ANALYSIS OF UTILIZING TREASURY BILLS FOR VAT REFUNDING IN UKRAINE

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Abstract. The paper analyzes changes in the procedure of VAT refunding and provides a description of such changes. The main objective of the paper is to study the mechanism of VAT refunding in Ukraine through financial treasury bills that was introduced in 2013 and extended in 2014. The basic method of writing the article was an analysis of the legal and regulatory framework, as well as trend analysis of amounts of VAT refunding in Ukraine. As a result of the study, it was found that during 2013 the competent authorities have not received any requests from payers for the VAT refunding with treasury bills. Refunding was carried out in the stated amounts and on time. We made a conclusion that in case of the effective control over the VAT refunding and responsible attitude to this process of taxpayers and tax authorities, using financial treasury bills is not appropriate.

Keywords: treasury bills, VAT refund, Ukraine, VAT, financial treasury bills, finance, tax, taxation.

Introduction

The Value Added Tax (hereinafter - VAT) is one of the most common taxes used in foreign countries. It is characterized by a long history and a large number of scientific works provided by economists in this area. Nevertheless, the tax administrating has a number of problems, one of which is the VAT refunding.

Currently, the VAT is the only tax which according to certain legislation norms can be refunded or returned to companies at the expense of the State Budget. Simultaneously, by using the VAT refunding mechanism, the government is trying to enforce its performance deficit or surplus and achieve the optimal use of financial resources. However, there are cases of unjustified VAT refunding by using illegal schemes, which can lead to the appearance of a lack of funds used for a VAT refund. In such cases, to meet the interests of the state and taxpayers, the government may use financial treasury bills.

The purpose of this paper is to analyze the changes in the VAT refunding mechanism introduced through legal acts, as well as the issuance, circulation, accounting and paying treasury bills. Also, we have a purpose to evaluate the dynamics of the VAT refunding in Ukraine. Since this mechanism of the VAT refunding have never been used in Ukraine, then detailed scientific works on the topic are absent except for review articles.

We selected an analysis to be a main method of research. It included an analysis of the legal framework and trend analysis of amounts of refunded VAT.

Results

According to the Tax Code of Ukraine (hereinafter - TCU), a budget refund is a repayment of VAT negative value based on the confirmation of the legality of the amounts of VAT refund received through the examination of the payer, including an automatic refund consistent with the procedure and criteria set out in section V of the TCU.

A taxpayer who made a decision to get a certain amount of the VAT refund (and is entitled to it) submits to the fiscal authority a statement about it and a tax declaration confirming the needed amount.

The mechanism of the VAT refunding has been changed for the entire period of its use. Consider the procedure of VAT refunding in each period and focus on the last one related to the introduction of the TCU:

1. The first stage: the Law of Ukraine "The Value Added Tax" of 20 December, 1991. The amount of tax payable is the amount of tax received from customers less the amount of tax paid to suppliers. If the value is negative, it is counted against the regular payments or reimbursed from general inflows of taxes this month but until the 15th of the month following the reporting period.
2. The second stage: the Decree of the Cabinet of Ministers of Ukraine "The Value Added Tax" of 26 December, 1992. The amount of tax payable is the amount of tax received from customers less the amount of tax paid or payable to suppliers. If the value is negative, it will not be compensated from the budget, except for special cases.

3. The third stage: the Law of Ukraine "The Value Added Tax" of April 3, 1997. The amount of tax payable is the amount of tax liability less the tax credit of the reporting period. If the net amount is negative, it is included in the repayment of an existing tax debt, and in case of the absence of the latter, it is included in the amount of the tax credit of the next tax period.

4. The fourth stage: The Law of Ukraine "Amendments to Certain Legislative Acts of Ukraine" of May 20, 2010. It is prohibited to include a part of the negative value in the tax credit of each subsequent fiscal period if a recipient did not pay it to suppliers for goods and services.

5. The fifth stage: Tax Code of Ukraine as of December 2, 2010. The amount of tax payable is the amount of tax liability less the tax credit of the tax reporting period. If the net amount is negative, it is included in the repayment of an existing tax debt. In the absence of the latter, it is included in the amount of the tax credit of the next tax period. Also, it was introduced the automatic refunding.

After the adoption of the Tax Code, there were several changes in the VAT refunding mechanism. In 2012-2013 a number of legal acts that made it possible to finance the VAT refund by means of treasury bills was issued.

The first act that made changes to the Tax Code in the field of the VAT refunds was the Law of Ukraine No. 5519 of 12.06.2012 "Amendments to the Tax Code of Ukraine regarding further improvement of the administration of taxes and fees". It allowed repaying certain budget expenditures and budget debt, including debt on VAT refunds, by means of treasury bills.

Also, it is worth reminding the Law of Ukraine No. 5518 of 12.06.2012. "Amendments to some legislative acts on the further improvement of the administration of taxes and fees" provided the Cabinet of Ministers of Ukraine and the National Bank with the right to determine the order of circulation, accounting and financial calculations with the use of treasury bills.

In August 3, 2013, the Law of Ukraine No. 407-VII «Amendments to the Tax Code of Ukraine and other laws of Ukraine regarding the treasury bills" which amends the TCU for improving the procedure of issuing financial bills was introduced.

Temporarily, until January 1, 2014, the taxpayer was entitled to get VAT refund voluntarily in the form of financial treasury bills.

The order of issuance, circulation, payment and collection of financial bills for those bills issued by the central executive body that services treasury budget was approved by the Cabinet of Ministers of Ukraine in 08.21.2013 No. 683, which was published in 21.09.2013.

The approved procedure determines the use of financial treasury bills for the following operations:

1) Restructuration of the actual budget debt, which was formed on January 1, 2013, taking into account the state of repayment in terms of:
   - Budget payables and budget debts appeared due to the difference in tariffs on heating, water supplying and waste utilizing, as services for population, caused by inconsistency between actual price of above mentioned services and tariffs approved by the governmental authorities;
   - Budgets liabilities of recipients of budget funds;

2) VAT repayments by means of budgetary funds in case of the conclusion of the appropriate body on taxes and fees. However, they must have been stated before as those appropriate for refunding but not yet refunded as of the reporting date. Besides, a taxpayer should have submitted a statement to the governmental body about its willingness to get refunding in treasury bills.

The resolution No. 683 should be considered inseparable from another resolution of the Cabinet of Ministers of Ukraine, namely No. 41 of January 29, 2014 "Amendments to the resolution of the Cabinet of Ministers of Ukraine of August 21, 2013, No. 683". It extended the period of issuing bills for another year.

When considering the characteristics of the VAT refunds by means of using financial treasury bills, we should mention the Article 45 and its point 6 in the Budget Code. This point states that it is prohibited to carry out financial calculations with the budget in the nonmonetary form including offset, treasury bills, barter operations and counter payment requirements accepted by financial institutions except for operations concerning the budget debt and cases described by the law "The State Budget of Ukraine".
Consequently, the right to carry out a payment of any monetary obligation agreed to be paid to the State Budget of Ukraine by means of financial treasury bills should be provided in the annual State Budget Law of Ukraine.

The issuance of the treasury bills is equivalent to the tax refunds in the form of transfers from the budget account to the taxpayer. In other words, taxpayers will be able to determine in what form to receive refund: money or bills. It should be noted in the taxpayer’s application. The repayment by bills will be based on a voluntary basis. However, it will not be extended to the automatic mode.

The Treasury authorized bodies issue treasury bills to the VAT payers on the basis of their applications containing the previously chosen form of refunding and conclusion of special governmental authority on exact VAT amounts needed to be refunded through treasury bills. However, the entire amount of refunding must not exceed 500 thousands Ukrainian grivnas, the taxpayer is not prosecuted for the failure to pay such tax and any administrative appellations were closed.

On the request of the first holder of a bill, if its amount exceeds 1 million Ukrainian grivnas, the Treasury authority may issue a bill of lower nominal without changing a term of payment. Thus, the VAT amount that should be repaid through treasury bills is not to be less than 5 million grivnas and the nominal of bill cannot be less than 100 thousands.

Handing the right to have a treasury bill is confirmed by an endorsement, which should be nonreversible. In case of e-document, an endorser makes a record “without a reverse” before signature. The holder of bills makes the endorsement through an operator according to the order of e-circulation of financial bills.

The register of bills is held by the State Treasury Service of Ukraine. Term of circulation is limited to 5 years, and the yield on the bill is limited to 5% annually. A payment of interest on bills will be at the time of invoicing the Treasury authority conducting budget operations.

The amount of VAT to be recovered from the budget by issuing financial treasury bills is divided into equal parts, each of which appears to be a separate financial treasury bill with a term of payment of one, two, three, four and five years.

The taxpayer has the right to pay the amount of any agreed liability, which is paid to the state budget, by applying treasury bills (not earlier than it is defined in the bill).

The positive difference between the amount of the agreed tax liability that the taxpayer wishes to pay by means of the bill, and the amount of the bill he or she will pay additionally by cash. The negative difference may be covered by cash paid to a taxpayer or with new treasury bills.

If we consider the advantages for the state and taxpayers they gain from issuing treasury bills, we can draw the following conclusions:

1. Bonds will be automatically included in the public debt, and the amount of debt each year is strictly limited by the budget law. In turn, financial bills could not be considered as the national debt and, therefore, they might be omitted according to the requirements.

2. The advantage of using government securities for the company is that the income from them is not included in the tax base calculated for paying income taxes. If the company has excess liquidity, it probably would have been profitable and keep it in government securities rather than their bank accounts. However, during a recession, the government, by contrast, would be interested to prevent companies from buying securities.

For most businesses of Ukraine, the VAT refunding has always been a challenge. In 2010, due to a chronic state budget deficit, the government has already repaid its debts on the VAT to businesses by issuing government securities. Then, the so-called VAT bonds helped Ukrainian enterprises transform the problem state debt in current assets and contributed to the growth of the economy.

The practice of repayment by means of state bills and bonds is a common in the world and not unique invention of Ukraine. It is quite successful as a measure of flooding the economy with working capital and reducing a short-term government debt.

In general, the effect should be similar to those that had VAT bonds in 2010. The repayment of VAT bills should provide business with working capital and revive the economy. The price of such a possibility is the loss of some of the debt as treasury bills, as well as VAT-bonds, will be sold at a discount.

The attractiveness of treasury bills will depend primarily on the level of discount at which the business can sell them. The law allowed paying obligations under other taxes by means of the bills. VAT bonds did not
provide such a possibility. Therefore, in our opinion, companies will sell treasury bills even at higher prices than their previous analogue could be sold.

The new way of the VAT repayment is considered even despite the fact that last year refunded amounts exceeded total businesses requirements by 2.7 billion grivnas. Besides, half of that amount was repaid automatically.

Remind that in 2012 in Ukraine, the VAT repayments increased by 7.4% (UA 3.2 bn) to UA 49.2 bn against to UA 46 bn in 2011 (Fig. 1). As the State Tax Service informs, companies with foreign investments received UA 19 bn of repayments in 2012. Herewith, UA 14.7 bn were paid in cash while UA 8.1 bn – automatically. The amount of taxes paid by companies with foreign investments increased to UA 54.2 bn in 2012 against to UA 50 bn in 2011. Also, in 2012, VAT taxes paid were about UA 82.9 bn with the increase by UA13.5 bn against to 2011 [13].

*In 2010, UA 16.4 bn of VAT debts of previous years were refunded due to emission of OISD included into the special fund of the state budget in consistency with the Article 25 of the law regulating the budget*

**Fig.1. VAT Repayments from the State Budget of Ukraine in 2007 – 2013**

In 2013, entrepreneurs of Ukraine were returned UA 53.4 bn of VAT taxes inclined by 16.3% compared to 2012. According the Ministry, in 2013, taxpayers were refunded the amount increased by UA 3.5 bn against to that of required. In 2012, companies were repaid UA 46 bn that went up by UA 2.7 bn compared to the required amount.

**Discussion**

At present, VAT is one of the most controversial taxes because of the significant problems in its collection. Thus, it can be changed from a budget inflow to a budget outflow. Before the adoption of the Tax Code, VAT refund procedure was not sufficiently regulated, resulting in a delay of funds, and hence to a decline in the economy. For 22 years, VAT refunding mechanism was changed 5 times. Particularly, it was affected by the implementation of the TCU, which initiated an automatic refund.

In 2013, the adopted regulatory acts identified a possibility of VAT refunding by financial treasury bills. Within a year, taxpayers did not submit any application for the use of this mechanism. The analysis showed that the use of bills is not always acceptable, because during the economic downturn businesses need money, which bills cannot provide. As for the trend analysis, the VAT refund amounts grow each year. At the end of 2013, the debts of tax refunds were absent, and therefore, there were no needs to issue promissory notes.

Based on the above, it can be concluded that the financial treasury bill, as a tool for the VAT refund, is acceptable for use, but in some cases the VAT return should be made by cash.
References:


