

**THE HISTORICAL AND LEGAL ASPECT OF VALUE-ADDED TAX
FORMATION AND DEVELOPMENT IN RUSSIAN FEDERATION**

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The article deals with the social relations, historical and legal aspects of the indirect taxation, the mechanism of VAT collection and statutory acts of Russian Federation, the process of formation and development of Value-Added Tax in Russia have been analyzed. The significant disagreements are observed in the views of scientists on the structure of the tax system.

Key words: Value-Added Tax, the Tax code of the Russian Federation, tax policy, indirect taxation, mechanism of VAT collection.

Introduction. The current tax system has significant drawbacks: it has a pronounced fiscal nature and does not fulfill motivative, regulatory and redistributive functions. For the effective functioning it is necessary to eliminate instability and complexity, inner inconformity, low levels of tax compliance.

It should be noted that many problems have not found an unambiguous interpretation yet. The issues relating to the principles of construction and directions of reforming of VAT taxation, taking into account the features of transformational period, remain to be debating points. The significant disagreements are observed in the views of scientists on the structure of the tax system, the need for differentiation of tax rates, the sphere of use of tax benefits, which give rise to negative consequences in the practice of taxation. In connection with the aforesaid, the timeliness of research topic is defined.

Theoretical Basis of the Research: disadvantages of taxation of Value Added Tax arouse intense debates both among ordinary citizens and in circles of scientists, but they don't have agreed offers relating to their decisions. That is why the issue of taxation in the modern world is extremely topical and requires solutions. The works of such scientists as N. Azarov, V. Andrushchenko, A. Galchinskiy, A. Sokolovskiy, F. Yaroshenko study theoretical problems of legal regulation of Value Added Tax. Scientific works of foreign scientists such as A. Smith, W. Petti, A. Wagner, are dedicated to the issues of the theory and practice of forming and reforming of the VAT system. Tributing best practices of scientists-economists, carried out in the sphere of theory, methodology and organization of tax regulation of the economy, it should be noted that many issues have not yet found its final decision. A significantly new stage in reforming of the taxation system requires a theoretical rethinking of many aspects of the state regulation.

The Object of the Research: is a social relation, developing in the process of formation and development of indirect taxation in Russia.

The Subject of the Research is: a mechanism of VAT collection and statutory acts of Russian Federation regulating VAT formation, namely: the Constitution of Russian Federation, the Law of Russian Federation “About bases of tax system in the Russian Federation”, the Tax Code of Russian Federation.

The main material: The VAT legislation in Russia last underwent significant change as a result of the introduction of Chapter 21 of the Second Part of the Tax Code, effective as of 1 January 2001. This paper represents a general introduction to VAT in Russia. It is for general guidance only and, whilst it is believed to be correct based on the law as of 1 December 2002, is not to be relied on as advice in any specific circumstances.

From January 1st, 2001, the majority of the so called VAT law that was formed and applied in the early 90s is not been in compliance with a real VAT system under the international taxation standards, and will be abolished [1].

The Old Russian VAT law will be replaced by the VAT Chapter of the Tax Code (Chapter 21). In connection with which there is a number of changes. We could mention some of them that appeal to be more important:

Organizations, both Russian and foreign, conducting entrepreneurial activities in Russia, as well as individual entrepreneurs may be exempted from their liability associated with the computation and payment of VAT if, during the last three consecutive calendar months their VAT base without VAT and Sales Tax does not exceed 1 000 000 rubles. The exemption period shall be 12 consecutive calendar months. Upon expiry of that period, the organizations and individual entrepreneurs wishing to claim an extension of the exemption shall submit to tax authorities a written application and necessary documents, which confirm that the amount of their receipts from the sales meets the named requirement. Besides, the exemption shall apply only to obligations, which arise in connection with operations involving the sale of goods and services in the territory of Russia, and shall not apply to the obligations, which arise in connection with the importation of goods into the Russian customs territory.

The “place of supply” rules have been amended and could significantly affect the application of VAT to cross border services supplied to foreign customers. It is also worth taking into account that from January 1st, 2001, the “place of supply” rules apply not only to the cross border transactions, as before this date, but also to the cases where both the seller and the buyer are Russian entities. Generally, the definition of the term “place of economic activity”, which Chapter 21 of Part II of the Tax Code contains of, appears for the first time in the Russian tax legislation. Under the definition, a buyer of services will be deemed to have a place of economic activity in Russia if there is an “actual presence of the buyer of services in the territory of the Russian Federation on the basis of the State registration of the organization or the individual entrepreneur. “In the absence of the State registration, the test shall be based on the place of establishment indicated in the foundation documents of the organization such as the company’s by-laws, the place of management of the organization, the location of its permanent executive body, the location of a permanent establishment (if the services are rendered through that permanent establishment) or the place of residence of a physical person.

From July, 2001, sales to C.I.S. countries will be zero rated and input VAT will be creditable on supplies to the C.I.S., they will be considered as normal exports. However, that

will not apply to oil and gas supplies to C.I.S. countries. From January 1st, 2001, till July, 2001, sales to C.I.S. countries will be deemed to be a supply in the Russian territory and therefore to be completely VATable, as under current taxation rules.

From January 1st, 2001, services involving the rent of office and/or residential premises to foreign citizens or organizations, which are accredited in Russia, will be VAT exempt. However, the services shall not be taxable only in those cases where the legislation of the relevant foreign state establishes a similar procedure for the Russian citizens and organizations accredited in that foreign state or where a provision to that effect is contained in an international agreement entered into by the Russian Federation.

In the coming year VAT assessed on self-construction will be recoverable against output VAT collected on sales rather than capitalized, as under the current regulations.

Thrice monthly installment VAT payments are abolished from January 1st, 2001 and VAT shall be paid on a monthly or quarterly basis depending on turnover amounts. The new rule is that taxpayers whose monthly receipts from sales, excluding VAT and sales tax, during the quarter do not exceed 1 000 000 rubles have the right to pay VAT on the quarter basis.

The following current VAT exemptions which apply under the present law will be abolished or limited in application:

- VAT exemption on patent, copyrights and license payment is abolished from January 1st, 2001;
- VAT exemption for mass media organizations and on books is abolished from January 1st, 2002;
- From January 1st, 2001, VAT exemption on education services will apply only to sales made by non-commercial educational institutions. The exemption for commercial educational institutions is abolished starting from the same date [2].

On January 1, 2004 VAT rate was decreased from 20% to 18%, which remains effective to date (August 2008)[3].

According to the Tax Code of the Russian Federation VAT is to be paid by Russian legal entities, including those with foreign investments, foreign legal entities and legal entities involved in import-export transaction. Sales of goods, works and services within Russia and imports of goods into Russia are subject to VAT. VAT is payable at the standard rate of 18% on most goods, including imported goods and services. A 10% reduced rate is applied to a limited range of basic food items, baby goods, medicine and some mass media products. VAT is accounted for by vendors of goods and services and importers of goods. Export sales are subject to 0% VAT. Some transactions and taxpayers (eg culture and art institutions) are VAT exempt. Exempt transactions include: insurance and banking operations (with some exceptions); leasing of premises located in the territory of Russia to foreign individuals and entities accredited in Russia (on the condition of reciprocity with the respective foreign country); trading of securities; sale of shares and unitised investments; certain medical equipment and services; and the import of certain technological equipment, related components and spare parts as determined by the Government [4]. VAT on expenses incurred in connection with the performance of operations subject to VAT, as well as VAT on purchased or imported fixed and intangible assets, is credited against VAT due on sales provided the goods or services are actually received. Russian tax legislation also provides for the refund of input VAT for taxpayers paying VAT at 0%. However, a special procedure

applies and significant difficulties may be encountered. The VAT declaration should be submitted and VAT should be paid no later than the 20th day of the month following the end of the tax period (quarter).

Russian VAT law includes rules for determining the provision of service in terms of VAT. These rules put services into different categories in order to determine where they can be provided for VAT purposes. For example, certain services should be provided at their place of implementation. Other services should take place where the buyer carries out the activities or where immovable property might be located. Under the reverse-charge mechanism, a Russian company usually has to include VAT in any payment it makes to a non-tax registered foreign company if the payment is for the provision of goods or services in Russia, based on the applicable VAT rule for location of provision. In such circumstances, the Russian buyer should act as a tax agent for Russian VAT purposes by withholding Russian VAT at the rate of 18/118 from payments to a foreign supplier and pay the withheld VAT to the Russian budget. VAT withheld can be recovered by Russian taxpayers in accordance with the standard input VAT recovery rules as stipulated by law.

Generally, taxpayers are eligible to recover input VAT. Taxpayers usually are eligible to recover input VAT from the purchase of goods, works, services, or property rights, provided that the input VAT recovery rules set out in Russian legislation are met, namely, among which are the following:

1. Input VAT should relate to purchases the purposes of carrying out VATable activities.
2. Respective goods, works, and services should be reported in the taxpayer's accounts.
3. Proper back-up documentation should be available (e.g. VAT invoices, documents confirming the payment of VAT at customs, etc).

Russian VAT law does not allow for the recovery of input VAT if it for expenses incurred to perform non-VATable or VAT exempt activities. In turn, where both VAT exempt and VATable activities are performed by the taxpayer, the latter is required to keep separate accounting of its supplies and develop an input VAT allocation methodology for proper input VAT recovery.

Each taxpayer providing goods, works, services, or property rights must issue VAT invoices and issue them to customers. VAT invoices must be issued within five days after the provision has occurred. There is a standard form for VAT invoices, established by the Government. Compliance with invoicing requirements is critical to the buyer's ability to recover input VAT. E-invoicing is also allowed under the Russian Tax Code. E-invoicing requires digital signature and data transfer via operators and is subject to mutual agreement of all parties to the transaction. Operators are companies who provide services for exchange of open and confidential information via telecommunication channels. Incoming and outgoing VAT invoices usually must be registered by taxpayers in sales and purchases books, as well as a register of incoming and outgoing VAT invoices. VAT returns must be submitted to the tax authorities every quarter. VAT must be paid to the Russian budget after the end of each quarter in three instalments by the 20th day of each of the three consecutive months following the quarter. This applies to the remittance of VAT withheld by Russian buyers under the reverse charge mechanism, which is to be transferred to the Russian budget at the date of the external payment [5].

Import VAT is payable at customs upon importation of goods. The tax base for import VAT purposes is generally the customs value of the imported goods, including excise pay-

ments. Either an 18% or 10% VAT rate may apply to the import of goods into Russia, depending on the specific type of goods. A limited range of goods is eligible for import VAT exemptions. The list of such goods includes, for example, certain medical products, technical equipment (including components and spare parts to such equipment) if no analogous equipment is produced in Russia, etc.

Conclusion. It goes without saying that problems with VAT existed earlier indeed and they remain now as well, but they are conditioned not by the integrated conceptual defects of the tax, but mainly by the national peculiarities of its application, including technical shortcomings of the former Decree, for example in the part of regulation of primary documents processing, the taxation of barter transactions, including export-import operations with promissory notes, with trade mediation services, tax refunds during commissioning of fixed assets, exports of goods and services, etc.) that can and should be removed. The number of the main problems can include:

- Insufficiently worked out procedure of registration of primary documents (invoices) reflecting the amount of tax in the price of products sold and the amount of the incoming VAT;
- Use of several ways to calculate tax liabilities depending on the category of a taxpayer and the type of business operations that considerably complicated accounting and method of tax liabilities calculation;

- Lack of financial liability of the state for the full and timely reimbursement of tax amounts from the budget due to businesses and citizens, numerous and not always sufficiently substantiated VAT benefits, etc. There is no budgetary mechanism for compensation of the sustainable debit balance;

- VAT is a distribution tax; the liabilities of budgets of different levels, with respect to compensations are not defined; the moment of arising of the right to credit determined on the basis of the VAT net cost accounting paid in the price of commodity stocks, does not reduce tax liabilities; VAT paid in the price of capital goods is amortized.

At present the value added tax:

- stimulates the growth of private entrepreneurship and ensures neutrality for all sectors of the economy;

- creates right incentives for growth in a transition economy, stimulates savings and investments;

- provides significant revenues to the state treasury;

- is a tax with the largest expenditures on its administration;

- requires a more skilled and experienced specialists and a great experience in taxation;

- is not conducive to equitable redistribution of income.

On this basis, the following amendments to the existing legislation seem reasonable:

- expanding the taxation basis by abolition of benefits not bearing the social nature;

- extension of the information supply of each link in the tax service, which will promote automation of the taxation process, the effective use of available human resources, will enable to compare information from different sources with purpose to reveal evasion from VAT;

- improving the efficiency of inspection work, which will allow detection of tax evasion at the total decrease in the number of inspections and inspectors by automatic selection of taxpayers for documents inspections, to ensure the inevitability of punishment for offenders;

- improvement of legislation, which lies in simplification, stability and predictability in the VAT administration, introduction of compulsory testing of the effectiveness of the proposed changes with help of the model imitation;
 - forecasting of VAT revenues, which will give the opportunity to offer the State Duma a balanced realistic budget, which in its turn will promote stabilization the economy;
 - reduction and elimination of arrears by improving the work with taxpayers.
- Fulfillment of these objectives in a full volume will ensure achievement of high efficiency of value added tax within the shortest period of time.

Resources:

1. Tax Code of the Russian Federation part one No. 146-FZ of July 31, 1998 (with the Amendments and Additions of March 30, July 9, 1999, January 2, 2000, December 29, 2000, May 30, August 6, 7, 8, November 27, 29, December 28, 29, 30, 31, 2001, May 29, July 24, 25, December 24, 27, 31, 2002, May 6, 22, 28, June 6, 23, 30, July 7, November 11, December 8, 23, 2003) Passed by the State Duma on July 16, 1998 Approved by the Council of Federation on July 17, 1998.
2. On the edge of the Russian Federation Tax reform: reliance on the inflation tax as a wealth confiscation measure? [Electronic resource]. – Mode of access : <http://www.yourlawyer.ru/en/publications/on-the-edge-of-the-russian-tax-reform/?year=2000>.
3. Federal law dated July 7, 2003 No. 117-FZ.
4. Doing business in Russia/Baker Tilly international [Electronic resource]. – Mode of access : <http://www.bakertillyinternational.com/media/36876/doing%20business%20in%20russia1.pdf>.
5. Tax system and administraton [Electronic resource]. – Mode of access : http://www.investinregions.ru/en/investor/nalogovaya-sistema/value_added_taxes.

Макухин А. А. Историко-правовой аспект становления и развития налога на добавленную стоимость в Российской Федерации / А. А. Макухин // Ученые записки Таврического национального университета имени В.И. Вернадского. Серия: Юридические науки. – 2014. – Т. 27 (66). № 4. – С. 87-92.

В статье рассмотрены общественные отношения, складывающиеся в процессе становления и развития налога на добавленную стоимость в Российской Федерации. Исследованы основные элементы механизма налогообложения налога на добавленную стоимость, а также нормативные акты, регламентирующие становление налога на добавленную стоимость в России. В результате проведенного исследования углублены и усовершенствованы уже существующие положения косвенного налогообложения.

Ключевые слова: налог на добавленную стоимость, Налоговый кодекс Российской Федерации, налоговая политика, косвенное налогообложение, механизм взимания налога на добавленную стоимость.

Макухин О. О. Историко-правовой аспект становления і розвитку податку на додану вартість у Російській Федерації / О. О. Макухин // Вчені записки Таврійського національного університету імені В.І. Вернадського. Серія: Юридичні науки. – 2014. – Т. 27 (66). № 4. – С. 109-114.

У статті розглянуті громадські стосунки, що складаються в процесі становлення і розвитку податку на додану вартість у Російській Федерації. Досліджені основні елементи механізму оподаткування податку на додану вартість, а також нормативні акти, що регламентують становлення податку на додану вартість у Росії. У результаті проведенного дослідження поглиблені і вдосконалені вже існуючі положення непрямого оподаткування.

Ключові слова: податок на додану вартість, Податковий кодекс Російської Федерації, податкова політика, непряме оподаткування, механізм стягування податку на додану вартість.