplemented the norm on income tax by the fact that employers were named tax agents for accrual, withholding and transfer to the budget of income tax; entrepreneurs; and "other citizens who pay wages and other remuneration in cash and in kind to their employees."

On October 8, 1991, in the new version of the Law of Ukraine "On the Budget System of Ukraine", a norm was added that **payments of enterprises are made to the budget at the location of enterprises, their branches, other structural units and subdivisions. At the same time, the distribution of payments of enterprises that have branches in this area is made in proportion to the share of their employees in the total number of employees at the enterprise**.

Thus, the legislators tried to oblige companies **to distribute income tax in proportion to the share of their employees in the total number of employees**. For example, if an enterprise with its head office in Kyiv employed 100 people, of which 20 worked in a branch in the village, then 20% of the income tax of such an enterprise went to local budgets, on which the village depends - district and regional (but not rural). How much to the district budget, and how much to the regional - decided the regional council.

Obviously, this was **the easiest way to "fairly" distribute the tax between local budgets**, because at that time neither the state nor enterprises had enough data, as well as the technical capacity (accounting system) to ensure that the transfer of PIT is carried out by the enterprise, for each individual employee in the budget of the community in which he actually lives / works.

In December 1992, the **Decree of the Cabinet of Ministers of Ukraine “On Personal Income Tax”** was adopted, which clarified the procedure for paying personal income tax. According to this Decree, if citizens had income other than that they received at their main place of work, they had to file an annual return with the tax authorities on the amount of total income received at both their main and non-main place of work. But it was not the recipient citizens themselves who had to transfer the income tax on these incomes, but the business entities that paid them such incomes (!). At the same time, the Decree does not specify to which local budget this tax should be transferred - the budget where the company is registered, or the budget where the citizen lives / works.

In 1995, the Law “On the Budget System of Ukraine” introduced a norm that the personal income tax goes to the budgets of oblasts, rayons, cities of oblast significance, rayons in cities, as well as cities of settlements and villages. The proportions of distribution **between the budgets of different levels are set by the relevant local councils of the higher level**, taking into account the "economic, social, environmental and natural state" of the respective districts and settlements. At the same time, only for district budgets the lower limit of such enrollment was set - "not less than 50%". At the same time, the norm disappears that "The distribution of payments of enterprises that have branches in this area is carried out in proportion to the share of their employees in the total number of employees in the enterprise."

In 2001, **the Budget Code was adopted. Article 64 of the Budget Code fixes the income tax on revenues that are assigned to local government budgets** and are taken into account when determining the amount of inter-budget transfers.

Article 65 of the Code stipulated that the budget revenues of the cities of Kyiv and Sevastopol include 100% of the personal income tax paid on the territory of these cities; to the budgets of cities of republic (in the Autonomous Republic of Crimea) and regional significance - 75%; for cities of district significance, villages, settlements or their associations - 25%. Respectively, the rest went to regional (25%) and district (50%) budgets. For example, for the city of Drohobych (a city of regional significance, ie not part of the district) 75% of PIT went to the city budget, 25% regional. Together - 100%. For the city of Brody (or any other ordinary city, town or village): 25% - city budget, 50% - district budget, 25% regional. Together - 100%.

Thus, **the entire amount of income tax went to local budgets. There was no norm on proportional distribution in the context of the number of employees in separate subdivisions.**

In 2003, the Verkhovna Rada adopted a **separate law "On Personal Income Tax". According to the norms of this law, instead of the income tax (“prybutkovyi podatok”) in the tax system there is a separate tax - the personal income tax.** In essence, it is a similar tax, but now the law has better described who is the taxpayer (in particular, the term "resident" appears for tax purposes); which is subject to taxation; instead of a complex system of progressive rates + separate rates for exceeding income limits, a single tax rate of 13 was introduced, and later - 15%. As well as for certain types of income, such as dividends, royalties, etc., separate tax rates are introduced).

There is also **an answer to the question of how the structural divisions of enterprises should transfer personal income tax**. The Law "On Personal Income Tax" tax extended to all legal entities, including those that had separate subdivisions located in a territory other than the company's head office - as those who are **authorized** to pay (transfer) personal income tax for employees to the local budget, where they are located ("authorized units") and those who are **not authorized** (in this case, the parent company has to accrue and pay (transfer) PIT for these employees).

The amount of tax to be transferred to the local budget at the location of authorized units **was determined by him or a legal entity based on the total number of citizens working in these units and the amount of paid (accrued) taxable income**. Thus, the obligation of the enterprise, which has separate subdivisions, to pay PIT for the employees who work in them to the relevant local budgets was implemented. Control over the correctness and timeliness of tax payment was carried out by the tax authority, and the responsibility for the timely and complete transfer of tax amounts to the relevant local budget was borne by the legal entity (or its authorized department) that accrued and paid taxable income.

A similar norm is added almost synchronously to the Budget Code of Ukraine - from January 1, 2004 the personal income tax paid by a legal entity (employer) is credited to the relevant local budget **at its location and the location of its subdivisions, authorized subdivisions in the amount of tax accrued for employees of these units**.

In addition, in 2003, a law was issued on the state registration of economic entities, in which **the legislator tried to oblige companies to pay taxes at the actual place of work of the unit - the tax inspectorate at its location**.

For this purpose, the law introduced the definition of separate subdivisions - *"a separate subdivision of a legal entity is a branch, another unit of a legal entity located outside its location and produces products, performs works or operations, provides services in a single closed technological process with a legal entity, or representation representing and protecting the interests of a legal entity"*.

However, despite the rather detailed definition, companies interpreted it differently, and the tax service could not effectively ensure strict compliance with this rule. As a result, enterprises still did not always register their structural subdivisions in the regions appropriately. They didn't because that is not they way their accounting systems worked.

In July 2010, a new version of the Budget Code of Ukraine was adopted, in which the main definitions were somewhat reformulated, but no conceptual changes took place. Thus, Article 64 stated that personal income tax paid by a **tax agent-legal entity** or a representative office of a non-resident is credited to the relevant local budget at their location in the amount of tax charged to their employees.

On January 1, 2011, the new Tax Code of Ukraine also came into force. At the same time, until May 24, 2012, for the purposes of PIT payment, the term "separate subdivisions" was used **in the meaning used in the Civil Code**. According to the current rules, **"separate subdivisions" were not treated as separate legal entities**, so they were not necessarily separate tax agents for employees who work there, and therefore the company was able to

transfer personal income tax to the budgets of territories other than those where such units. In addition, **only branches and representative offices** were mentioned as separate subdivisions, which allowed to freely interpret other variants of "subdivisions" (production, branch, precinct, management, etc.)

But after May 2012, amendments to the TCU came into force, according to which for issues related to the payment of personal income tax, the term "**separate subdivisions**" was used in the meaning defined by the **Commercial Code of Ukraine**.

The Commercial Code more broadly described the concept of separate units. According to him, - "the company has the right to create branches, representative offices, offices and **other separate subdivisions**." Thus, the interpretation of such units was expanded - and, consequently, **the list of cases in which legal entities, in theory, were obliged to transfer personal income tax to the budgets where their structural units are located**.

In essence, this is an example of how the state can solve its own problems at the expense of business. Changes in the interpretation of the concept of "separate subdivisions" for the purposes of personal income tax have obliged businesses to transfer the tax for their employees to the appropriate local budgets at the location of such units. But still, businesses were not ready for this in terms of accounting and IT systems. As a result, businesses continued to look for loopholes to circumvent such requirements.

Therefore, in fact, companies chose for themselves - whether to organize the transfer of PIT centrally (considering all their regional units as part of the parent company, not separate subdivisions) or transfer it to all their structural units (which incurs additional financial costs for field maintenance, as well as potential risks of the company violating tax laws due to less control by the head office). For example, this created cases where, if a company had a shop in a village, the head office could not consider it a branch, representative office, branch, or even another separate subdivision, but consider such a shop simply part of the company, with a place of registration elsewhere.

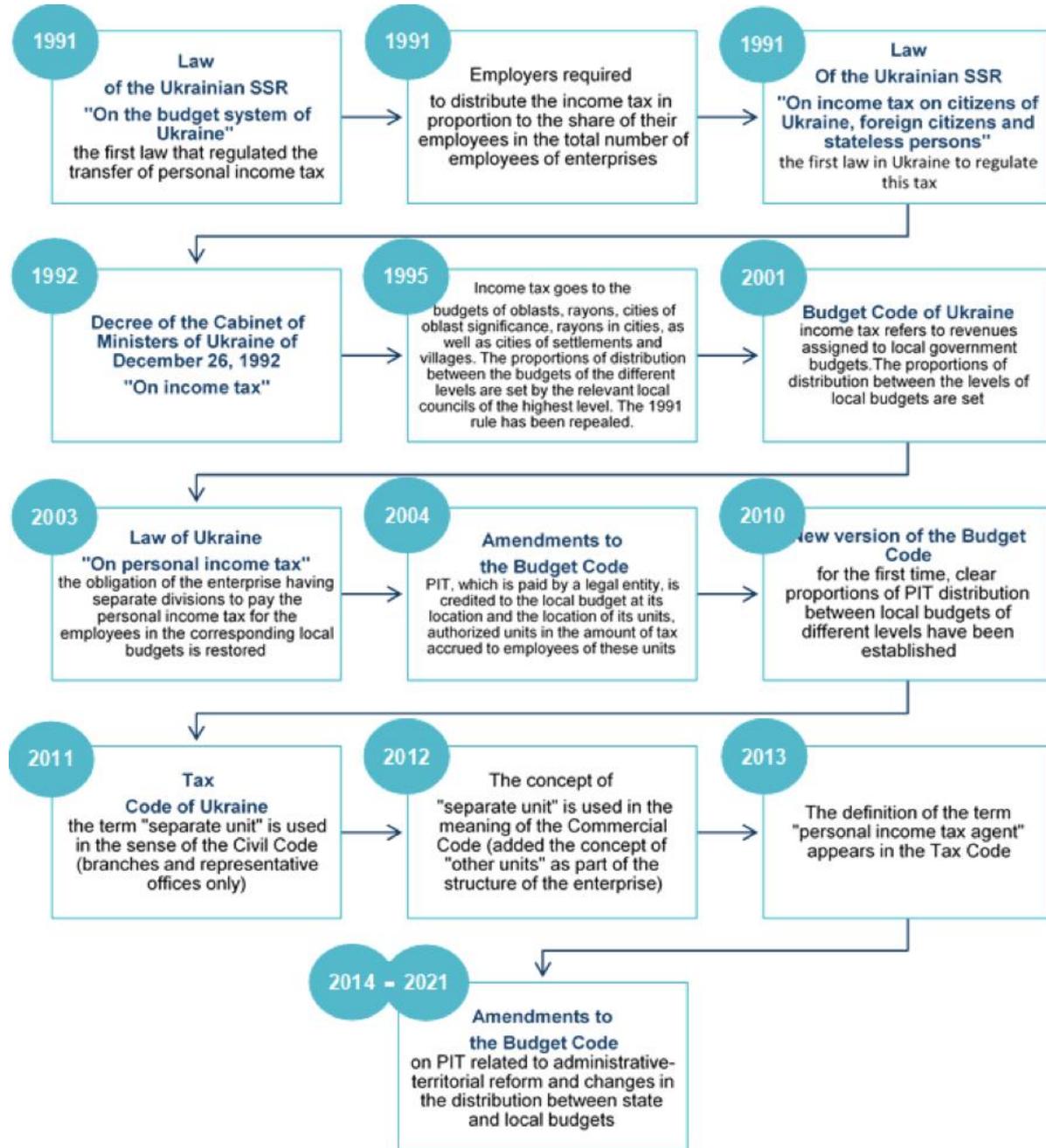
As of April 1, 2013, **the definition of the term "personal income tax agent" appears in the Tax Code**. It emphasizes once again that an enterprise with separate subdivisions, regardless of their status, was obliged to pay personal income tax to the appropriate budgets.

After 2014, changes in the PIT Budget Code concerned administrative-territorial reform and changes in the distribution between state and local budgets - 60% to the budgets of cities of regional significance, district budgets and OTG budgets (40% to the budget of Kyiv, 100% of Sevastopol), 15 % to regional budgets and 25% to the state budget (instead of what was before - 25% - village, town, city, 50% - district; 25% - region).

From January 1, 2016, the definition of "separate subdivision", after some legislative "wanderings", was removed from the relevant legislation, which in practice, removed the obligation of companies to transfer personal income tax for their employees to the budgets of the territories where they actually work, i.e. removed the obligation of companies to distribute personal income tax, which is essentially the responsibility of the state

From 2021, after the completion of the next stage of the reform, 60% of PIT began to go to the budgets of territorial communities of villages, settlements and cities. There were no changes regarding the approaches to taxation of separate subdivisions.

Fig. 2. Legislation Governing the Allocation of the Personal Income Tax



Annex 2. The Volumes of PIT Payment in Terms of Regions and Industries

Personal income tax is a national tax levied on the income of individuals (residents) and non-residents who receive income from their sources of origin in Ukraine. The Tax Code of Ukraine contains a separate section (Section IV) entitled "Personal Income Tax" (Articles 162-179).

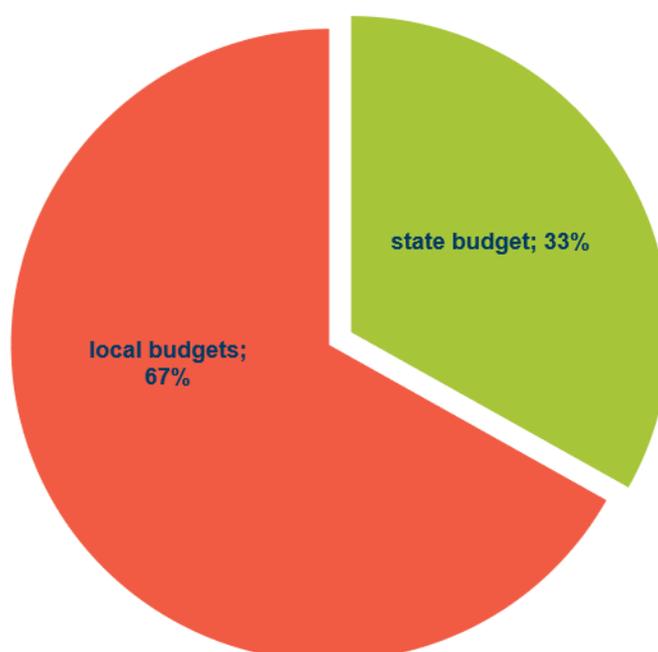
The object of taxation of citizens is: total monthly (annual) taxable income; income from the source of their origin in Ukraine, which is finally taxed at the time of their accrual (payment, provision); foreign income - income (profit) received from sources outside Ukraine.

The basic tax rate is 18 percent of the tax base on income accrued (paid, provided) including, but not exclusively in the form of: wages, other incentive and compensation payments or other payments and remunerations accrued (paid, provided) to the payer in connection with labor relations and under civil law contracts.

According to the Budget Code, 60% of PIT goes to the budgets of territorial communities of villages, settlements and cities (40% to the budget of Kyiv, 100% of Sevastopol), 15% to oblast's budgets and 25% to the state budget.

In 2020, UAH 295.1 billion was paid to the consolidated budget of Ukraine. personal income tax. Of these, UAH 233.87 billion is the personal income tax paid by tax agents on the taxpayer's income in the form of wages (the level of implementation of the revised targets is 143.79%). The state budget received UAH 74.25 billion, and local budgets UAH 149.62 billion.

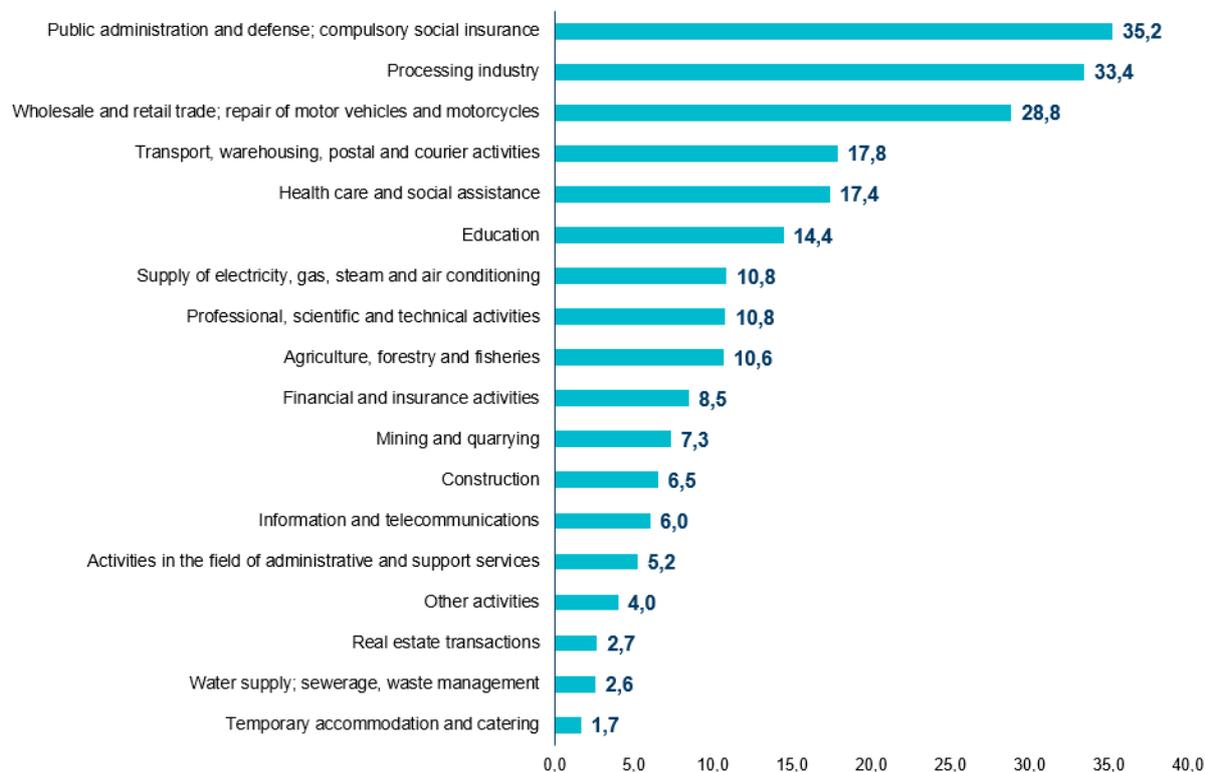
Fig. 3. Share of personal income tax (in terms of personal income tax paid by tax agents on the taxpayer's income in the form of wages) in the consolidated budget of Ukraine in 2020



In terms of economic activities, the largest amount of personal income tax on wages was paid in public administration and defense (UAH 35.23 billion). In second place is the processing

industry - UAH 33.44 billion, and in third place - wholesale and retail trade, repair of motor vehicles and motorcycles - UAH 28.85 billion (see fig. 3).

Fig. 4. Volume of PIT paid* in terms of industries in 2020, UAH billion



**in terms of personal income tax paid by tax agents from income of the taxpayer in the form of wages*

Source: STS data

In terms of oblasts, the largest amount of personal income tax was paid in Kyiv (UAH 32.24 billion), as this is where the main center of business activity in the country is located. This is also due to the fact that most companies are registered in the capital and those of them who have not registered their territorial divisions as a separate division in the tax authorities at their location, pay personal income tax for all their employees, regardless of where in Ukraine, they are actually working. In the Dnipropetrovsk region, personal income tax in the amount of UAH 18.32 billion was paid, and in the Kharkiv region - UAH 11.82 billion.

Table 1. The amount of PIT paid* in terms of regions (according to the regions codes of the STS) in 2020, billion UAH

STS Region Code	Region Name	The amount of PIT, billion UAH
26	Kyiv city	32,24
4	Dnipropetrovsk	18,32
20	Kharkivska	11,82
10	Kyivska	11,77
5	Donetsk	11,23
13	Lviv	11,05
15	Odesa	9,64
16	Poltava	8,21
8	Zaporizhia	7,25
2	Vinnytsia	6,88
14	Nikolaev	5,26
23	Cherkasy	5,26
6	Zhytomyrska	5,14
22	Khmelnitsky	5,12
9	Ivano-Frankivsk	4,92
18	Sumska	4,76
17	Rivne region	4,57
25	Chernigovskaya	4,26
11	Kirovohrad	4,11
7	Zakarpattia	4,06
3	Volyn	3,96
21	Kherson	3,73
19	Ternopil'ska	3,57
12	Lugansk	2,83
24	Chernivtsi	2,64
2810	Central office	31,26
Total		223,87

**in terms of personal income tax paid by tax agents from income of the taxpayer in the form of wages*

Source: STS data

Annex 3. The position of the tax authorities

The bodies of the State Tax Service (STS) consistently **defend the position of the need to pay personal income tax for employees in separate subdivisions in the appropriate local budgets for the location of such units**. Moreover, as mentioned before, there were lawsuits on this issue, which, however, ended in victory for taxpayers.

The State Tax Service notes in its position that in accordance with the Tax Code of Ukraine (TCU) for tax control taxpayers are subject to registration or registration with regulatory authorities at the location of legal entities, separate subdivisions of legal entities, place of residence (main place of registration), and also by the location (registration) of their subdivisions, movable and immovable property, objects of taxation or objects that are related to taxation or through which the activity is carried out (non-main place of accounting).

According to the Tax Code, registration at the main place of registration of legal entities as payers of taxes and fees in regulatory authorities and amendments to accounting data are carried out on the basis of information from the Unified State Register of Legal Entities, Individuals - Entrepreneurs and Public Associations (EDRPOU). State registration and other registration actions are carried out on the basis of documents submitted by the applicant for state registration and court decisions that have entered into force and entail a change of information in the Unified State Register. Information from the Unified State Register contains, in particular, information on the location of legal entities.

According to the Civil Code of Ukraine, the **location of a legal entity is the actual place of business or location of the office from which the day-to-day management of the legal entity** (mainly management) and management and accounting.

At the same time, according to the Tax Code, the term “separate subdivisions” is used in the meaning established for Section IV of the TCU (section on PIT) in the definition of the Commercial Code of Ukraine. According to the Commercial Code, an enterprise may consist of production structural subdivisions (productions, shops, departments, divisions, brigades, bureaus, laboratories, etc.), as well as functional structural subdivisions of the management staff (departments, divisions, bureaus, services, etc.). The enterprise has the right to create branches, representative offices, branches and other separate subdivisions, agreeing on the location of such subdivisions with the relevant local governments in the manner prescribed by law. **Such separate subdivisions do not have the status of a legal entity** and operate on the basis of the regulations on them approved by the enterprise. Businesses can open accounts in banking institutions through their separate subdivisions in accordance with the law.

Objects of taxation and objects related to taxation are property and actions in connection with which the taxpayer has obligations to pay taxes and fees. Such objects for each type of tax and fee are determined in accordance with the relevant section of the TCU. The procedure for accounting for objects of taxation and objects related to taxation is determined by Section VIII of the Procedure for Accounting for Taxpayers and Fees (hereinafter - the Procedure). Clause 8.1 of the Procedure stipulates that the taxpayer is obliged to report all objects of taxation and

objects related to taxation to the controlling body at the main place of registration in accordance with the procedure established by Section VIII of the Procedure.

In accordance with the Procedure, notifications on taxable objects or objects related to taxation, or through which activities are carried out, on the form № 20-OPP **is submitted within 10 working days after their registration**, creation or opening to the controlling body at the main place taxpayer accounting. Notifications on the form №20-OPP must be submitted by all taxpayers - both legal entities and individuals - entrepreneurs in the presence, occurrence, change of the type of object of taxation. The main purpose of the introduction of the form №20-OPP is to obtain from taxpayers information about all available property objects, their location, movement and the state in which they are actually: used, temporarily not used, not used.

At the same time, the tax withheld from the income of residents and non-residents is credited to the budget in accordance with the Budget Code of Ukraine. According to the Budget Code, **personal income tax paid (transferred) by a tax agent - legal entity (its branch, office, other separate subdivisions) or a representative office of a non-resident - legal entity, is credited to the relevant budget at their location (location)** in the amount accrued on income paid to an individual.

The amounts of personal income tax accrued by a separate subdivision in favor of natural persons for the reporting period are transferred to the relevant budget at the location of such a separate subdivision. If a separate subdivision is not authorized to accrue (pay) personal income tax for such a separate subdivision, all duties of a tax agent are performed by a legal entity. **Income tax accrued to employees of a separate subdivision is transferred to the local budget at the location of such a separate subdivision.**

At the same time, **liability in the form of application of penalties to the taxpayer is provided by the norms of the TCU only in case of non-accrual, non-deduction and non-payment (transfer) of taxes to the sources of payment.**

The issue of payment of the **share of personal income tax in the budgets of settlements where employees have registration of residence (registration)** is not commented by the tax authorities, as it is not currently in the legal field.