

## LEGAL ASPECTS OF SUPPORTING SEAMANTS IN UKRAINE

**Sopilnyak V.G., O. V. Kostirya, Candidate of Law, Associate Professor  
(NU «OMA»)**

One of the most influential and necessary levers of state influence on the country's economy is taxes, thanks to which budget funds are accumulated at the local and state levels to carry out the functions and tasks assigned to it [1].

For the state, seafarers are one of the most important and largest sources of foreign currency, which enters the domestic market, which in turn contributes to the maintenance and growth of the economy. There are about 200,000 Ukrainian sailors in the world, who bring to the country about a quarter of the total currency of "workers" (about \$ 3 billion a year). But should sailors pay taxes and to what extent if they are not protected by the state and cannot wait to retire after completing their careers at sea? This question is very controversial among all seafarers, but any legal question has an answer and it is no exception [2].

The relevance of the topic lies in its prevalence as a seemingly open debate among seafarers for many years and hence the need for clear answers to a common understanding of this important topic and to promote interest in it as a subject that requires observation in the legal field and needs modern changes and improvements.

According to the current legislation, namely Art. 13 of the Tax Code of Ukraine, income received by a resident individual from sources of origin outside Ukraine, is included in the total annual taxable income, except for income not taxable in Ukraine in accordance with the provisions of this Code or international agreement, the consent of which is binding provided by the Verkhovna Rada of Ukraine. Amounts of taxes and fees paid outside Ukraine are credited when calculating taxes and fees in Ukraine according to the rules established by the PC [3].

Any income received is subject to taxation, whether it is a salary, income from the sale of property or even, for example, borrowed money and not returned on time. Thus, every citizen of Ukraine, having received income, must pay personal income tax (PIT) at the rate of 18% and military duty (for the period of the anti-terrorist operation) at the rate of 1.5%. Income received from sources of origin outside Ukraine, from the point of view of the legislator, is also subject to taxation. The Tax Code of Ukraine stipulates the obligation to submit an annual declaration of property and income (tax return). The tax return is filed by May 1 of the year following the reporting year.

The tax return can be filled in and submitted both personally by the seafarer and his representative - the person to whom the notarial power of attorney is issued. In addition, the tax return can be sent to the tax authority by mail with a notice of service and a description of the attachment. There are also many online services available today. In particular, the electronic office of the taxpayer, which allows you to file a tax return online.

International agreements (conventions) on avoidance of double taxation have been concluded between Ukraine and a number of states. The conventions are applied in order to avoid double taxation when collecting income taxes. As of January 1, 2020, there are more than 70 countries with which Ukraine has signed such conventions, including such large ship-owning states as Greece, Germany, Singapore, China, Korea and others. If the employer has paid taxes for a seafarer outside Ukraine, the amounts of such taxes may be included in the calculation of taxes payable by the seafarer in Ukraine. The specific procedure to be followed for the application of the right to avoid double taxation is set out in the convention with each individual country. As a rule, it is necessary to obtain a certificate from the relevant foreign body on the amount of tax paid abroad, as well as on the base / object of taxation. This certificate is subject to legalization in the country of payment of taxes and after its submission

to the tax authorities in Ukraine, the amount of tax paid in another country can be credited in Ukraine. If the rate at which taxes were paid abroad is less than in Ukraine, the difference is payable in Ukraine.

On April 28, 2020, a new version of the Law of Ukraine № 361 - IX "On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Financing of Terrorism and Financing of the Proliferation of Weapons of Mass Destruction" entered into force in Ukraine. The new rules stipulate that from now on not only banks but also insurance companies, auditors, realtors, lawyers, notaries, accountants, consulting firms and other entities (which are not financial institutions but provide separate financial services) are obliged to verify the legality of funds origin of their clients and prevent illegal financial transactions. Thus, when a seafarer puts money in his account, the bank must verify the legality of the origin of these funds - that they are not the result of illegal activities. At the same time, it is necessary to remember that the above-mentioned Law is aimed at preventing illegal financial transactions and should not create additional inconveniences for law-abiding citizens.

Payment of personal income tax does not entitle to a pension. Personal income tax and military duty are not those fees and charges that entitle you to a pension. Pension reform in Ukraine now provides for insurance instead of length of service. A person who is paid a single social contribution (SSC) in the amount of 22% of the amount of income is entitled to a pension. If a person works in Ukraine, the obligation to pay SDRs for him rests with the employer. If a person is not employed in Ukraine (as in the case of seafarers working under a foreign flag), there is an opportunity to pay for themselves SSC, for which it is necessary to enter into an agreement (by applying to the tax authority at the place of residence). You can calculate the amount of the monthly contribution from the actual salary received or from the minimum (set by the state). In the latter case, the amount of tax as of the current date will be UAH 1,100 per month [4].

So, summing up, we can say that the system of taxation of seafarers in Ukraine is not properly developed and instead of motivating seafarers to pay taxes, it, on the contrary, promotes and motivates them to look for ways of evading them.

It would be optimal, given the world experience and the experience of Ukraine itself (until 2004), to exempt from taxation the income of residents who work on board the vessels outside Ukraine for at least 183 days a year. However, taken into consideration difficult budget situation, such a solution (full exemption from taxation) may not seem fair to voters.

Therefore, it may be time to apply those positive changes that have been developed in the field of a single tax for entrepreneurs, to seafarers. It may be worth exempting them from income tax, giving them the right to pay a minimum single tax at the rates set by local councils for entrepreneurs who provide household services: from 1 to 10% of the minimum wage. There may be many solutions, but for them to take effect, the young and progressive generation of seafarers needs to be involved in these processes, as well as the good work of honest and qualified legal professionals [5].

#### REFERENCES

1. Podatkove navantazhennya and podatкова policy of the state. Buryachenko A.C. <https://www.ndifp.com/1175/> (access 07.09.2021)
2. Statute of Ivan Niyaky about the Problems of the Diploma of Seamen <https://biz.liga.net/ekonomika/transport/opinion/moryaki-prinosyat-ukraine-3-mlrd-v-god-no-mogut-poteryat-rabotu> (access 07.09.2021)
3. Taxation of under-flagged seafarers <http://assol.org.ua/nalogooblozhenie-moryakov-podflazhnik/> (access 07.09.2021)
4. Nalohooblozhenye dokhodov y pensyonnoe obespechenye moriakov <https://mtwtu.org.ua/news/nalogooblozhenie-dohodov-i-pensionnoe-obespechenie-morakov> (dostup 07.09.2021)

5. Nalohy dlia moriakov y kriuhnovye kompanyy <http://ank.odessa.ua/ru/nalogi-dlya-moryakov-i-kryuingovye-kompanii> (dostup 07.09.2021)