

## INTERDEPARTMENTAL INTERACTION FOR THE RECOVERY OF CLAIMS IN THE COMMON TRANSIT PROCEDURE

*The purpose of the article is to study the peculiarities of interagency cooperation in the field of claims (debt) collection in the course of the joint transit procedure. The study was carried out using the methods of synthesis and analysis, deduction and induction, comparison (to review the existing conceptual framework, to establish the prerequisites and approaches to debt collection in the context of the common transit procedure), comparative analysis (to identify problematic aspects of implementation of certain provisions of customs and tax legislation), and generalization (to formulate the conclusions of the study).*

*The following results were obtained in the course of the study. There were identified the main aspects of the formation of a debt collection mechanism in the joint transit procedure in accordance with international standards. The author notes that it is advisable to consider a model of the debt collection mechanism under Annex IV of the Convention, which will be based on the interaction of customs and tax authorities. In this regard, it seems appropriate to approve the provision on the interaction of these authorities during the debt collection procedure in accordance with international standards. The author also considers the need to adopt a regulatory act approving the said regulation, to decide on the structural units of the customs and tax authorities that will be responsible for contacts with other Member States in relation to mutual assistance for other categories of taxes and duties, as well as to determine the central executive authority to which the main responsibility for contacts with other Member States in the field of mutual assistance regulated by Directive 2010/24/EU will be delegated. The author suggests that it is necessary to approve the form of tax notification in international legal relations and to provide for the provisions that will allow resolving organisational and technical issues of interaction between customs and tax authorities, and, consequently, to introduce appropriate amendments to the Procedure for sending tax assessment notices to taxpayers by controlling authorities, approved by Order of the Ministry of Finance dated 28.12.2015 № 1204, registered with the Ministry of Justice of Ukraine on 22 January 2016 under № 124/28254. The author points out that it is advisable to entrust the customs authorities of Ukraine with the authority to send tax notices to debtors within the framework of international legal relations, and in case of non-payment of monetary obligations in international legal relations, to inform the State Tax Service of Ukraine of the need for enforcement. The issue of amending certain provisions of the Tax Code of Ukraine is also being considered.*

*The study allows to conclude that it is necessary to take into account the peculiarities of interagency cooperation between the State Customs Service of Ukraine and the State Tax Service of Ukraine when developing a model of the mechanism for recovery of claims under Annex IV of the Convention on a Common Transit Procedure.*

**Key words:** recovery of claims, debt, joint transit procedure, interagency cooperation, administrative assistance, customs legislation, tax legislation.

**JEL Classification:** F15, H63, K33, K34.

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**Introduction.** Accession to the Convention on the Common Transit Procedure (hereinafter – the Convention) and the use of the NCTS system provided Ukraine with a number of opportunities that will undoubtedly facilitate international trade and improve customs operations. These opportunities include, in particular: real-time exchange of information on goods in transit with 35 customs administrations; use of one declaration and one guarantee for the movement of goods between the Contracting Parties to the Convention; introduction of special transit simplifications (general guarantee, general guarantee with a reduction in the amount of security for the reference amount, exemption from guarantee, authorised shipper/consignee, independent sealing). The development of the common transit procedure requires continuous improvement of the legal, information technology and methodological components. Currently, the following issues are being addressed: increasing the number of operations in the common transit system, granting authorisations and simplifications, implementing NCTS Phase 5 and testing the system,

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preparing for the introduction of NCTS Phase 6, developing the CDS (Customs Decisions System), and updating the guidelines for companies on entering information in transit declarations, taking into account the specifics of NCTS Phase 5. At the same time, the issue of the debt collection mechanism for claims remains important.

The issues of the common transit procedure (prerequisites and foreign experience of implementation, adaptation of national legislation, application of the NCTS, the Support Service, mutual administrative assistance under the Convention, etc: V.V. Zaiats, V.I. Tytor, V.A. Kurylov (Zaiats, Tytor, Kurylov, 2022), T.V. Ruda (Ruda, 2022), O.A. Fradynskiy (Fradynskiy, 2023), S.V. Kapitanets, A.I. Brendak (Kapitanets, Brendak, 2022), I.G. Berezniuk (Kapitanets, Berezniuk, 2022) and others. At the same time, the issue of recovery of claims in the context of the common transit procedure has not been sufficiently studied in the scientific community. The purpose of the article is to study the peculiarities of interagency cooperation in the field of claims (debt) collection under the joint transit procedure. The methodology of this study is based on the methods of synthesis and analysis, deduction and induction, comparison (to review the existing conceptual framework, to establish the prerequisites and approaches to debt collection in the context of the common transit procedure), comparative analysis (to identify problematic aspects of implementation of certain provisions of customs and tax legislation), and generalisation (to formulate the conclusions of the study).

**Results and Discussion.** The national procedure for debt collection that arose in Ukraine differs significantly from the collection of tax debt in international legal relations. This is reflected in certain articles of the Tax Code of Ukraine (the «TCU»). Thus, according to subpara. 14.1.154 of para. 14.1 of Article 14 of the TCU, a tax debt in international legal relations is a monetary obligation, including penalties, fines, if any, and expenses related to its collection, unpaid within the established period (in a foreign state), which, based on the relevant document of a foreign state, is subject to recovery, which may be enforced in accordance with an international treaty of Ukraine (6).

A tax notice in international legal relations is a written notification of the controlling authority on the taxpayer's obligation to pay the amount of a monetary obligation determined by a document of a foreign state under which such amount of a monetary obligation is repaid in accordance with an international treaty of Ukraine (subpara. 14.1.158 of para. 14.1 of Article 14 of the TCU). It should be noted that "tax notice in international legal relations" is defined in the TCU as a separate term that has a different name and content from the «ordinary» tax notice-decision. Tax assessment notices cannot be used "in international legal relations" at all, since the decision, as such, is issued not in Ukraine, but in another state.

It is also necessary to take into account the existence of several versions of debt collection notices in Ukrainian legislation. For example, when collecting a debt (and when preparing a debt notice), either the requirement provided for in Article 317 of the Customs Code of Ukraine (hereinafter – the «CCU») in the form established by the Ministry of Finance or a notice in international legal relations (the form of which is currently not established by law) should be applied (7).

According to Article 3171 of the CCU, the customs authority determines the moment when the obligation to pay customs duties arises and calculates the amount of customs duties in accordance with the customs legislation of Ukraine, and the debtor is obliged to transfer the due amount of customs duties to the state budget within 10 working days from the date of receipt of the demand for payment of customs duties (6). By their very nature, the provisions of Article 3171 of the CCU describe exclusively the «national» procedure for debt collection. Taking into account the provisions of Article 3171 of the CCU, it is virtually impossible to create a unified form of claim that would be consistent with international legal relations. However, the provisions of the Convention leave it to each Contracting Party to the Convention to assume responsibility for the actual recovery in accordance with its own legal rules in these matters, except for setting the time limits when such recovery should begin. Thus, Article 116(2) and (3) of Appendix I to the Convention provides that in the manner and within the time limits that are mandatory in the territory of the respective Contracting Parties, the amount of the debt shall be communicated to the debtor and the debtor shall pay it (8). It should be noted that the Convention pays special attention to the issue of providing the debtor with the opportunity to pay the debt on its own, or to appeal the relevant Decision with which it has been informed. Warning the obligated person of the application of enforcement measures is a common European practice. Thus, a tax notice in international legal relations can perform such a function by definition. However, the issue of the absence of a legislative provision that would establish the term of voluntary payment and the absence of a procedure for transferring the debt for enforcement remains problematic.

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The procedure for assisting in the collection of tax debt in international legal relations established by the TCU contains many legal provisions that provide for (6):

- reconciliation of the amount of such tax debt by submitting a complaint to the competent authority of a foreign state for review of the relevant decision (Article 105.1);
- the impossibility of administrative appeal in Ukraine against a tax notice in international legal relations ( para. 105.2 of Article 105);
- withdrawal of tax notices in international legal relations or tax claims from the date of receipt by the supervisory authority of a document of the competent authority of a foreign state with a decision to cancel or change the previously accrued amount of tax debt (Article 106);
- taking measures to recover the amount of the taxpayer's tax debt no later than the end of the 1095th day following the last day of the deadline for payment of tax and duties in a foreign country specified in the document of the competent authority of a foreign country (Article 107.1);
- determination of the deadline for the collection of tax debt in international legal relations in accordance with paragraph 102.4 of Article 102 of the TCU (it refers to the limitation periods and their application), unless otherwise provided by an international treaty of Ukraine ( para. 107.1 of Article 107);
- actual prohibition of accrual of penalties and fines on the amount of tax debt in international legal relations when executing a document of a foreign state in Ukraine (Article 108).

It is also necessary to pay attention to the existence in the Procedure for the Implementation of the Provisions of the Convention on the Joint Transit Procedure in Ukraine, approved by the Order of the Ministry of Finance of Ukraine dated 07 November 2022 No. 325, registered with the Ministry of Justice of Ukraine on 24 October 2022 under No. 1309/38645 (hereinafter – Procedure No. 325), of provisions authorising the State Customs Service to «check information on the existence of confirmation of a violation of the debt payment deadline in accordance with the legislation of the applicant's country» (9). Depending on the «existence of confirmation of the violation», further actions of the State Customs Service under the Procedure should be as follows:

«In case there is no confirmation of a violation of the debt payment deadline in accordance with the laws of the applicant's country, the central office sends the debtor copies of the received documents with the details and deadlines for debt payment.

If the request for collection of the applicant authority establishes that the debtor has violated the deadline for payment of the debt in accordance with the legislation of the country of the applicant authority, this document shall be used to collect the amount of the tax debt in international legal relations in accordance with subparagraph 14.1.53 of paragraph 14.1 of Article 14 of the Tax Code of Ukraine» (paragraphs 8,9 of Part 3 «Providing Assistance to Foreign Countries on Collection» of Section VIII "Investigation and Collection Procedures" of Procedure No. 325).

At the same time, these rules are not defined either by the Convention or by the TCU, which provides for sending a notice to the debtor in international legal relations in any case of receipt of a document of a foreign state (Decision), according to which the amount of tax debt is collected. At the same time, such a Decision may be received in Ukraine either accompanied by a «Request for Notification» or a «Request for Recovery». The existence of these requests, provided that they are accompanied by the relevant Decision, is the basis for initiating the collection procedure in Ukraine, according to the provisions of the Tax Code. The only difference is that the competent authority of a foreign country sends a «request for recovery» rather than a «request for notification» when the competent authority of its own country has already carried out such notification of the debt and the enforcement procedure, but the measures taken did not result in payment of the claim in full.

According to the TCU, the State Customs Service, as a supervisory authority, may only send a notification in international legal relations with a proposal to voluntarily pay the debt, regardless of the request for a claim from the competent authority of a foreign country. If the debtor has any objections to the «prematurity» or unreasonableness of the claims, it must appeal directly to the competent authority of the foreign country against the relevant Decision. This issue is further complicated by the fact that, depending on the legislation of the foreign country, the Decision of its competent authority may provide for both voluntary payment of the debt (a «notification request» will be sent) and its enforcement (a «collection request» will be sent). Therefore, the State Customs Service is not able to determine «violation of the debt payment term in accordance with the legislation of the country of the applicant body», since the authority to decide whether or not to apply enforcement measures to the debtor is within the competence of the authorised body of the foreign state.

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An initial assessment of the possible implementation of Council Directive 2010/24/EU of 16 March 2010 on mutual assistance in the recovery of claims relating to taxes, duties and other instruments (hereinafter – Directive 2010/24/EU) in Ukrainian legislation deserves special attention.

As is well known, the Convention provides that the competent authorities of the respective countries (including EU countries) provide each other with information (8):

- administrative assistance necessary to verify the proper application of this Convention and in case of suspected violations in accordance with the procedure provided for in Articles 13 of the Convention and 52 of Annex I to the Convention,

- assistance with the collection of claims if such claims arose in connection with a T1 or T2 transaction in accordance with the procedure provided for in Articles 13(a) of the Convention and Annex IV to the Convention.

The Convention and Directive 2010/24/EU contain similar provisions on the procedure for mutual assistance in the recovery of claims relating to taxes, duties and other instruments. The State Customs Service, in accordance with the requirements of the Convention, has designated as a competent authority "a central contact office to which the main responsibility for contacts with other Member States in the field of mutual assistance is delegated" (8), which is also provided for in Directive 2010/24/EU. Currently, the Department for the Implementation of the International Transit System of the State Customs Service performs the functions of such an office.

Directive 2010/24/EU provides for the adoption of a uniform instrument to be used for enforcement action in the requested Member State, as well as the adoption of a uniform standard form for the provision of documents and decisions in relation to a claim, which should resolve problems with the recognition and translation of decisions of the competent authorities of another Member State. The Convention also provides for the use of standard forms for information exchange, which correspond in name, content and scope to the forms set out in the Directive.

The countries concerned waive all claims against each other for the reimbursement of costs relating to mutual assistance provided to each other in accordance with the Convention and Directive 2010/24/EU. However, where the recovery poses a particular problem, involves very high costs or relates to organised crime, the requesting or requested authority may agree to compensate for the appropriate measures that may be taken in that particular case.

Directive 2010/24/EU, like the Convention, does not affect the powers of the Contracting Parties to the Convention to determine the measures aimed at collecting on claims available under their domestic law. For example, Article 116(2) and (3) of Annex I to the Convention provides that in the manner and within the time limits that are mandatory in the territory of the respective Contracting Parties, the amount of the debt (duties and other charges) must be communicated to the debtor and the debtor must pay it (8). However, prior to this, within the time limits set out in Article 49 of Annex I to the Convention, a procedure for requesting information is carried out, which allows the customs authority of the country of departure to close the joint transit procedure, or to initiate a debt collection procedure or transfer responsibility for collection to another authority.

As a rule, the debtor is the subject of the procedure, which is obliged to comply with the conditions for placing goods under the transit procedure. However, the carrier or consignee of the goods may also be jointly and severally liable (Article 8(2) of Annex I to the Convention). Thus, the competent authorities may receive assistance in collecting from several foreign countries simultaneously using a unified procedure and unified standard forms.

Paragraph 17 of Directive 2010/24/EU states that this Directive shall not preclude the implementation of any duties designed to promote the wider use of assistance on the basis of bilateral or multilateral treaties or agreements (10).

Thus, the Convention sufficiently regulates Ukraine's cooperation with the EU countries on debt collection and exchange of information during the joint transit procedure and allows us to state that the implementation of Directive 2010/24/EU in customs matters is at a significant level. However, it should be noted that the Directive can be fully implemented only when Ukraine becomes an EU member state.

Next, it is worth considering in more detail the conditions that should be taken into account when implementing certain provisions in the regulatory legal acts of Ukraine in the context of debt collection under the joint transit procedure. Thus, in accordance with part one of Article 102-1 of the CCU, the establishment of the fact and place of the obligation to pay customs duties in respect of goods placed in the customs transit



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regime under the terms of the Convention, the identification of persons who are obliged to pay customs duties, the calculation of the amount of customs duties, the presentation of claims and control over the payment of customs duties (including in favour of other countries) are carried out in accordance with the provisions of the said Convention [7]. According to part one of Article 303 of the CCU, in case of non-payment or incomplete payment of customs duties within the established time limit, such payments shall be collected in accordance with the procedure and within the time limits specified by the TCU. Pursuant to Procedure No. 325, recovery also means the procedure following the request for information, which begins with the establishment of the fact that a debt is due and provides for the customs authorities to take measures aimed at ensuring the payment of the relevant monetary obligation (including a monetary obligation in international legal relations) in accordance with the Convention in the manner and within the time limits specified by the CCU and the TCU (9). Paragraph 6 of part two of Article 544 of the CCU refers to the main tasks of the customs authorities to ensure the collection of customs payments, control over the correctness of calculation, timeliness and completeness of their payment, and the application of measures for their enforcement within the powers defined by the CCU, the TCU and other acts of Ukrainian legislation. According to paragraph 41.4 of Article 41 of the TCU, only tax authorities and state enforcement officers within their powers are the collection authorities. In this regard, customs authorities cannot perform the functions of a collection authority and, in case of application of foreign authorities for assistance in enforcement, are forced to apply to tax authorities. In accordance with sub-clause 19-1.1.37. of clause 19-1.1. of Article 19-1 of the TCU, it is the tax authorities that provide assistance in the collection of tax debt in international legal relations at the request of the competent authorities of foreign countries.

A document of a foreign state under which the amount of tax debt is collected in international legal relations is a decision of the competent authority of a foreign state on the accrual of tax debt to the budget of such state, which, at the request of the said competent authority, is subject to execution in the territory of Ukraine in accordance with an international treaty of Ukraine (sub-clause 14.1.53 of clause 14.1 of Article 14 of the TCU). If the said document is recognised as compliant with the international treaties of Ukraine, the controlling authority sends a tax notice to the taxpayer in international legal relations in accordance with the procedure provided for in Article 42 of the TCU (Article 104.2 of the TCU). At the same time, the TCU or other bylaws do not provide for interaction between the controlling authority and the collection authority, for example, if a request with a decision of the competent authority of a foreign state on collection is received by the customs authorities. A tax notice in international legal relations (the form of which is not prescribed by the TCU) may be sent by the customs authorities to the debtor, but further actions of the customs and tax authorities in case of non-payment of the debt are not regulated.

In view of the above, we propose to approve the relevant regulation on the interaction of customs and tax authorities in order to ensure effective mutual administrative assistance in the joint transit procedure. At the same time, it is advisable to take into account paragraphs 3-5 of Article 4 of Directive 2010/24/EU, according to which: "the competent authority of each Member State may designate contact points to be responsible for contacting other Member States with regard to mutual assistance for one or more of the special types or categories of taxes and duties referred to in Article 2(10). The competent authority of each Member State may designate as contact points other authorities than the central contact point or points. The contact points shall make requests for mutual assistance or provide mutual assistance in accordance with the provisions of this Directive relating to their specific territorial or operational competences. If a contact authority or contact unit receives a request for mutual assistance that requires action outside its competence, it shall forward the request without delay to the competent authority or unit, if known, or to the central contact authority, and shall inform the requesting authority.

This means that a regulatory act that will approve the provisions on the interaction of customs and tax authorities in order to ensure mutual administrative assistance in the joint transit procedure should also be designated:

- contact authorities and contact departments that will be responsible for contacts with the competent authorities of other Contracting Parties to the Convention regarding mutual assistance for other categories of taxes and fees;
- the central contact point to which the main responsibility for contacts with the competent authorities of other Contracting Parties to the Convention in the field of mutual assistance regulated by this Directive has been delegated.

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As noted above, currently, in accordance with the requirements of the Convention, the State Customs Service has designated the Department of International Transit System Implementation of the State Customs Service as the central contact body, which is delegated the main responsibility for contacts with other Contracting Parties to the Convention in the field of mutual assistance in accordance with the terms of the Convention. At the same time, the issue of the debt payment procedure falls within the competence of the tax authorities, which requires the division of powers and the determination of the appropriate procedure for interaction in order to provide administrative assistance in the joint transit procedure. Obviously, it is necessary to consider the expediency of amending certain provisions of the TCU, since certain provisions of the TCU do not take into account or contradict the provisions of the Convention and Directive 2010/24/EU.

Thus, according to Article 105 of the TCU, a taxpayer has the right, upon receipt of a tax notice in international legal relations, to file a complaint with the relevant competent authority of a foreign state to review its decision on recovery, but must do so through the controlling authority in Ukraine that received such a decision (6). The Convention and Directive 2010/24/EU provide for the submission of such complaints directly to the competent authority of a foreign state. Pursuant to Article 108 of the TCU, when executing a document of a foreign state under which the amount of tax debt is collected in international legal relations, no penalties and fines are imposed on the amount of tax debt in international legal relations. This is contrary to the provisions of the Convention and Directive 2010/24/EU, which, in accordance with the laws and regulations of the requested Member State, allow for the recovery of costs associated with the collection incurred by the requested authority and the accrual of interest for late payment or payment of the debt in instalments.

We think that it is necessary to analyse other specific provisions of the Convention and Directive 2010/24/EU in order to determine the status of their incorporation into Ukrainian legislation, to identify and justify ways to implement them in order to ensure proper international cooperation in the course of the recovery procedure.

The general term «recovery» as used in the context of «common transit» should be understood to mean all measures taken by the competent authorities to collect any amounts due.

In accordance with the procedure set out in Article 49 of Annex I to the Convention, when the customs authority of the country of departure has not yet received information that allows closing the joint transit procedure or collecting the debt, it shall send requests for the relevant information to the subject of the procedure and/or the customs office of destination. If during the information request procedure it is established that the joint transit procedure cannot be closed, the customs authority of the country of departure shall establish whether the debt has arisen. If a debt has been incurred, the customs authority of the country of departure shall identify the debtor (or debtors) and determine the customs authority responsible for notifying the debt (8).

According to Article 13(a) of the Convention and Articles 114-118 of Annex I to the Convention, the competent authorities of the respective countries must assist each other in the collection of claims (8). Such authorities must notify the customs of departure and the customs of guarantee of all cases in which a debt has arisen in connection with transit declarations accepted by the customs of departure and of the claims made against the debtor for recovery. In addition, they are obliged to notify the customs office of departure of the collection of duties and other charges so that such customs office can close the transit operation. In addition, the competent authorities initiate collection proceedings as soon as they are able to calculate the amount of the debt and identify the debtor (or debtors). Customs duties and other charges (customs debt) are payable in the state in which the debt arose or is deemed to have arisen.

In the absence of an agreement between the Contracting Parties and a third country under which goods moving between the Contracting Parties may be transported through such third country under the T1 or T2 procedure, such procedure shall be applied to the goods on the basis of Article 5 of the Convention, but such procedure shall be suspended in the territory of such third country. If the debt arose in the territory of such a third country, the Convention's provisions on investigation and collection of debt cannot be applied.

The provisions of the Convention provide for an unambiguous definition of the countries responsible for debt recovery from debtors and guarantors, a clear algorithm for interaction between the competent authorities in situations where debt arises during joint transit operations. However, the provisions of the Convention leave it to each Contracting Party to take responsibility for the actual recovery in accordance with its own legal rules in these matters, except for setting the time limits when such recovery should begin. In particular, Article 116(2) and (3) of Annex I to the Convention provides that in the manner and within

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the time limits that are mandatory in the territory of the respective Contracting Parties, the amount of the debt must be communicated to the debtor and the debtor must pay it. However, prior to this, within the time limits set out in Article 49 of Annex I to the Convention, a procedure for requesting information is carried out, which allows the customs authority of the country of departure to either close the joint transit procedure, initiate the debt collection procedure, or transfer responsibility for collection to another authority (8).

As we have already noted, the terms of the Convention (Article 8(2) of Annex I) provide for possible joint and several liability for the payment of the debt of the carrier and the consignee. In this case, the competent authorities usually interact with several countries simultaneously. However, Article 108(3)(c) of the Union Customs Code established by Regulation (EU) No 952/2013 of the European Parliament and of the Council of 09 October 2013 and Article 91 of Commission Delegated Regulation (EU) No 2015/2446 of 28 July 2015 define the cases and conditions under which the debtor's obligation to pay customs duties is suspended in cases where at least one other debtor has been identified and the amount of the debt has been notified to him (11). Such suspension is limited to one year. Currently, this is not the only peculiarity in the debt collection procedure in the EU.

Ukraine, as a Contracting Party, has the right to decide whether to implement similar EU provisions in respect of debt collected on its territory. In addition, the Convention sufficiently regulates cooperation between countries on debt collection and information exchange. However, in matters of actual debt collection as a separate measure of state enforcement, the Convention refers to national legislation.

Currently in Ukraine, debt collection is carried out through judicial and enforcement proceedings. The preparation of a claim for debt collection and its submission to the court is preceded by a claim against the debtor, if the agreement or law provides for a claim procedure. The essence of the judicial stage of debt collection is to confirm the debtor's obligation to repay the debt and to obtain its formalisation in the form of a court decision. Enforcement of court decisions, both in terms of applying interim measures by way of arrest and enforcement of court decisions, is within the competence of the State Enforcement Service, which is part of the Ukrainian judiciary. In this regard, it seems that the procedure for debt collection by the customs authorities in the case of joint transit should be similar to the procedure currently applied to business entities responsible for the payment of customs payments secured by a guarantee.

The TCU already contains a procedure for debt collection in international legal relations, which ensures the implementation of the relevant provisions of the Convention and regulates the following issues: notification of debt, its enforcement, appeal, and interaction between customs and tax authorities. It should be noted that certain articles of the TCU contain conflict-of-laws rules on challenging the amount of a monetary obligation (debt) in international legal relations and require amendments, as discussed below.

It seems necessary to introduce appropriate amendments to the Procedure for Sending Tax Notices to Taxpayers by Controlling Authorities, approved by Order of the Ministry of Finance No. 1204 dated 28.12.2015, registered with the Ministry of Justice of Ukraine on 22 January 2016 under No. 124/28254 (hereinafter – Procedure No. 1204). In particular, Procedure No. 1204 approves the form of tax notification in international legal relations and provides for rules that will allow to resolve organisational and technical issues of interaction between customs and tax authorities.

Mutual assistance of the Contracting Parties to the Convention involves the customs authorities that coordinate and control the debt collection procedure in their country. Therefore, it is proposed to authorise the customs authorities of Ukraine to send tax notices to debtors in international legal relations, and in case of non-payment of a monetary obligation in international legal relations (sub-clause 14.1.38 of clause 14.1 of Article 14 of the TCU) to inform the State Tax Service of the need for enforcement.

**Conclusions.** Summarising the above, we believe that in order to improve the efficiency of organisational support for mutual administrative assistance in the joint transit procedure, a number of measures are required. Since we assume that for Ukraine, the currently acceptable model of the mechanism of recovery of claims under Annex IV of the Convention should obviously be based on the interaction of customs and tax authorities, it seems appropriate to approve the provision on the interaction of these authorities during the debt recovery procedure in accordance with international standards. The regulatory act approving the said provision should decide on the structural units of the customs and tax authorities that will be responsible for contacts with other Member States regarding mutual assistance for other categories of taxes and duties, as well as determine the central executive body to which the main responsibility for contacts with the competent authorities of other Contracting Parties to the Convention in the field of mutual assistance regulated by Directive 2010/24/EU is delegated. In our opinion, it is necessary to approve the form of

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tax notification in international legal relations and to provide for rules that will resolve organisational and technical issues of interaction between customs and tax authorities, and therefore to amend Procedure No. 1204 accordingly. The customs authorities of Ukraine should be empowered to send tax notices to debtors within the framework of international legal relations, and in case of non-payment of monetary obligations in international legal relations, to inform the State Tax Service of the need for enforcement. In addition, certain provisions of the TCU should be amended to address: consideration of taxpayers' applications for review of decisions of the competent authority of a foreign state; the procedure for appealing the amount of a monetary obligation and the need to reconcile the amount of monetary obligations to foreign budgets.

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## МІЖВІДОМЧА ВЗАЄМОДІЯ ЩОДО СТЯГНЕННЯ ЗА ВИМОГАМИ ПРИ ПРОЦЕДУРІ СПІЛЬНОГО ТРАНЗИТУ

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*Метою статті є вивчення особливостей здійснення міжвідомчої взаємодії щодо стягнення за вимогами (боргу) при процедурі спільного транзиту. Дослідження проведене із застосуванням методів синтезу та аналізу, дедукції та індукції, порівняння (для перегляду існуючого понятійного апарату, встановлення передумов та підходів щодо стягнення за вимогами у контексті процедури спільного транзиту), компаративний аналізу (для виявлення проблемних аспектів реалізації окремих положень митного та податкового законодавства), узагальнення (для формування висновків дослідження).*

*Під час дослідження отримано наступні результати. Виокремлено основні аспекти формування механізму стягнення боргу при процедурі спільного транзиту відповідно до міжнародних норм. Зауважено на доцільності розгляду моделі механізму стягнення за вимогами у рамках доповнення IV Конвенції, яка базуватиметься на взаємодії митних та податкових органів У зв'язку з цим, вбачається доречним затвердження положення про взаємодію цих органів під час процедури стягнення боргу відповідно до міжнародних норм. Також розглянуто необхідність ухвалення нормативно-правовим актом, який затвердить згадане положення, рішення щодо структурних підрозділів митного та податкового відомств, які будуть відповідати за контакти з іншими державами-членами стосовно взаємної допомоги для інших категорій податків і зборів, а також визначення центрального органу виконавчої влади, котрому буде делеговано основну відповідальність за контакти з іншими державами-членами у сфері взаємної допомоги, яку регулює Директива 2010/24/ЄС. Зроблено припущення про потребу затвердження форми податкового повідомлення у міжнародних правовідносинах та передбачення норм, що дозволять вирішити організаційні та технічні питання взаємодії митних та податкових органів, а відтак, – внесення відповідних змін до Порядку надіслання контролюючими органами податкових повідомлень-рішень платникам податків, затвердженого наказом Мінфіну від 28.12.2015 №1204, зареєстрованим в Міністерстві юстиції України 22 січня 2016 року за № 124/28254. Вказано на доцільність закріплення за митними органами України повноваження надсилати боржникам податкові повідомлення в межах міжнародних правовідносин, а у разі несплати останніми грошового зобов'язання в міжнародних правовідносинах – інформувати Державну податкову службу України про необхідність примусового стягнення. Актуалізується питання внесення змін та доповнень до окремих норм Податкового кодексу України.*

*Проведене дослідження дозволяє зробити висновок про необхідність врахування особливостей здійснення Державною митною службою України та Державною податковою службою України міжвідомчої взаємодії при формуванні моделі механізму стягнення за вимогами у рамках доповнення IV Конвенції про процедуру спільного транзиту.*

**Ключові слова:** стягнення за вимогами, борг, процедура спільного транзиту, міжвідомча взаємодія, адміністративна допомога, митне законодавство, податкове законодавство.