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LEGAL FRAMEWORK OF ADMINISTRATIVE RESPONSIBILITY FOR INFRINGEMENT OF THE AGRARIAN LEGISLATION

The development of the law of administrative liability for infringement of agrarian laws are analyzed in the article. On the basis of existing legislation shortcomings in the legislative provision of administrative liability for infringement of agrarian laws were revealed. Trends of the law on administrative responsibility in the field of agriculture and the ways of improvement of legislation in the field of the study were disclosed.

In our opinion in the agricultural sphere several trends in the development of legislation on administrative responsibility are disclosed in the article. In particular, there are the following: establishing administrative penalties for infringements of agrarian laws alone of

the Code of Ukraine on Administrative Offences, regulations, the development and adoption of legal acts providing for unlawful acts in the relevant area without establishing penalties for their commission.

To ensure the stability of the legislation on administrative offenses expedient to attract lawyers working in agrarian field to work on a draft Code on administrative offenses in the part of development of regulations on liability for infringement of agrarian laws. This will greatly enhance the quality of the new code and will avoid amending the articles on responsibility in the Code of Ukraine on Administrative Offences immediately after its adoption.

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TAXES AS ONE OF METHOD FOR CALCULATION OF ENVIRONMENTAL DAMAGES

In modern conditions of social development the main priority, the national interests of Ukraine is saving and restoration of the environment, ensuring the environmental safety of human life. The pursuit of sustained economic growth

without environmental requirements that long prevailed in the relations between society and the environment; put our country on the bound of environmental crisis. Therefore, both at international and national levels, the need to find in-

struments that would ensure coordination of economic interests with the laws of nature. State seeks not only to solve the socio-economic or political problems, but problems of environmental protection. Along with the protection of the environment from pollution necessary condition to solve this problem is to restore the natural resources and bringing them into the previous condition. However, in many cases, because of the damage caused to the environment to return natural resources to its previous state is impossible. In particular, it is not possible to plant cut trees or plants, recover naturally destroyed populations of rare animals etc. Therefore, environmental law formed compensatory mechanisms refund damages caused to the environment. The term «compensation» is interpreted as balancing something disturbed; catch, so the recovery is carried out not only through the steps to bring the natural resource in the previous state, but because of compensation for environmental damage in monetary terms.

Taxes are fully reflecting in value all the negative economic and environmental effects caused by environmental damage. The taxes contain predetermined amount of property damage caused to the environment by unlawful actions of individuals or entities. Often tax method of refund attributable to the activities of civil liability. According to P.D. Pylypenko, a false impression due to the fact that the tax is expected a property expression of damages, and the liability is reimbursement. However, all attempts to file a tax responsibility as a form of civil liability discord with the general grounds for liability for damage or property damage provided for in the article № 1166 of the Central Committee of Ukraine, concerning damage caused by the wrongful act

or omission of persons or entities moral rights or property of the person or entity that should be refunded in full.

Tax liability is assumed in the case of damage to the environment, not the property of individuals or legal entities. That is why taxes even though their material nature, yet have different legal nature and can not be considered as penalties civil liability. They are sanctions proceedings in the environment, rather than a separate form of compensation civil (property) damage.

In modern terms the tax method is the only mechanism for determining the damage on most natural resources. For example, approved taxes to calculate the amount of damage caused to forests unlawful actions of entities and individuals. They calculated the amount that should be recovered in case of destruction or damage to forest plantations, natural regrowth and self-seeding on land designated for regeneration. The amount of compensation depends on the age (in years) forest crops, etc. and determined hryvna per one hectare. In particular, the destruction of forest species that are 5 years or less, the tax amounts to 17 918 UAH per hectare. Accordingly, if the damaged objects were 6 to 10 years, the refund increases to 23 188 UAH per hectare under the Resolution of the Cabinet of Ministers of Ukraine on approval before taxes for the calculation of the amount of damage caused to the forest, regulation of July 23, 2008. Dimensions sanctions for environmental offenses committed, that taxes are equivalent to the extent of the environmental economic and environmental damage. Environmental damage is encroachment on the environment and natural resources and environmental interests is determined by the functions that perform natural resources in the en-

vironment (sanitary protection, recreation, maintenance, etc.). Determining the specific amount of compensation legislator should consider specific features of natural resources, environmental and utility of consumer quality, character and nature of the offense. As an example, according to approved for the calculation of damages caused to the forest for each tree cut down which is do not bear fruit or damaged to the point of cessation of growth in diameter from 30.1 to 34 cm in the cortex at the neck of the root, the damage is 1449 UAH. However, for the illegal felling of or damage to the point of cessation of growth of fruit trees, boxwood, trees and shrubs of the family Cupressaceae, nuts of all kinds, etc. size is calculated by tax, increased 3 times.

Thus, taxes are expressed in value terms, the negative effects caused property damage to the environment. However, we believe that the tax method has several disadvantages. In particular, the tax responsibility is applicable only in a stable economic environment that is not peculiar to our country.

The disadvantage is the fact that the current environmental legislation focused primarily on compensation only economic damage, besides fairly estimated. The tax can not depend only on the species and diameter of a natural resource, its type and some other features. The tax should conform as much as possible the real value of environmental

violations caused harm. Therefore, the unit, which must be based in the calculation of the amount of damage shall be non-taxable minimum incomes of citizens, which is 17 UAH and is fixed. Tax should not be installed in a fixed cash sum as harm caused to natural resources after a certain period of time such as a year, will no longer respond the market value of the product of the resource specified by normative legal acts in the national currency. Compensation should be reasonable, despite a convention display all the environmental consequences of the offense and be relevant, comparable with the necessary measures to restore the natural resource.

We consider that the unit of which must be based in the calculation of damage, should be a living wage. According to the Law of Ukraine On Living Wage, regulation of 15 July, 1999. «living wage determines the minimum amount of money required man to live in, is dynamic, taking into account inflation in the country». However, the amount of compensation determined as a percentage of the minimum subsistence level and take into account the possibility of a person in a given period to recover such damages would be adequate to the existing socio-economic conditions. Thus, the amount of compensation will always be tied to a particular market period and in each such period will be the same of incomes.