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PROBLEMS OF TAX MORTGAGE ACCOUNTING AND WAYS OF THEIR SOLUTIONS

The paper investigates the problem of organizational methods of tax mortgage operations accounting. We determined legal aspects of tax mortgage and subjects of such operations, reviewed the assets for inclusion in tax mortgage, considered the mechanism of accounting representation of alienated property under tax mortgage, outlined features of documenting of tax mortgage operations.

Key words: mortgage, tax mortgage, accounting

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ПРОБЛЕМИ БУХГАЛТЕРСЬКОГО ОБЛІКУ ПОДАТКОВОЇ ЗАСТАВИ ТА ШЛЯХИ ЇХ ВИРІШЕННЯ

У статті досліджено проблему організаційно-методичного забезпечення бухгалтерського обліку операцій податкової застави. Визначені правові аспекти виникнення податкової застави, суб'єкти здійснення таких операцій, проведено огляд активів для включення у податкову заставу, розглянуто механізм облікового відображення відчуження майна, що перебуває у податковій заставі, окреслено особливості документування операцій податкової застави.

Ключові слова: застава, податкова застава, бухгалтерський облік

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ПРОБЛЕМЫ БУХГАЛТЕРСКОГО УЧЕТА НАЛОГОВОГО ЗАЛОГА И ПУТИ ИХ РЕШЕНИЯ

В статье исследована проблема организационно-методического обеспечения бухгалтерского учета операций налогового залога. Определены правовые аспекты возникновения налогового залога, субъекты осуществления таких операций, проведен обзор активов для включения в налоговый залог, рассмотрен механизм учетного отражения отчуждения имущества, находящегося в налоговом залоге, обозначены особенности документирования операций налогового залога.

Ключевые слова: залог, налоговый залог, бухгалтерский учет

Problem statement. Entrepreneurial activity is related to risks, one of which is a risk of insolvency. Enterprises can face problems with repayment of account payable to contractors, arrears of wages to personnel; debts on payment of dividends to shareholders; debts on taxes and payments to the budget in case of solvency decline.

When tax debt and expiration of terms of its repayment occur at the enterprise, state uses tax mortgage that can be a source of tax debt repayment, as an instrument of influence and management of such debts. Despite practice of the use of tax mortgage in Ukrainian enterprises activity is not so rare, the problem of concordance of its legal and economic essence and representation of corresponding operations in enterprise accounting remains.

Analysis of the latest researches and publications. The following scientists studied the issues of tax mortgage: Z. M. Budko (2005), O. O. Gogin (2004), I. O. Imykshenova (2003), M. V. Karasiova (2003), V. V. Kyrychenko (2005), I. I. Kuchеров (2003), M. P. Kucheriavenko (2004), O. U. Latypova (2004), O. I. Iakushkina (2006) and others. Most researches concerned the essence of tax mortgage and its consequences, however the issue of tax mortgage accounting for a taxpayer remains scantily explored.

The aim of the research is development of organizational and methodical aspects of tax mortgage operations accounting.

Main results of the research. According to the Law of Ukraine "On mortgage" (Law, № 2654-XII, 02.10.1992), mortgage is a method of obligations provision, unless other is determined by law. But tax mortgage has specific features which show up in cases of its occurrence and realization of the mechanism of management of such mortgaged objects. The issue of tax mortgage occurrence, its role in the process of enterprise tax debt repayment and other important moments are regulated by the Tax code of Ukraine, as well as a number of specifying normative documents of the Ministry of profits and taxes of Ukraine. Operations with tax mortgage are not related to typical enterprise operations and their occurrence has clear pre-conditions which are determined at legislative level. Thus, p. 89.1 of article 89 of the Tax code of Ukraine (Law, № 2755-VI, 02.12.2010) determines that a right for tax mortgage emerges in the following cases:

- Fail to pay an amount of monetary obligation, set by a taxpayer in a tax declaration himself, in terms determined by the Tax code of Ukraine - from a day which comes after the closing date of the specified term;
- Fail to pay an amount of monetary obligation, set by a controlling authority, in terms determined by the Tax code of Ukraine - from a day of tax debt occurrence;

Thus, tax mortgage acts as a guarantee of tax debt repayment for controlling authorities, and a right for tax mortgage spreads to any property of the taxpayer, which is in his property (economic competence or operative management) on the day of such right occurrence and book value of which corresponds to a taxpayer's tax debt amount, as well as to other property the taxpayer will own in the future. The above mentioned results in a unilaterality in tax mortgage relations, which shows up in a priority right of the state on a receipt of enterprise assets in tax mortgage, which takes place in the automatic mode unless tax debt is paid. According to Imykshenova I.O, the essence of mortgage as a method of taxes payment provision creates a priority right for tax authorities for claims satisfaction from the cost of mortgaged property (Imykshenova, 2003: 89).

However, tax mortgage spreads not to all enterprise assets. According to p. 87.3 of article 87 of the Tax code of Ukraine (Law, № 2755-VI, 02.12.2010), the following can not be used as sources of taxpayer's tax debt repayment:

- taxpayer's property, given to other people as mortgage (during the time of action of such mortgage), if such mortgage is registered according to law in corresponding state registers before the moment of the occurrence of right for tax mortgage;

- property which belongs to other people according to ownership rights and is in possession or use of the taxpayer, including (but not exceptionally) property, given to the taxpayer on lease, deposit (safekeeping), lombard deposit, on consignment; goods made on commission, given to the enterprise for processing, except for the part, which is given to the taxpayer as payment for such services, as well as property of other people, accepted by a taxpayer in mortgage or security, trust and any other type of agent management;

- property rights of other people, given to the taxpayer in use or possession, as well as unproperty rights, including intellectual (industrial) ownership rights, passed in use to a such taxpayer without a right of their alienation;

- credit or loan money, given to the taxpayer by a credit-financial establishment, that is accounted on loan accounts, opened for a such taxpayer, sums of letters of credit, addressed to a taxpayer, but not open, sums of advance payments and previous payment on the contracts of enterprises of shipbuilding industry, got from the customers of marine and river ships and other floating means;

- property, included in the structure of integral property complexes of state enterprises, which are not subject to privatizing, including government enterprises;

- property forbidden for free circulation according to the legislation of Ukraine;

- property which can not be a subject of mortgage according to the Law of Ukraine "On mortgage" (Law, № 2654-XII, 02.10.1992);

- money of other people, given to the taxpayer as a deposit or trust management, as well as personal funds of a legal entity, which are used for payments

of the debt on basic salary for actually worked hours to individuals which are in labour relationships with such legal entity.

In terms of the mentioned list of objects which can not be subjects of tax mortgage, we can draw a conclusion, that relations of tax mortgage are limited to two parties – controlling authority and taxpayer which has an unpaid tax debt. Information about the cost of such property is represented on 05 account "Guarantee and provision given" as tax mortgage is the guarantee of tax debt satisfaction. However such level of information specification is not sufficient for disclosure of information about objects which are in mortgage.

Actually, there are no accounts for representation of limitations of enterprise concerning the use of its certain assets, for example in case of being tax mortgaged, in the system of accounting accounts. Nevertheless, such information is important enough from the position of enterprise property management. The outlined problem is closely interwoven with the problem of accounting of ownership rights on enterprise property which can not be represented in terms of the operating system of accounting in Ukraine. Thus, it is reasonable not only to represent the cost of mortgaged property on off-balance sheet accounts, but represent it at the level of enterprise analytical accounting in the structure of corresponding groups of assets, to inform about certain property being tax mortgaged.

Due to wide prevalence of the use of specialized software for accounting, it is necessary to record information about the stay of the object in tax mortgage at the level of primary documents. Such documents can be: inventory cards of fixed assets accounting; accounting cards of objects of little value or quick wear; cards of warehouse materials accounting; cards of accounting of equipment for installation; inventory cards of accounting of objects of incorporeal right in the structure of intangible assets and so on. A mark is recorded in a corresponding primary document in case of object being tax mortgaged.

An issue of documenting of tax mortgage operations at enterprises is still a problem. Currently documenting of tax mortgage operations is well developed for controlling authorities. We suppose, it is related to the fact that the object of

mortgage is a guarantee of tax debt repayment for controlling authorities, protected by law, and thus this issue is regulated clearly enough. At the same time, the enterprise which property is tax mortgaged, actually has no operations with such property to the moment of its alienation to the benefit of the state in case of no repayment of tax debt.

Enterprise property which is tax mortgaged, is constrained on its use which limits certain actions of the enterprise in relation to such property without a corresponding concurrence with a controlling authority. The enterprise faces the situation when it can not freely dispose of own assets, that influences the enterprise itself as well as its contractors. We consider that the fact of constrain on the use and disposal of enterprise property must be documentarily recorded, that will provide the decline of asymmetricness of information in the relations between the enterprise and its partners.

Currently documentary registration of operations of enterprise property surrender in tax mortgage is carried out in the following order. In case the taxpayer does not pay the agreed sum of the debt in terms determined by law, a controlling authority sends (hands) him a tax claim. The tax claim contains information about the fact of debt and right for tax mortgage occurrence, size of tax debt, which is provided by tax mortgage, obligation to liquidate a tax debt and possible consequences of its non-payment in determined term, notice about assets inventory which can be objects of tax mortgage according to law, as well as about possible date and time of public auctions on their sale.

Thus, a tax claim is the first document which informs the enterprise that its assets (or their part) will be tax mortgaged. Also the enterprise is informed of the size of such mortgage.

The next step is a decision of a controlling authority concerning inventory of taxpayer's property in tax mortgage. This decision foresees inventory of taxpayer's property to the amount of its tax debt, and if such property is absent - then to the property which will be owned by the taxpayer in the future. Inventory of taxpayer's

property is drawn up in Certificate of property inventory. On this stage of work the enterprise is given a copy of such certificate.

The set of powers concerning the use of mortgaged objects by the enterprise changes, regardless of no real motion of enterprise property. As constraints are imposed on the free use and disposal of enterprise property, it must be recorded in internal enterprise documents.

We consider a necessity to register enterprise property with constraints on use and disposal. The mentioned register must inform about mortgaged, tax mortgaged property or property under arrest and so on. This information must be open and accessible for the users of information.

Conclusions and prospects of further researches. As a result of the research we established that tax mortgage acts as a guarantee of payment of tax debt by the enterprise. Currently there is no well designed methodical provision of tax mortgage operations accounting at enterprises, regardless the spread of such operations. We suggest to record information about including of enterprise assets in tax mortgage at the level of analytical accounting, as well as register tax mortgaged property. It will provide the formation of informative base on tax mortgaged property and allow to decrease asymmetricness of information between the enterprise and its contractors.

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