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Conceptual foundations of tax risk of business entities

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The article purpose of is to substantiate the conceptual foundations of the tax risk of business entities based on the essence definition.

Based on the development of approaches to the interpretation of the «tax risk» concept by foreign scientists, a content triad has been determined. These are economic risk, uncertainty of tax legislation and inaccurate processing of information. Based on the development of approaches to interpretation by domestic scientists, the most common approaches to interpretation were determined. These are four scientific approaches. Tax risk economic category. Tax risk is the probability of incurring losses, primarily financial. Tax risk is the probability of deterioration of the financial situation. Tax risk is the unpredictability of tax relations.

The essence of the tax risk of the business entity is substantiated. The tax risk of a business entity is an objective phenomenon of the business entity's activity, which is realized as the probability of a potential threat of incurring losses (financial, reputational, etc.) due to the tax relations subjective component. On the part of the state, the tax risk is formed by the inconsistency of tax legislation, changes in tax legislation in the direction of increasing the tax burden, cancellation of tax benefits; lack of independent taxpayer service. On the part of the economic entity, the tax risk is formed by non-compliance with the requirements of tax legislation in order to reduce the tax burden or avoid the obligation to pay taxes, insufficient qualification of the staff performing tax assessment and payment, lack of effective tax planning).

Key words: taxes, tax risk, taxation, tax legislation, tax evasion, risky taxpayer.

Problem statement and analysis of recent research. The activities of business entities are accompanied by various internal and external risk factors, namely: macroeconomic (GDP decline, high inflation, exchange rate fluctuations, high unemployment, changes in taxation conditions, etc.); technological, institutional (changes

in state regulation of institutional conditions for conducting business, etc.), informational (cyberattacks and information wars, etc.), social (social instability, unemployment, shortage of qualified workers and employees in the labor market, low standard of living of the population, migration, etc.), political (political crisis, etc.), etc.

Among the set of risk factors of business entities, those that produce tax risks occupy a prominent place.

Scientific research by foreign scientists focuses on the study of tax risks of business entities in the context of their tendency to aggressive tax planning and tax evasion, the impact of tax risks on the market value of companies. The approach of foreign scholars to determining the essence of tax risks links them with tax uncertainty, contradictions in tax legislation, the risk of tax audit and increased tax control, loss of the right to tax benefits, etc. Thus, P. Sreesing and W. Chen believe that tax risk arises when there are differences in tax legislation, inconsistency in the implementation of taxation, insufficient enforcement by authorities, possible inspections in the future and systematic changes in tax rates and provisions that create uncertainty or tax risk in the future [1, 2]. At the same time, K. Drake, S. Lusch, J. Stekelberg defined tax risk as tax-related uncertainty inherent in a firm's operations, whether related to operational decisions or decisions regarding financial reporting and corporate reputation [3]. In addition, S. Neuman, T. Omer, and A. Schmidt continue to study the essence of tax risk and offer their own interpretation of tax risk «as uncertainty about future tax outcomes caused by current actions or activities, or failure to take preventive actions or continue operations» [4]. Based on the concept of tax risk, scientists assume that tax risk is a result of economic risk, uncertainty in tax legislation, and inaccuracy in the processing of financial and economic information.

In the scientific domestic literature, the issues of tax risk as well as the economic risk of business entities were studied by I. Blank, O. Desiatniuk, I. Kemenyash, K. Kolisnichenko, S. Kucher, S. Levytska, O. Tymchenko, and others.

One of the first classifications of the causes of tax risks was proposed by O. Desiatniuk: socio-economic deficiencies; organizational and legal deficiencies; regulatory and legal deficiencies. More thorough developments in the field of tax riskology belong to O. Tymchenko. Later, the classification of sources of tax risks was improved by N. O. Yevtushenko. I. Blank also developed a number of methods for assessing and managing tax risk. He believed that taxpayers should use these methods to minimize their tax risks. I. Kemenyash also emphasizes that tax risk is a dynamic phenomenon that is constantly changing under the influence of various factors. Therefore, taxpayers should constantly monitor tax legislation and take measures to minimize tax risks.

The works of K. Kolisnichenko are of significant value for understanding and managing tax risks. His research helps enterprises develop effective strategies to minimize tax risks and increase their financial stability.

S. Kucher, a Ukrainian scientist, made a significant contribution to the development of the understanding of tax risk. He defined tax risk as the possibility of negative consequences for the financial situation of a taxpayer as a result of a violation of tax legislation. In addition, the author developed a methodology for assessing tax risks

It should be noted that S. Levytska proposed a clear classification of tax risks based on the subject, object and source of risk. This classification became the basis for further research in this area.

As for the directions of O. Tymchenko, it gave a clear definition of tax risk and identified its key factors, such as changes in tax legislation, dishonest behavior of taxpayers and imperfection of the tax administration.

However, some conceptual aspects of tax riskology remain debatable, the clarification of which will contribute to a more accurate identification and justification of rational management decisions [5-21].

The purpose of the study is to substantiate the conceptual foundations of business entities tax risk based on determining its essence and generalizing the main characteristics of its manifestation. To achieve this goal, a system of theoretical **research methods** was applied: analysis and synthesis, comparison and theoretical generalization, historical and logical.

Research results. To understand the essence of the «tax risk» concept, it is necessary to study the theoretical foundations of the tax risks structure, since there are possibilities of tax risks at the level of the state and a separate region, at the level of a economic activity separate type, at the level of a business entity. It should be noted that today the study of tax risk at the level of business entities requires further study. In the presented study, we consider the tax risk of business entities, which significantly limits the analysis of the conceptual apparatus of financial science and current legislation.

In particular, according to clause 14.1.221 of the Tax Code of Ukraine, risk is the probability of non-declaration (incomplete declaration) of tax obligations by a taxpayer, non-fulfillment by a taxpayer of other legislation, control over which is entrusted to regulatory authorities [22]. Thus, from the taxpayer's perspective, the State Tax Service of Ukraine diagnoses risk in the

event of non-declaration of tax obligations, non-payment of taxes, etc.

Based on the generalization of definitions of the concept of «tax risk of a business entity (enterprise)», we took into account the most common approaches in domestic financial science (Fig. 1).

individuals who are taxpayers; tax agents, etc. Therefore, the comparison of the definition of tax risk and tax risk subjects allows us to state that it is advisable to take the subjective component of the conceptual apparatus as a basis for formulating the essence of the studied economic category.

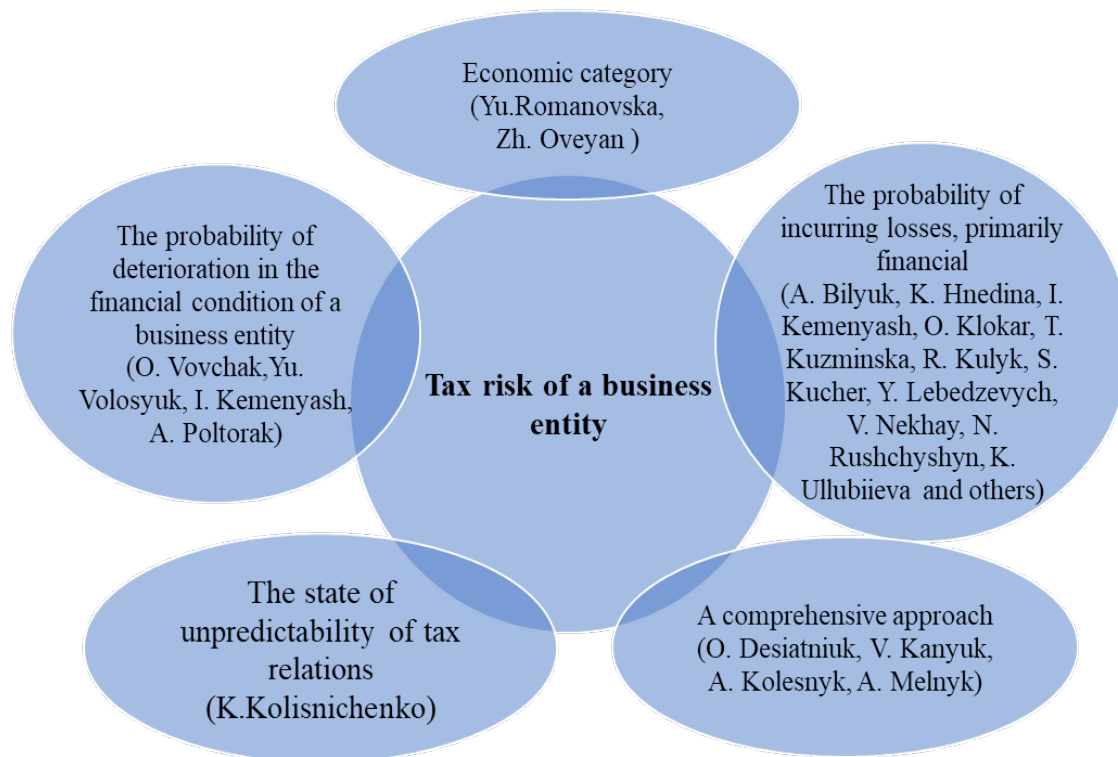


Fig. 1. Approaches to definitions of the «tax risk» concept of a business entity»

Source: generalized based on [4-21].

The information presented in Fig. 1 allowed us to draw the following conclusions (generalizations). Yu. Romanovska, Zh. Oveyan consider the tax risk of an enterprise to be an economic category that reflects the peculiarities of the taxpayer's perception of the possible losses (damages) danger associated with the process of taxation and tax payment [19]. As M. Denysenko and V. Dolot note, «an economic category is an abstract (generalized) expression of economic relations. Thus, when interpreting a term or formulating a particular category, some economic relations must be reflected» [8]. At the same time, Yu. Romanovska and Zh. Oveyan do not indicate what economic relations occur and between which subjects in the event of possible losses (damages) associated with the taxation process. The subjects of tax risk are the state (legislative authorities, tax control authorities); legal entities, individual entrepreneurs,

Summarizing the above, the tax risk of a business entity is an economic category that is realized through economic relations between the state, legal entities and individuals regarding possible losses (damages) associated with the process of taxation and tax payment. Retrospective analysis indicates the introduction of a risk-oriented approach in the activities of state tax authorities in 2003 and through the adoption and implementation of the Program for the Modernization of the State Tax Service of Ukraine, which was accompanied by the adoption of regulatory acts that in certain periods regulated the process of identifying tax risks of enterprises and risky taxpayers. The following should be highlighted: Methodological recommendations for monitoring tax risks, approved by the order of the State Tax Service of Ukraine dated 23.10.2001 No. 428; Procedure for assessing the performance indicators of

business entities for the distribution of taxpayers by attention categories, approved by the order of the Ukraine State Tax Service dated 24.07.2006 No. 430; Procedure for applying an automated risk analysis and management system during customs control and customs clearance of goods using a cargo customs declaration, approved by the order of the Ukraine State Customs Service dated 13.12.2010 No. 1467; Procedure for developing risk profiles, approved by the order of the Ukraine State Customs Service dated 22.12.2010 No. 1514; Criteria for assessing the degree of risk from the activities of a customs broker and determining the frequency of planned state supervision (control) measures, approved by the resolution of the Ukraine Ministers Cabinet dated 21.03.2012 No. 219; Procedure for conducting risk analysis and assessment, development and implementation of risk management measures in the Customs Service of Ukraine, approved by Order of the Ukraine Ministry of Finance o dated 05/24/2012 No. 597, Procedure for forming a plan-schedule for conducting documentary scheduled audits of taxpayers, approved by Order of the Ukraine Ministry of Finance dated 06/02/2015 No. 524 (hereinafter referred to as Order of the Ministry of Finance of Ukraine dated 06/02/2015 No. 524); Recommended procedure for interaction of SFS units in the comprehensive development of tax risks from value-added tax, approved by Order of the Ukraine State Fiscal Service dated 07/28/2015 No. 543; The procedure for conducting risk analysis and assessment, developing and implementing risk management measures to determine the forms and volumes of customs control, approved by the order of the Ukraine Ministry of Finance dated July 31, 2015 No. 684; The procedure for suspending the registration of a tax invoice / calculating adjustments in the Unified Register of Tax Invoices, approved by the resolution of the Ukraine Cabinet of Ministers dated February 21, 2018 No. 117; The procedure for suspending the registration of a tax invoice / calculating adjustments in the Unified Register of Tax Invoices, approved by the resolution of the Ukraine Cabinet of Ministers dated December 11, 2019 No. 1165 (hereinafter referred to as the Resolution of the Ukraine Cabinet of Ministers dated December 11, 2019 No. 1165).

It has been established that at the current stage of development of tax administration, several approaches to the taxonomy of risky taxpayers are distinguished. The first approach is used in accordance with the Order of the Ukraine Ministry of Finance dated 02.06.2015

No. 524 for the needs of forming a plan-schedule for conducting documentary scheduled inspections of taxpayers with the classification of taxpayers into: 1) high-risk taxpayers; 2) medium-risk taxpayers; 3) low-risk taxpayers. In general, 67 tax risk criteria have been defined for legal entities, 30 criteria for individual entrepreneurs, 32 criteria for non-banking institutions, 25 criteria for commercial banks, 10 criteria for permanent representative offices and representative offices of non-residents, provided that at least three criteria are sufficient to assign a certain risk status to a taxpayer. The first approach to the taxpayer taxonomy is also used to select taxpayers to verify the correctness of the calculation, completeness and timeliness of payment of personal income tax, military levy and single social contribution.

The second approach to the taxpayer taxonomy is used in accordance with the Resolution of the Ukraine Cabinet of Ministers dated 11.12.2019 No. 1165 for the purposes of suspending the registration of a tax invoice/ calculating an adjustment. A summary of the approaches to defining the tax risk of a business entity as the probability of expenses is given in Table 1.

The definition of tax risk of a business entity as the probability of losses is the most common among domestic financiers. Some provisions in the presented definitions in Table 1 remain debatable. Thus, K. Ullubiieva limits tax risks to penalties, accrued liabilities, and reduced VAT tax credit [21]. Such a limitation of tax risks is inappropriate, since in the tax system of Ukraine, in addition to VAT, other taxes are also payable (corporate profit tax, personal income tax, excise tax, environmental tax, rent, duty, property tax, single tax, fee for parking spaces, tourist tax) [22]. Limitation by financial costs is widespread, but incomplete. We believe that losses from tax risks of a business entity are also realized by the loss of business reputation, loss of time and distraction from financial and economic activities during tax audits, assignment of the risky taxpayer status, etc.

A similar opinion is found in the work of V. A. Nekhay, K. V. Gnedin, who link the tax risk of an enterprise with the possibility of costs and other negative consequences caused by external factors, such as uncertainty in the tax sphere [16]. However, the formation of the tax risk of a business entity occurs under the influence of not only external factors, often tax risk is formed due to the desire of management (owners) to evade the obligation to charge and pay taxes.

Table 1 - Approaches to determining the tax risk of a business entity as a probability of expenses

Authors	Definition
A. Bilyuk, E. Kosova	«the possibility of undesirable consequences for the subject of tax legal relations related to the taxation process, caused by negative deviations from the expected states (scenarios) in the future period» [5]
R. Kulyk, Yu. Kulyk	«the possible occurrence of adverse material (primarily financial) and other consequences for the taxpayer as a result of the actions (inaction) of the participants in tax legal relations» [12]
S. Kucher	«the possibility of the taxpayer incurring unplanned expenses in the future caused by the failure of such taxpayer to comply with tax legislation» [13]
Ya. Lebedzevych, T. Kuzminska	«the probability (threat) of additional assessment of taxes (fees), penalties and fines during a tax audit due to discrepancies between taxpayers and tax authorities in the interpretation of tax legislation, which may result in a real increase in the tax burden for the business entity» [14]
V. Nekhay, K. Hnedina	«the probability of losses caused by uncertainty and conflict in the tax sphere and the possibility of negative consequences in the process of making management decisions regarding the implementation of the enterprise's tax policy» [16]
O. Klokar, S. Boyko, I. Kemenyash, N. Rushchyshyn	«the risk for the subject of tax legal relations to incur financial and other costs associated with the taxation process due to certain risk-forming factors» [17]
K. Ullubiieva	«the probability of losses due to the imposition of penalties (for violation of tax, currency and other legislation), additional assessment of tax liabilities and reduction of VAT tax credit» [21]

Source: summarized based on [5, 12-14, 16,17,21].

The limitation of the scope of tax risk of an enterprise is also discussed in the works of S. V. Kucher [13]. The author defines non-compliance with tax legislation as the only source of tax risk of an enterprise. Contrary to the scientist's scientific position, we see the presence of tax risk in business entities that comply with tax legislation, but have tax risks of frequent changes in tax rates, increases in tax rates, cancellation of tax benefits, changes in the procedure for tax administration, etc. Proof of the presence of other tax risks can be the interpretation of tax risk by V. F. Deineka, O. M. Rozum, I. A. Shavlo, where «tax risk from the taxpayer's point of view is the probability of an increase in the tax burden, the risk of minimizing taxes that arise in the interpretation of tax legislation, the risk of tax control during a tax audit and, as a result, the risk of criminal prosecution of a tax nature» [7].

Researchers A. V. Bilyuk, E. V. Kosova see the source of tax risk of enterprises in negative deviations from the expected states (scenarios) of taxation in the future period, but they do not indicate either the degree of deviation

for identifying tax risk, or time periods, or basic indicators for identifying tax risk. Such indicators may be the size of tax liabilities, VAT tax credit, the size of the tax burden on income, expenses, cash flows, etc. The definition is based on the threat of failure to meet the planned indicators of the enterprise's activities due to a change in the state's tax policy. The sign of planning is embedded in the definition of O. I. Sedykh, however, the definition of tax risks has a not entirely scientific formulation: "... in a broad sense, risk (tax risk of an enterprise) is something that can lead to negative results, so that the financial results after taxation of a transaction or economic activity may not be as expected" [20].

The definition of the business entity tax risk as the deterioration probability of the financial condition is given in Table 2. Thus, A. Poltorak, Yu. Volosyuk limit the tax risk of an enterprise to the probability of a change in the financial condition due to the influence of various factors on the planned tax indicators[18], but, in our opinion, it is not entirely correct to limit oneself to the planned indicators.

Table 2 - Definition of the tax risk of a business entity as the probability of deterioration in financial condition

Authors	Definition
A. Poltorak, Yu. Volosyuk	«the probability of a change in the financial condition of a business entity due to the influence of external and internal factors of an objective and subjective nature on the tax planning system of the enterprise» [18]
O. Vovchak, I. Kemenyash	«the probability of a financial condition occurring when the payer cannot fully or partially repay his tax obligations to the budget» [6]

Source: summarized based on [6, 18].

For example, small and some medium-sized enterprises do not implement tax planning systems (tax budgeting), and, accordingly, their financial condition may deteriorate due to the growth of the tax burden. In this regard, the opinion of O. Vovchak, I. Kemenyash [6] is correct, who consider the inability of an enterprise to repay tax liabilities to the budget under tax risk. Thus, scientists have concluded that the essence of the tax risk of a business entity is characterized by the loss of solvency, as well as a shortage of funds to finance tax liabilities. We believe that the position on the tax risk of a business entity as the probability of deterioration of the financial condition deserves consideration not only in the direction of solvency, but also in financial stability, business activity, liquidity, even the probability of bankruptcy. This is confirmed by the fact that scientific research by foreign scientists is based on hypotheses of the relationship between tax risk, tax pressure and indicators of profitability, liquidity, financial leverage, market value, capital structure, debt policy, dividend policy, etc. [23-27]. It has been established that some scientists use a comprehensive approach, for example, A. Melnyk and A. Kolesnyk - a dualistic approach (Table 3).

Thus, A. Melnyk, A. Kolesnyk define the tax risk of an enterprise as the probability of

financial losses or under-receipt of income due to non-payment of taxes, tax offenses, irrational management decisions in the field of taxation (tax management), that is, exclusively internal factors and internal tax risks. The consequence of tax risks, according to scientists, is financial losses of the enterprise, reduction of net profit, investment attractiveness of the enterprise, loss of financial stability [15]. The outlined position continues the list of indicators of financial condition that may deteriorate due to tax risks of a business entity.

A comprehensive approach to determining tax risk is used by O. Desyatnyuk, V. Kanyuk, who interpret tax risk as a permanent probability of occurrence as a result of the influence of exogenous and endogenous factors related to the taxation process, financial, procedural, legal, social and other consequences that are characterized by uncertainty and are manifested both in the form of various losses (losses, unused opportunities, lost benefits), and in the possibility of obtaining additional benefits (income, profit, cost savings, additional opportunities) as a result of negative and positive deviations from the planned goals of the tax activities of such a business entity [10]. We agree that to determine the tax risk of a business entity, it is advisable to use a comprehensive and systematic approach.

Table 3- Determination of the tax risk of a business entity based on the duality of approaches

Authors	Definition
A. Melnyk	«the possibility of carrying out an event as a result of which an organization that has implemented a certain decision in the field of taxation may lose possible benefits, incur additional losses»
A. Kolesnyk	«the probability of a potential threat for a taxpayer to incur financial losses or under-receive income due to non-payment of taxes, committing tax offenses»

Source: summarized based on [15].

Conclusions. Taking into account the above, we believe that tax risk should be considered as the probability of a potential threat of incurring losses due to the subjective component of the tax relations of the business entity and the state. In the process of a business entity's activities, an important condition for its effective development is to take into account tax risks, the occurrence of which is influenced by a variety of both external and internal factors. Despite the fact that external factors cannot be eliminated independently by the business entity (for example, shortcomings in tax legislation or changes in taxation parameters), all tax risks must be identified in a timely manner and their consequences assessed in order to make optimal management decisions.

Tax risk of a business entity is an objective phenomenon of the business entity's activities, which is realized as the probability of a potential threat of incurring losses (financial, reputational, etc.) due to the subjective component of tax relations (on the state part: inconsistency of tax legislation, changes in tax legislation in the direction of increasing the tax burden, tax benefits abolition; lack of independent service for taxpayers; on the part of the business entity: failure to comply with the requirements of tax legislation in order to reduce the tax burden or avoid the obligation to pay taxes, insufficient qualifications of personnel responsible for calculating and paying taxes, lack of effective tax planning).

The proposed definition of tax risk covers all subjects and objects of tax relations, and also takes into account all factors influencing the taxation process, which will allow for the prompt adoption of rational management decisions to minimize and neutralize it.

Further research should focus on determining the criteria (signs) and quantitative parameters of tax risks of business entities, as well as the main risk factors, taking into account domestic experience in tax administration and world practice.

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Концептуальні основи податкового ризику суб'єктів господарювання

Бойко С.В., Бец О.І., Драган О.О., Гаврик О.Ю.

Стаття присвячена дослідженню концептуальних основ податкового ризику, з яким вступають у протиріччя суб'єкти господарювання, на основі визначення сутності ризику суб'єктів господарювання.

Встановлено, що діяльність суб'єктів господарювання супроводжується різноманітними внутрішніми та зовнішніми ризик-факторами: макроекономічними, технологічними, інституціональними, інформаційними, соціальними, політичними тощо. Серед сукупності ризик-факторів суб'єктів господарювання виділено ті, що продукують податкові ризики.

Для досягнення поставленої мети застосовано систему теоретичних методів дослідження: аналізу і синтезу, порівняння та узагальнення, історико-логічний.

На основі опрацювання підходів до трактування поняття «податковий ризик суб'єкта господарювання» іноземними вченими визначено тріаду змістового наповнення: економічний ризик, невизначеність податкового законодавства та некоректне оброблення інформації.

Систематизовано підходи до трактування вітчизняними вченими поняття «податковий ризик суб'єкта господарювання». Перший визначає сутність податкового ризику як сукупності відносин між державою, юридичними та фізичними особами щодо можливих втрат (збитків), пов'язаних з процесом оподаткування та сплати податків, що суворо регламентуються податковим законодавством, зокрема, визначення рівня ризиковості платників податків для потреб податкового адміністрування загалом чи адміністрування окремих податків, наприклад, податку на додану вартість. Другий з підходів має найбільше поширення у науковій літературі та визначає сутність податкового ризику через ймовірність понесення фінансових втрат. Альтернативними є підходи до розуміння сутності податкового ризику як можливості погіршення

фінансового стану суб'єкта господарювання, стану непередбачуваності податкових відносин.

Запропоновано авторське тлумачення сутності податкового ризику суб'єкта господарювання як об'єктивне явище його діяльності, що реалізується як можливість виникнення потенційної загрози понести втрати через суб'єктивну складову

податкових відносин, що дозволить системно та комплексно враховувати його природу та оперативно розробляти заходи з мінімізації та нейтралізації його впливу.

Ключові слова: податки, податковий ризик, оподаткування, податкове законодавство, ухилення від сплати податків, ризиковий платник.



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