

# NATIONAL ECONOMY'S MARKET MECHANISMS OF ACCOUNTING, ANALYSIS AND AUDIT

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## ANALYSIS OF PROBLEM ASPECTS OF INTERNET TRADING IN THE SPHERE OF EMPLOYMENT IN UKRAINE

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### Key words:

e-commerce, taxation, business entity, electronic documents, Internet commerce

The article examines and systematizes the current legal framework for registration, regulation of economic activity, settlement operations, accounting and taxation of enterprises operating through the Internet to determine the vectors of its further development and improvement. The analysis was conducted on the basis of the Constitution of Ukraine, the Commercial Code of Ukraine, the Tax Code of Ukraine, the Criminal Code of Ukraine, the Civil Code of Ukraine, the Law of Ukraine "On E-Commerce", the Law of Ukraine "On Consumer Protection", premises, Rules of retail trade in non-food products. The study was conducted using methods of systematization and generalization. The key problematic aspects of legal regulation of e-commerce in Ukraine are highlighted. The concepts, features and problems of conducting e-business are analyzed, which gave an opportunity to suggest ways to improve the legislative regulation of this area. One of the main problematic aspects of eligibility in the field of Internet commerce is the fact that sellers are unregistered legal or physical persons. It has been shown that the appointed shortfalls make it easier to estimate the amount of tax deducted from this sphere, as a result, significantly reducing the amount of tax dues and taxes to the sovereign budget of the country. Therefore, in order to find methods of de-shadowing and stimulate the development of e-commerce, options have been proposed to reduce the tax burden on these economic entities.

## АНАЛІЗ ПРОБЛЕМНИХ АСПЕКТІВ ІНТЕРНЕТ ТОРГІВЛІ В СФЕРІ ОПОДАТКУВАННЯ В УКРАЇНІ

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### Ключові слова:

електронна комерція, оподаткування, суб'єкт господарювання, електронні документи, Інтернет-торгівля

У статті досліджено та систематизовано діючу нормативно-правову базу з питань реєстрації, регулювання господарської діяльності, здійсненні розрахункових операцій, ведення бухгалтерського обліку та системи оподаткування на підприємствах, що здійснюють діяльність за допомогою мережі Інтернет з метою визначення векторів її подальшого розвитку та удосконалення. Аналіз проведено на основі Конституції України, Господарського кодексу України, Податкового кодексу України, Кримінального кодексу України, Цивільного кодексу України, Закону України «Про електронну комерцію», Закону України «Про захист прав споживачів», Правил продажу товарів на замовлення та поза торговельними або офісними приміщеннями, Правил роздрібною торгівлі непродовольчими товарами. Дослідження відбувалося з використанням методів систематизації та узагальнення. Виділено ключові проблемні аспекти правового регулювання сфери електронної комерції в Україні. Проаналізовано поняття, особливості та проблеми ведення електронного бізнесу, що дало можливість запропонувати шляхи удосконалення законодавчого регулювання даної сфери. Одним із головних проблемних аспектів оподаткування у сфері

інтернет-торгівлі визначено існування продавців які є незареєстрованими юридичними або фізичними особами. Визначено, що усі зазначені недоліки ускладнюють оцінку обсягів отриманих доходів у даній сфері та, як наслідок, значно зменшують надходження податків та зборів до державного бюджету країни. Тому, з метою пошуку методів детінізації та стимулювання розвитку сфери електронної комерції запропоновано варіанти зменшення податкового навантаження на зазначені суб'єкти господарської діяльності.

### Formulation of the problem

The rapid growth in the number of Internet users, online shoppers, marketplaces, advertising sites and social media pages has significantly increased the importance and role of e-commerce as a place of concentration of financial resources. That is why there is an urgent need to study the peculiarities of regulating economic activity, accounting and defining the tax system in enterprises operating through the Internet.

### Analysis of recent research and publications

The vast majority of foreign and domestic scientists who dedicate their work to accounting and analytical aspects of e-commerce, the subject of their research choose problematic issues that arise in the field of e-commerce and related to the organization and methodology of accounting in Internet commerce, documentation and reporting, and also taxation. Thus, N. Boreyko [1] studies the general characteristics, the place of online stores in the development of e-commerce in Ukraine and the peculiarities of taxation in this area; Yu. Palamarenko [2] focuses on the theoretical and practical aspects of the organization of accounting; M. Honcharuk [3] dedicates his works to the peculiarities of legal regulation of e-business, the formation of its market value. L. Tovkunta, M. Fedorovska [4] consider the features of regulatory and legal regulation of electronic document management of transactions from the creation of an online store to the sale of goods (services) as a form of e-commerce. L. Chyzhevska and V. Kulyk [5] raise the issue of forming the accounting policy of e-commerce entities. Problematic aspects of accounting for trade activities via the Internet are revealed in the works of A. Kozhelyuk [6], O. Shaleva [7], V. Pleskach, N. Borodachova [8] and other scientists and economists.

Highly appreciating the scientific contribution of these scientists, it should be noted that most of the scientific achievements are aimed at studying Internet commerce in general, the general issues of accounting for e-commerce transactions have been studied in detail. However, the problematic issues of taxation and internal control of e-commerce remain unresolved, as this type of business has a number of specific features. The study and improvement of the procedure of control of e-commerce operations by fiscal authorities and methodological recommendations for their documentation require, as standard tax audit procedures are mostly used and do not take into account the specific features of e-business.

The outlined problematic issues require further theoretical and practical research and priority improvement of legal regulation of Internet trade in the field of taxation in Ukraine.

### Formulation of the objectives of the article

The object of the work is to study and critically analyze the legal framework of e-commerce taxation in modern business conditions, in order to highlight the features of Internet commerce taxation and determine the conditions for reviewing regulations in this area of Ukraine.

### Presentation of the main material of the research

Today's business environment is undergoing a significant and rapid transformation caused by the progressive development of e-commerce. The introduction of quarantine restrictions has significantly reduced the number of offline stores and, as a result, increased the proportion of businesses willing to use the Internet to advertise and sell their services, attract new customers and be the main means of doing business. The use of web and Internet technologies allows companies to distribute advertisements about their products or services at high speed, to be in touch with contractors and customers around the clock, to make money transactions instantly.

The rapid development and prevalence of e-commerce in our country requires constant monitoring and improvement of the regulatory framework in the field of business organization, accounting and taxation methods. Improper adaptation to such rapid transformations in this area leads to a lack and inaccuracy of accounting information, financial losses of e-commerce entities and, as a consequence, to a reduction in tax revenues in the state.

The results of the study of regulatory and legal regulation of various aspects of Internet commerce in Ukraine, as well as their purpose, are given in table 1.

In 2021, a new version of the Law of Ukraine № 675 [13] was published, which comes into force on 01.08.2022. This law is currently the only legal act that regulates the peculiarities of Internet commerce in Ukraine.

E-commerce is a relationship aimed at making a profit and arising in the course of transactions for the acquisition, modification or termination of civil rights and obligations, carried out remotely using information and telecommunications systems, as a result of which the parties have rights and obligations. property languages [13].

It should be noted that the Law of Ukraine Law of Ukraine № 675 [13] is not new for Ukraine, the Law has been in force since 2015 and has a number of problematic aspects, among which are:

- the main provisions of electronic contracts are not outlined, such as: details of both parties to the contract, the procedure for drawing up and affixing electronic signatures, the procedure for amending the terms of the contract, the procedure for electronic document management;

Table 1 – Regulatory regulation of Internet commerce in Ukraine

Normative document	Appointment
Constitution of Ukraine [9]	Everyone has the right to conduct business in accordance with applicable law. The country guarantees the protection of competition in such activities.
Economic Code of Ukraine [10]	Regulates the mechanism of interaction between business entities and consumers, including e-commerce.
Tax Code of Ukraine [11]	Establishment of requirements and restrictions on taxation of e-commerce enterprises, rules on the application of the simplified taxation system.
Criminal Code of Ukraine [12]	Determining the list of goods that are illegal for sale via the Internet, and criminal liability for this transaction.
Law of Ukraine "On e-commerce" [13]	"... determines the organizational and legal framework for e-commerce in Ukraine, establishes the procedure for electronic transactions with the use of information and communication systems and determines the rights and responsibilities of participants in relations in the field of e-commerce."
Law of Ukraine "On consumer protection" [14]	Regulates the relationship between persons selling and end consumers of goods, works and services of various forms of ownership, determines the rights of consumers and the mechanism of their protection in accordance with applicable law.
Rules for the sale of goods to order and outside retail or office space [15]	Contains basic information on: – relations between the persons who buy and the persons who are engaged in sale of the goods by the order and out of trade premises in the presence of the contracts of purchase and sale concluded remotely; – rules of proper trade service and sale of quality and safe goods.
Rules of retail trade in non-food products [16]	Outlines the procedure for buying, storing and selling non-food products through the retail network, and also contains requirements for the implementation of consumer rights to appropriate, high-quality and safe goods and an acceptable level of service in the retail network.

– incorrect definition of the term «online store», as it is interpreted as a means, ie an action to achieve the goal. More accurate, in our opinion, is the definition of the online store as a result of intellectual activity in the form of not a physical but a virtual platform for the sale of goods, works and services;

– uncertainty of a clear list of objects of civil rights that are prohibited for sale with the use of information and communication technologies;

– natural persons-entrepreneurs dropped out of the regulation of purchase / sale of goods, works and services. This fact makes it impossible to protect the rights of consumers in this part of Internet commerce. There is a discrepancy with the Civil Code of Ukraine, as buying and selling is regulated regardless of whether it is a legal entity or an individual;

– uncertainty of key terms of e-commerce: «e-service», «e-shop», «consumer of e-commerce», «e-service», which can lead to difficulties in protecting the rights and interests of consumers, individuals and legal entities;

– lack of a complete list of all available e-commerce models and methods.

A large number of inconsistencies and inconsistencies in 2021 led to the wording of the new Law of Ukraine № 675 [13], which comes into force on 01.08.2022. Among the advantages of the new wording are: legislative consolidation of basic principles of e-commerce; the presence of interpretations of basic concepts in this area, which were not mentioned earlier; determining the legal status of all participants in e-commerce; extension of the Law of Ukraine № 1023 [14] to persons who purchase goods and services via the Internet; outlines the rights and responsibilities of all participants in this type of trade; a detailed description of the procedures for concluding an electronic contract and protection of personal data is given. The main achievements can be considered that the electronic transaction is equated to paper, sellers

must disclose truthful information about themselves (information about registration and licenses, names and locations) and goods, services (works) that sell.

Therefore, in order to successfully operate and stimulate the activities of e-commerce entities, it is first necessary to eliminate the previously mentioned shortcomings of the current legislation, which will clearly increase the competitive advantage of e-commerce. More global development in this area can be achieved through further detailed study of the regulatory framework in accordance with the requirements of European legislation and international standards.

In our opinion, one of the most important and difficult issues is the problem of e-commerce taxation. After all, the existing tax legislation regulates the accrual and payment of taxes in the conditions of «ordinary» business and is not aimed at electronic, which is due to the difficulty of tracking cash flows. The situation is complicated by the fact that the sellers on the Internet are not only legal entities or individuals, but also unregistered entrepreneurs. That is why it is almost impossible to estimate the amount of income received through e-business and, as a result, unregistered entrepreneurs do not pay taxes and fees to the state budget. This problem is quite significant, as VAT and sales taxes are one of the most important tools for generating budget revenues.

It should be noted that sales via the Internet are possible when entering this type of activity in the Unified State Register of Legal Entities and / or Individuals. Art. 1 and art. 7 of the Law of Ukraine № 675 [13] this type of economic activity belongs to the cod of NACE47.91 «Retail trade carried out by mail order firms or via the Internet».

Despite the fact that the Tax Code of Ukraine (hereinafter TCU) does not contain special rules governing online trade, it establishes the legal basis for the application of a general and simplified system of taxation. Given that it is from the moment of state registration that an individual

acquires legal capacity in the field of entrepreneurial activity, the appropriate status and has the right to conduct business transactions, he must register with the State Tax Service and pay taxes. According to the TCU, such persons can independently choose the tax system. If the total amount of transactions for the sale of goods (services) taxed in accordance with Section V of the TCU exceeds UAH 1 million and supplied via the Internet, such a person must be a VAT payer. Exceptions are taxpayers of the I–III groups (item 181.1) [11].

Examining the legal component of VAT e-commerce taxation, it should be noted that Section V of the TCU does not contain any information about electronic goods and trade in them. This information is specified in the Law of Ukraine № 675 [13], there is no information about the taxation of this type of economic activity, as well as no interpretation of the concept of «goods in electronic form». In view of the above, we propose to make a reference in the TCU to the regulatory law, and the content of section V to expand the information on the methodology of taxation of transactions in Internet commerce.

Based on practical experience, it can be noted that a significant number of small businesses prefer a simplified system of taxation. This makes it possible to work lawfully with the reduction of the tax burden, which greatly simplifies the accounting of taxes and reporting at the enterprise. But this system has many shortcomings and is not effective enough for e-commerce, which significantly increases the development of the shadow economy in Ukraine.

L. Tovkun and M. Fedorovska [1] in their research notes that in order to alleviate the negative impact of the crisis caused by the pandemic, as well as finding ways to expand the tax base and de-shadow economic activities in e-commerce should consider the introduction of tax holidays or soft loans industry, as well as state support for the financing of the IT industry (in particular, through government procurement for the development and provision of digital services). The introduction of tax holidays for newly created e-commerce entities can also be an effective means of support, which will stimulate the creation of new jobs and, consequently, reduce the number of unemployed in Ukraine and further have a positive impact on the state budget.

It is also important to note that the procedure for taxing e-commerce is quite new for Ukraine, so it requires attention from the state tax service. There is also the

problem of registering online stores on foreign platforms with a more loyal tax system and the existence of pages on the network through which the sale of goods / services is no longer carried out. As a result, the presence of these problematic aspects does not allow the supervisory authority to obtain accurate and reliable information on the number of businesses and their registration in the field of e-commerce.

To reduce the influential factors and to establish the procedure for registration of e-commerce entities, fruitful cooperation on data exchange between tax institutions, both at the national and international levels, it is appropriate to develop and implement a specialized software product:

1) for entities that carry out their activities via the Internet – documentation of financial activities, which must be covered on the server of the entity after the registration procedure with the state fiscal service;

2) for the state tax service – control and constant access to information on economic activities of e-commerce entities.

This will develop e-commerce, which will increase the number of online stores and marketplaces in Ukraine, turnover from operations in this area and sales of goods via the Internet, increase the number of taxpayers and tax revenues from e-commerce, as well as innovation of control and monitoring measures – reducing the amount of concealment of income from transactions.

### Conclusions

One of the important and difficult issues is the issue of taxation in the field of e-commerce, because the current legislation regulates the accrual and payment of taxes in «ordinary» business and is not aimed at e-commerce, due to the difficulty of tracking cash flows. The results of the study show that the existence of a large number of regulations that in any way related to the activities of enterprises in the field of e-commerce do not cover and regulate these activities in full. That is why in order to successfully operate and stimulate the activities of Internet commerce entities, first of all it is necessary to eliminate the shortcomings of the current legislation.

Thus, to ensure the exit of e-commerce entities from the shadows, it is necessary to build and implement an additional tax system in accordance with the peculiarities of functioning in this area. The proposed changes can significantly help the development of e-commerce in Ukraine and build a solid foundation for its further development.

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