

ЮРИДИЧНІ НАУКИ

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LEGAL ASPECTS OF THE STATE INTERNAL AUDIT FUNCTIONING IN UKRAINE

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In the system of state administration there is a need to develop an independent audit of state finance in the mechanism of financial control. To ensure effective functioning of the internal audit in accordance with the EU standards qualified staff is needed to have the functions of the state authority reviewed. Professional Standards Committee assists the Supreme Audit Institutions in Ukraine in using international standards. The knowledge of the internal auditor should be correspondingly certified. Development and application of new forms, methodology of state internal auditors' certification are important elements.

Keywords: financial audit, state auditor, EU standards, auditors' certification.

State financial control adds to strengthening of the financial position of the state, introduction of the determined financial policy and ensuring financial security of the state.

The essence and scope of the state financial control in Ukraine are defined by the Law of Ukraine On Main Principles of State Financial Control in Ukraine (1). State financial control is provided by the state financial control authority through the state financial audit, verification of state procurement and inspection. According to Art. 4 of this Law, inspection is carried out by the state financial control authority by means of an audit and involves a documentary and ex post review of a certain complex or of specific issues of financial and economic activity of the controlled institution, which should ensure detecting violations of legislation in force, identifying guilty officials or those financially responsible who have committed them.

According to I. Stefanyuk, it is inappropriate to develop state financial control in the direction of improving the inspection (11). In accordance with Art. 3 of the Law of Ukraine On Main Principles of State Financial Control in Ukraine, state financial audit is a form of state financial control and consists in checking and analysis by the state financial control authority of the actual status of the legitimate and efficient use of the state or municipal funds and property and other assets of the state, the accuracy of accounting and financial reporting reliability, the system of internal control.

Experts of the European Commission on the implementation of the state internal financial control in the EU member states believe that the state financial control is implemented according to international standards – INTOSAI, the Memorandum of the Institute of Internal Auditors on Internal Audit in Europe.

Analysis of scientific papers and publications. The significant contribution was made by O.I. Baranowskyi, A. Bohomolov, F. Butynets, M.V. Derekon, I. Drozd, T.O. Kamenska, I.B. Slobodyanyk, I.B. Stefanyuk, A.A. Petryk, T.V. Fedchenko, V.H. Shvets.

Foreign scientists who have studied the issues of audit as a form of financial control include

R. Adams, J. Lobbek, J. Watts, W. Wilson, L. Olofson, J. Robertson, K. Stanton, et, c.

The Concept of state internal financial control till 2017, approved by the Cabinet of Ministers of Ukraine, defines methodological and organizational principles of the state internal financial control aimed at budget process improving, efficiency upgrading of state finances (legal, economic, effective and transparent) and system improvement activities of the bodies of state and municipal sectors (5).

The basic principle of state internal financial control is the clear separation of internal control and internal audit, namely internal audit determines how the internal control is conducted. According to Art. 3 of the Law On Auditing Activity dd. 01/01/2016, audit is a review of accounting and financial reporting data of the economic agent in order to express an independent auditor's opinion on its reliability in all significant respects and compliance with the legal requirements in Ukraine, regulations (standards) of accounting and other rules (internal regulations of the economic agents).

Internal audit is the activity of the internal audit unit in the public institution directed at preventing illegal, inefficient and ineffective use of budget funds, the occurrence of errors or other shortcomings in the activities of the budgetary institution and its subordinated budgetary institutions.

(9) State financial audit is a form of state financial control. The state auditor does not only examine financial reports and accounting documents, but also conducts control measures.

The auditors may not use their authority to obtain improper advantage or accept an offer or promise of such a benefit for themselves or others, and therefore for the improper performance of professional duties penalties in the form of warnings, suspension of certificate validity up to one year or revocation of the certificate of the auditor may be applied to the auditor.

Analyzing the Order № 1247 of the Ministry of Finance of Ukraine On Approval of Internal Audit Standards. 04/10/2011 as amended on 23/01/2015 these standards are developed to determine common approaches to organizing and conducting in-

ternal audits, preparation of audit reports, conclusions and recommendations in the ministries and other central executive bodies, its territorial bodies and budgetary institutions belonging to the ministries' managerial area, assessment of the quality of audit. The scope of internal audit covers the following areas:

- evaluation of institution activity on the efficiency of the internal control system, and the extent to which the objectives identified in the strategic and annual plans are performed and reached.
- effectiveness of budgetary planning programs and the results of their implementation, quality of administrative services.

Auditing standards are adopted on the basis of auditing standards and ethics of the International Federation of Accountants observing the requirements of the Law On Auditing Activity (2), Law On prevention of legalization (laundering) of proceeds from crime, financing terrorism and financing of mass destruction weapons proliferation.

The purpose of the internal audit is to provide independent and objective advice and recommendations aimed at strengthening the management processes, improving the activities of state and municipal sectors.

Internal audit can be carried out centralized and decentralized by an authorized independent unit subordinated directly to the management of the state authority, but functionally independent from it.

According to Art. 26 of the Budget Code of Ukraine, internal control is a set of measures applied by the head in view of ensuring compliance with the law and efficiency of budget funds use, achieving results or unexpunged conviction of a crime or for which in the last year administrative penalties for corruption offenses were imposed. At present in Ukraine in the public authorities there are operating internal controls elements. However, in the context of Art. 26 of the Budget Code and Methodological Recommendations on Organization of Internal Control a unified system of internal control as an integrated process has not been created in those bodies. Thus, in the majority of bodies risk-management activities have not been introduced – only some of the authorities announced the beginning of work in this direction (1).

One of the reasons for such a state of affairs is the misunderstanding of the role and responsibility of the manager for organizing of the internal control foreseen by Art. 26 of the Budget Code, as well as misunderstanding of the internal control main point. In other words, managers believe that only financial transactions should be monitored and this should be done by the Auditing Chamber, State Financial Inspection or other regulatory bodies.

The main reasons for ineffective implementation of the internal audit function, violations and shortcomings during its implementation include:

- insufficient number of internal audit subdivisions (establishing in selected bodies of small units of internal audit, in which from 52 to 286 objects of auditing accrue to one auditor);
- permanent undermanning of internal audit subdivisions (as of 01/07/2015 23% of posts for internal auditors are vacant in the executive bodies).
- lack of organizational and functional independence of the internal audit subdivisions (in particular,

dependence of the units, their insubordination to the head of the body, fulfilling functions not inherent in the activities of internal audit, handing over responsibility for internal audit to HR/Accounting Department, anti-corruption units);

- frequent personnel changes, especially among those with experience and knowledge in the field of internal control and internal audit. Thus, out of 481 of the trained by the State Financial Inspection of internal auditors of the central and regional levels for the last 4.5 years as of 01/07/2015 only 51% of internal auditors remained in their (or higher) positions in the relevant bodies;

- inconformity of educational qualification of internal auditors to legislatively specified requirements. Over the past year, the proportion of internal auditors who do not meet educational qualification requirements rose up to 10% of the total actual number of internal auditors in the system of the executive power central bodies;

- lack of motivation of executive power central bodies' heads to conduct complex research of the institution activity, due to which the total aggregate of the internal audits conducted is extremely low (24%). At the same time there are internal audits like revisions or internal audits of certain problematic issues.

Internal audit provides an unbiased and objective evaluation of the responsible and efficient management of state finance by the budget owners. State Financial Inspection of Ukraine carries out advisory, outreach, methodological activity, conferences and seminars for internal auditors, management and employs other measures for internal audit development.

(7) These are the basic steps to bring internal audit in line with the EU standards, qualifications for the post of internal auditor include a certificate of internal auditor, higher education and management experience.

Among international professional organizations engaged in the certification of internal auditors is the International Institute of Internal Auditors (INSTITUTE OF INTERNAL AUDITORS).

(5) CIA certificate is the only internationally accepted certificate for internal auditors working in the public sector (Certified Internal Auditor, CIA).

In Ukraine certification (recognition qualification suitability for the activity in Ukraine, the procedure for certification of auditors who carry out audits of banks is approved by the Chamber of Auditors of Ukraine in coordination with the National Bank of Ukraine in accordance with Art. 10 of the Law of Ukraine On Auditing Activity.

According to the Regulation on certification of auditors № 178/6 dd. 28/11/2013 adopted by the Chamber of Auditors of Ukraine, auditors have a certificate – an official document proving the level of professional knowledge required for the audit in Ukraine. Candidates having higher economic or legal education, necessary knowledge in auditing, accounting, finance, economics, taxation and business law, work experience of at least three consecutive years in the positions of auditor, accountant, lawyer, financier, economist, assistant auditor and successfully passed a written qualification exam have the right to receive a certificate.

Auditors are required to have a police clearance and a certificate of no personal data in the Unified state register of those who committed corrupt offences. After approval at the meeting of the Chamber of Auditors of Ukraine commission report on the results of a qualifying examination, certificates are introduced into the database of auditors. Information on the application of penalties to the auditor and the auditor's certificate period of validity (7).

Art. 363 of the Economic Code of Ukraine defines financial audit as a form of state financial monitoring aimed at checking and analysis of the factual situation as for legal and efficient use of the state or public funds and property, correctness of accounting and authenticity of financial reporting, as well as internal control system functioning. Audit and state financial audit can be performed on the initiative of economic entities as well as in cases provisioned by the law (compulsory audit). In modern conditions in Ukraine it is especially important to develop a system of state audit formation as an institute of independent state control because a significant part of the regulatory functions is in the hands of the executive power bodies and the legislation in force does not fully follow up provisions of the Lima Declaration. According to the Lima Declaration, 'the purpose' of the regulatory system is to reveal deviations from accepted standards and violations of the principles of legality, efficiency, effectiveness and economy of financial management early enough to make it possible to take corrective action in individual cases, to make those accountable accept responsibility, to obtain compensation, or to take steps to prevent--or at least render more

difficult--such breaches. INTOSAI financial audit guidelines are the system of assessment and resources of the International Auditing and Insurance Standards Board, auditing mechanism, exchange of knowledge in efficient auditing.

Conclusions. Efficiency of the financial system of Ukraine depends on the use of state audit possibilities in finance, so the main tasks of the state audit are:

1) to ensure proper economic, efficient, effective and transparent management of state finance, auditing of provision and use tax benefits, servicing and redemption of national debt, the use of non-budgetary funds and banks and other financial institutions;

2) to introduce new methodological directions of state audit, preparation of expert-analytical conclusions, regulatory acts for financing, development of proposals to eliminate identified legal defects;

3) to establish mechanisms for state certification of internal auditors in Ukraine, namely establishment of qualification requirements for education, experience, obligatory training to methodology of internal audit in accordance with the EU standards;

4) to determine the Ministry of Finance of Ukraine the authority responsible for certification. The list of functions of the Ministry of Finance of Ukraine to be completed with the function of research of management processes and compliance with general and applied controls. Completion of departmental regulations of the Ministry in the internal audit scope will form the legal basis of the internal audit in the institutions of the Ministry of Finance of Ukraine.

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ПРАВОВІ АСПЕКТИ ФУНКЦІОНУВАННЯ ДЕРЖАВНОГО ФІНАНСОВОГО АУДИТУ В УКРАЇНІ

Анотація

У системі державного управління є необхідність розроблення незалежного аудиту державних фінансів в механізмі фінансового контролю. Щоб забезпечити ефективне функціонування внутрішнього аудиту згідно зі стандартами ЄС необхідні кваліфіковані кадри для проведення експертної оцінки функцій державного органу. Комітет з професійних стандартів допомагає вищим органам фінансового контролю в Україні у використанні міжнародних стандартів. Внутрішній аудитор повинен підтвердити свої знання сертифікатом відповідного зразка. Важливим елементом є розроблення та застосування нових форм, методології сертифікації державних внутрішніх аудиторів.

Ключові слова: фінансовий аудит, державний аудитор, стандарти ЄС, сертифікація аудиторів.

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Аннотация

В системе государственного управления существует необходимость разработки независимого аудита государственных финансов в механизме финансового контроля. Чтобы обеспечить эффективное функционирование внутреннего аудита в соответствии со стандартами ЕС необходимы квалифицированные кадры для проведения экспертной оценки функций государственных органов. Комитет по профессиональным стандартам помогает высшим органам финансового контроля в Украине в использовании международных стандартов. Внутренний аудитор должен подтвердить свои знания сертификатом соответствующего образца. Важным элементом является разработка и применение новых форм, методологии сертификации государственных внутренних аудиторов.

Ключевые слова: финансовый аудит, государственный аудитор, стандарты ЕС, сертификация аудиторов.