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THE CONTENT OF THE RESTRICTED ACCESS INFORMATION REGIME (ON THE EXAMPLE OF THE REPUBLIC OF BELARUS)

ЗМІСТ РЕЖИМУ ІНФОРМАЦІЇ З ОБМЕЖЕНИМ ДОСТУПОМ (НА ПРИКЛАДІ РЕСПУБЛІКИ БІЛОРУСЬ)

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The article analyzes the ways of legal regulation of access to information of limited access. The content of the legal regime for information of limited access in the provisions of the Constitution of the Republic of Belarus (the Basic Law) and international treaties in the field of limited access information as a basis for the development of national legislation is considered. The current state of the conceptual apparatus about types of information of limited access in regulatory legal acts requires further ordering and development. Based on the study of legislation, an author's approach to defining definitions of professional secrecy, confidential information, secrets and information of limited access is proposed. The content of the restricted access information regime is disclosed through the concepts of protection and confidentiality of information, the practical implementation of which is provided by organizational and legal means provided for by law.

Key words: information, restricted access, secret, regime, rule of treatment.

У статті аналізуються шляхи правового регулювання доступу до інформації з обмеженим доступом. Розглянуто зміст правового режиму для інформації з обмеженим доступом у положеннях Конституції Республіки Білорусь (Основний закон) та міжнародних договорах у сфері інформації з обмеженим доступом як основи для розробки національного законодавства. Сучасний стан категоріального апарату нормативно-правових актів відносно видів інформації з обмеженим доступом вимагає подальшого упорядкування та розвитку. На підставі вивчення законодавства пропонується авторський підхід до визначення професійної таємниці, конфіденційної інформації, секретів та інформації з обмеженим доступом. Зміст режиму обмеженого доступу до інформації розкривається через поняття захисту та конфіденційності інформації, практичне здійснення якого забезпечується організаційно-правовими засобами передбаченими законом.

Ключові слова: інформація, обмежений доступ, секрет, режим, правило поводження.

Information rights include not only the possibility of obtaining, providing and disseminating data, but also the right to security of the data itself, as well as protecting the interests of subjects of law related to their non-disclosure. In Art.1 of the Law on Information, the content of the legal regime for information of restricted access is disclosed through the concepts:

– protection of information – as a complex of legal, organizational and technical measures aimed at ensuring confidentiality, integrity, authenticity, accessibility and safety of information;

– confidentiality of information – as a requirement not to allow the dissemination and (or) provision of information without the consent of its holder or other grounds stipulated by the legislative acts of the Republic of Belarus [1].

Legal means of providing a legal regime for information of limited access is a system of generally binding rules that ensure: direct protection of information; protection of the interests of the state, society and individuals in connection with the use of such information; Authorized access and authorized use of such information. Organizational means of the legal regime of information of limited access is the organizational and legal system for ensuring the protection of confidential and classified information.

The content of the legal regime for information of restricted access is disclosed through the regulation of the methods of legal regulation. Consider their application to the types of information listed in Art.17 of the Law on Information.

The prohibition of information retrieval as a way of legal regulation is established with respect to information about the private life of a natural person and his personal data. The effect of such a ban can be limited to individual legislative acts. For example, the Laws of the Republic of Belarus "On State Secrets", "On Operative-Search Activity", provide for conditions for access or receipt of such information by law enforcement officers in connection with the performance of their functional duties. However, restriction of access to such data can be provided by the effect of legal regulation tools applied to other types of information (for example, information, contained in cases on administrative offenses, materials and criminal cases of the criminal investigative bodies and the court until the completion of the proceedings).

According to the Law on Information, the obligation to take measures to protect personal data extends to all entities that collect, process, store personal data. At the same time, measures should be taken from the moment they are provided

by the individual to whom they relate to another person, or in the manner provided by law.

Legally the wording of the norm of part 1 of Art.32 of the Law on Information applies to all owners of personal data. In this row, government agencies, employers, representatives of "free" professions (notary, lawyer, journalist), medical institutions should be considered. All these subjects collect personal data within the framework of the main activity, but due to their legal status or type of activity they are obliged to ensure their confidentiality (observe professional secrecy).

Due to the development of information technology, the ability to collect, use and store personal data appears among a wide range of people who carry out commercial or informational activities through interaction with the target audience through sites available on the Internet. At the same time, the provision of such personal data to such entities can be carried out within the framework of shopping services for consumers (online stores) or within the framework of providing access to information resources (to communication in forums, social networks, etc., to thematic information published on the website).

Thus, the circle of persons obliged to take measures to protect personal data significantly expands, and includes legal entities and individuals operating on the Internet. At the same time, the latter can carry out information activities unprofessionally. These circumstances call into question: a) the availability of sufficient resources for such persons to comply with the requirements of Art.29 of the Information Law on the necessary organizational and technical measures to protect information; b) the ability to monitor the compliance of such entities with the requirements of legislation on the protection of personal data.

In our opinion, the solution of this problem requires further research. On the one hand, it is necessary to ensure the implementation of legislation regarding the protection of personal data, and an effective solution would be to prohibit the use of technical means to collect and process such information by persons who do not have sufficient resources to take organizational and technical measures to protection of information. On the other hand, the introduction of such measures necessitates monitoring and restricting access to information resources, the owners (owners) of which can not testify the quality of the measures taken to protect information.

The way out of this provision is to introduce into legal circulation the notion of "personal responsibility" for the provision of their personal data to such entities. This concept involves the awareness of the physical person of the possible consequences of disclosure of their personal data to subjects who do not provide evidence of the quality of measures taken to protect personal data.

In general, the provision of regime requirements for the protection of personal data to date has not received the proper level of legal regulation. Among the issues addressed are:

• definition of the concept and composition of personal data in the Law of the Republic of Belarus "On the Population Register" (Art.2, 8, 10 of the Law)[1];

• setting the chronological scope of the rules on the protection of personal data (Art.32 of the Law on Information);

• establishment of obligations of owners and users of information on the protection, preservation of personal data, restrictions and (or) prohibition of access to such data (Art.33, 34 of the Law on Information);

Require settlement:

• separate issues of the turnover of personal data in public and private law relations (for example, the procedure for the transfer, storage, protection, use of personal data for commercial purposes, the lines and procedure for the destruction of personal data, the procedure for the depersonalization of data, the order of cross-border transfer, etc.);

• the legal status of "other data that allow the identification of an individual" and the procedure for such identification;

• the procedure for granting and the form of written consent of an individual to collect, store, use and transfer personal data (Art.18, 32 of the Law on Information);

• the procedure for ensuring the protection of personal data, in other words, the specific actions (organizational and technical measures) that the owner of such information is required to ensure its preservation and limiting access to it;

• the procedure for bringing to responsibility for violation of legislation on the protection of personal data.

It should be noted steps taken to improve the legal regulation of the issues of personal data turnover. These is the draft law "On Personal Data," which will be submitted to the House of Representatives of the National Assembly of the Republic of Belarus in April 2019 [2].

Several other ways of legal regulation are applied in relation to state secrets. In fact, the state secretor recognizes certain information, unauthorized access to them or their use can harm the interests of the state. In terms of the significance of the likely consequences of their disclosure in Art.16 of the Law of the Republic of Belarus "On State Secrets", the legislator identifies two categories of secrets:

• state secret, the disclosure or loss of which may entail grave consequences for national security;

• official secret, the disclosure or loss of which may cause significant harm to the interests of national security.

In view of the hierarchical connection of these categories of state secrets, it is emphasized that official secrets can be part of state secrets, revealing it in part. The content and value of classified information determines their degree of secrecy. The confidentiality label is placed on the carrier of such information or on the accompanying documentation. Depending on the degree of secrecy, separate forms of admission to state secrets are established:

• to the state secret – the stamp of "Of particular importance" and the form of admission No. 1, the stamp "Top Secret" and the form of admission No. 2;

• to official secret – the "Secret" stamp and the admission form No. 3.

The classification of information to state secrets is carried out by approving the list of information subject to classification. The right to refer information to state secrets is held by state bodies and other organizations that have the appropriate powers. The list of information is developed taking into account the provisions of Art.14 of the Law of the Republic of Belarus "On State Secrets".

The peculiarity of the legal regime of state secrets is its permanent and nationwide action. In view of this, its content characterizes such methods of legal regulation as:

• obligation of subjects of public and private law of the Republic of Belarus, both on the territory of the state and outside it, to comply with the requirements of the state secrets regime, by virtue of its legal status (which provides for such an obligation) or assumed obligations;

• obligation of authorized state bodies and officials to take organizational, legal and technical measures to ensure the protection of state secrets;

• permission to carry out activities using state secrets – referred to in Art.1 of the Law of the Republic of Belarus "On State Secrets" by the term "admission to state secrets". The existence of such an admission is a prerequisite for carrying out activities using state secrets;

• permission to familiarize or carry out other activities using state secrets – referred to (ibid.) as "access to state secrets";

• the establishment of a ban on the dissemination and (or) provision of information containing state secrets – by

[1] On the population register [Electronic resource]: Law of the Republic of. Belarus from July 21, 2008 № 418-L: in the red. from Jan. 4 2015 № 233-L. Database «Legislation of the CIS countries». URL: http://base.spinform.ru/show_doc.fwx?rgn=23951. – Date of access: 03/21/2015.

applying the procedure of classification (in accordance with Art.21 of the Law);

• **removal of restrictions on the distribution and (or) provision of state secrets and termination of other protection measures** – referred to in Art.23 of the Law as "declassification".

In comparison with the regime of personal data, the state secrets regime has a qualitatively higher level of legal regulation of the rights and duties of state officials and state bodies implementing and implementing state policy in this sphere, as well as entities that use state secrets in their activities.

The appropriate powers and responsibilities with regard to the establishment or fulfillment of the regime requirements are vested in:

• The President of the Republic of Belarus – approves the list of information to be classified as state secrets; makes decisions on the transfer of state secrets to the subjects of international relations; establishes the procedure for granting admission to state secrets to certain categories of individuals (foreigners, stateless persons, citizens of the country permanently residing abroad), etc.;

• The Council of Ministers of the Republic of Belarus establishes the procedure for granting admission to citizens and the procedure for accessing state secrets; establishes the procedure for assigning information to state secrets, classifying, declassifying, and protecting state secrets, with the exception of technical protection of state secrets;

• establishes, in accordance with the provisions of the Law of the Republic of Belarus "On State Secrets" the procedure for the transfer of state secrets, etc.;

Interdepartmental Commission for the Protection of State Secrets, acting under the Security Council of the Republic of Belarus;

• The State Security Committee of the Republic of Belarus, as an authorized state body for the protection of state secrets, exercises state control; conducts verification activities in state bodies and other organizations in connection with the granting of admission to state secrets; coordinates the lists of information subject to classification, the nomenclature of the positions of employees subject to admission to state secrets, etc.;

• bodies of state security – exercise within their powers control over the protection of state secrets, etc.;

• Operational and analytical center under the President of the Republic of Belarus – determines the procedure, coordinates, exercises control over the technical protection of state secrets, etc.;

• other entities with the authority to refer information to state secrets – include in the scope of their activity's information on state secrets; develop and approve lists of information subject to classification; transfer state secrets to other state bodies and other organizations; exercise control over the protection of state secrets in subordinate organizations, etc.;

• Other entities carrying out activities using state secrets organize and protect state secrets in their use [3].

Protection of information constituting state secrets is exercised through the application of legal, organizational, technical and other measures to prevent serious consequences or substantial harm to national security [3].

Information that can be classified as a state secret before the decision is made by the authorized body is also protected. Obligations to ensure protection in such situations are vested in the owner-owners of such information. Their transfer to a state body and other organization, vested with the authority to attribute information to state secrets are carried out on the basis of a civil law agreement on the transfer of information, the preparation of which is provided for by Part 4 of Art.19 of the Law.

An important place in ensuring the regime of state secrets is the regulation of access. The conditions for granting access to state secrets for state bodies and other organizations, citizens and other individuals, as well as the competence of bodies are regulated by Art.30-35, 39 of the Law.

Based on the grounds for granting access, five groups of users of state secrets can be distinguished:

• individuals who have obtained access on the basis of a decision of the competent authority;

• individuals who have been granted access on the basis of a decision of the competent authority in connection with procedural status;

• individuals who have accessed on the basis of a decision of the competent authority in connection with the performance of functional duties in the structure of the state body;

• individuals who have been granted access in connection with the election (appointment) to public office;

• State bodies and other organizations on the basis of permission to carry out activities using state secrets.

It should be noted that granting access to state secrets requires verification activities aimed at assessing the risk of disclosure of such information by the entity. Verification measures are carried out in relation to state bodies and other organizations, as well as against individuals (citizens). Conducting verification activities in relation to citizens leads to a temporary restriction of the right to privacy, and is carried out on the basis of their written consent to carry out such activities.

The generalization of the foregoing allows us to characterize the legal regime of state secrets in the following way. The purpose of its introduction is to protect the national security of the Republic of Belarus in connection with the risks of unauthorized use of special information in the domestic and foreign policy, economic, defense, social and other spheres of activity and life support of the state.

The legal status of the subjects of the legal regime in the legislation is clearly regulated. First, the responsibilities and powers for legal, organizational, technological provision of the regime's requirements are distributed between specific officials of the state and state bodies. Secondly, the duties and authorities for protecting the data in use, for transfer, for granting access and access to state secrets are provided for state bodies and other organizations that use state secrets or carry out activities in this area.

The methods of legal regulation of the state secrets regime are aimed at: protecting information constituting state secrets; protection of the interests of the state, society and individuals associated with the use of state secrets; the provision of authorized access to state secrets in connection with the need to implement human rights in the field of information and information support for the effective operation of state officials and state bodies.

Unlike the legal regime of state secrets, the regime of official information of limited distribution does not have a detailed legislative base. The provisions of Art.18-1 of the Law on Information define the general provisions for its functioning, but due to the variety of types of legal relations covered by the regime and the legal personality of the subjects, the situation seems unsatisfactory.

The first difficulties arise when trying to characterize the goals of introducing a legal regime. From part 1 of art.18-1 of the Law on Information and clause 2 of the "Provisions on the procedure for affixing the restrictive bar" For official use", the" Business secret "and the management of records on documents containing classified information of restricted distribution and information constituting a commercial secret" (hereinafter – Provisions on the imposition of a restrictive neck), it follows that the assignment of information to classified information of restricted distribution is carried out:

• heads and authorized persons of state bodies within their competence for the purpose of preventing harm: national security; public order and morality; rights, freedoms and interests of individuals and legal entities;

• heads and authorized persons of legal entities within their competence with a view to preventing harm to the rights and legitimate interests of these legal entities.

The goals of restricting access to official information by the subjects of the first group at a qualitative level are determined by state policy in this or that sphere of public relations, and follow from the normative bases of the functioning of these state bodies; the terms of reference of their managers and officials are also regulated at a qualitative level job description, local regulations. In addition, with respect to state bodies, the control over the implementation of the provisions of the legislation on information will be exercised to a greater extent, the dissemination of which can not be limited. In view of the above, the provisions of Art.18-1 as a rule defining the objectives of restricting access to official information, can be considered satisfactory.

In turn, the goals of restricting access to information by legal entities require a more precise legal settlement due to the complexity of regulation of public relations in which the interests of such a subject can be realized. As G.G. Kamalova, "often enough the mystery as a legal phenomenon is viewed from the standpoint of opposing different actors, that is, as a necessary element and result of confrontation of certain forces. State secrets really are the result of confrontation between various states and foreign policy forces, and commercial secrets are the result of confrontation and competition in the economic sphere" [4, p.148].

A number of researchers believe that the notion of official information restricted as a carrier of a legal regime is fully applicable only to the work of state bodies. Nevertheless, the needs described by them for introducing such a legal regime in the organization are valid both for state bodies and for legal entities of private law.

Thus, D.V. Ogorodov defines as the main task of the regime – ensuring the rights and legitimate interests of individuals and legal entities [5]. The above formulation, on the whole, coincides with the position of the legislator, and therefore also requires improvement.

According to V.N. Lopatin, organizations and their officials have the right to use the received confidential information only for the purposes for which it was received and are obliged to establish for its safety the appropriate mode of service turnover[6]. It follows from the foregoing that authorized officials and governing bodies of legal entities in the matter of restricting access to official information should be guided by the law and the objectives of the main activity of the organization.

The development of scientific views on the application of the legal regime for official information of limited distribution can be traced in publications G.G. Kamalova. In particular, in the opinion of the scientist, the prerequisites for classifying information as official information of restricted access include:

• prevention of the risk of disruption or significant hampering of activities, as well as violations of rights, freedoms, legitimate interests of various persons or threats to the public interest in the event of the dissemination of such information;

• the need to protect the confidentiality of restricted access information obtained from external sources;

• the need to ensure their own security, including ensuring the safety of employees and their personal data, information systems of the organization, official sites, etc. [4, p. 147-148].

The generalization of the above scientific views on the attribution of information to official information of limited distribution makes it possible to form an author's point of view on this topic. The purpose of the restricted information service information regime for legal entities is to:

• ensuring economic security of business entities;

• information support of the main activity of the organization;

• ensuring personal safety of the participants of the organization, the work collective of the legal entity, its owners;

• ensuring the safety of tangible and intangible assets of the organization.

In the main normative legal act on official information of limited distribution of the Decree of the Council of Ministers of the Republic of Belarus "On official information of restricted distribution and information constituting a trade secret" (hereinafter – the Resolution on official information), the following methods of legal regulation of the legal regime are given [7]:

• **permission to the heads of state bodies and legal entities** to refer information to classified information of restricted distribution (on the basis of the List of information relating to official information of a limited dissemination) and organize work to protect such information in accordance with the requirements of existing legislation;

• **the establishment of mandatory requisites for documents** containing official secrets of limited distribution (imposition of the restrictive bar "For official use" and addition of the index of documents with letters "FOU");

• **the establishment of mandatory rules of office work** in the organization regarding documents containing official secret of limited distribution;

• **permission to the heads of state bodies** listed in paragraph 2 of clause 4 of the Resolution, as well as **the recommendation to the heads of other state bodies** to develop and approve departmental lists of information pertaining to restricted information;

• **the establishment of personal responsibility of officials** who have decided to refer information to official information of limited distribution, for the reasonableness of the decision taken.

From the provisions of the current legislation it follows that the legal regime of official information of limited distribution is protected by law, and the fulfillment of its requirements is provided by measures of legal responsibility.

For example, clause 10 of part 1, Art.53 of the Labor Code obliges the employee to keep state and official secrets, not to disclose the commercial secret of the employer, the commercial secrets of third parties, to which the employer has access [8]. Also, the obligation not to disclose official information that has become known to an individual in connection with the performance of official duties may apply to the additional terms of the employment contract.

In turn, an individual may be held administratively liable in the event of the disclosure of official information of limited distribution known to him in connection with professional or official activities committed intentionally or through negligence in the manner of Art.22.13 and Art.22.15 of the Code of the Republic of Belarus on Administrative Offenses, respectively [9].

All of the above about official information of limited access allows us to conclude that this legal regime is dispositive, which distinguishes it from legal regimes of confidential information about a person's private life, personal data and the regime of state secrets. The legal status of the subjects is determined, to a greater extent, by local regulatory acts. It is in the competence of the head of a state body or legal entity that the key issues of organizational, legal and technical provision of the regime are solved: the definition of persons authorized to attribute information to information of limited access; the provision of access to such information to certain persons; organization of measures to protect information. The circle of users of restricted access service information consists of employees of the organization who have assumed the obligation to keep such information in the established manner, as well as third parties, against whom management made a decision to transfer information for official use.

Legal regulation of the regime of commercial secrecy has in common with the regulation of the legal regime of official information of limited distribution in relation to legal persons engaged in entrepreneurial activities.

Commercial secret is established in order to limit the dissemination of information directly affecting the competitive-

ness of the business entity, its position on the market. As you know, it is competitiveness that is one of the main components of the economic security of a legal entity. Such information may be of a technical, production, organizational, commercial, financial nature, incl. secrets of production.

The establishment of the regime of commercial secrets is carried out by a person lawfully possessing such information. The main common features are also the following:

• the operation of the legal regime begins from the moment when the composition of the protected information is determined (but unlike the official information, the owner of a commercial secret must ensure the adoption of a set of measures necessary to ensure the confidentiality of information);

• the establishment of similar requirements for mandatory requisites of documents that carry commercial secrets and the rules of record keeping in relation to them;

• the dispositive nature of bringing to responsibility for the disclosure of confidential information – at the request of the injured party.

Also, legal means of fulfilling the regime requirements have much in common. According to part 2, Art.8 of the Law of the Republic of Belarus "On Trade Secret", this regime includes the following measures:

• restriction of access to information through information, as well as control over compliance with this procedure;

• registration of persons who have access to such information;

• regulation of relations related to the access of information workers to restricted access, on the basis of an employment contract (contract), and also on the basis of an additional obligation to disclose commercial secrets;

• Identification of employees responsible for taking measures to ensure the confidentiality of such information [10].

Distinctions of legal regimes, first of all, are determined by the fact that the service information, to a greater extent, is intended for internal users. In the case of providing the document to other state bodies or legal entities, only extracts from the document are sent to such external users (clause 4 of the Provision on the procedure for affixing the restrictive bar "For official use", the "Trade secret" stamp and the conduct of document management, ontaining limited information and limited information, trade secrets) [7].

Access to trade secrets may be obtained by third parties upon the decision of the owner of such information (for example, counterparties). In this case, the regulation of relations related to the access of business partners to commercial secrets is carried out on the basis of a civil law contract. The issues of protection of trade secrets in relations with counterparties are regulated in Chapter 5 of the Law of the Republic of Belarus "On Trade Secrets".

An important difference is that the trade secret is owned by the owner, while the official information of limited distribution belongs to the organization. This feature is also expressed in the fact that the owner of a trade secret (for legal entities – full name and location, for individuals – the last name, first name, patronymic (if any) of the citizen and his place of residence) (clause 19 of the Provision on the procedure for affixing the restrictive bar "For official use", the "Trade secret" stamp and the conduct of document management, containing limited information and limited information, trade secrets) [7].

The content and value of information classified as trade secret determines the special conditions for granting access to them on demand. According to part 2, Art.11 of the Law, access to trade secret in accordance with the procedure established by law is provided at the request of the court, the prosecutor and his deputy, the bodies of inquiry and preliminary investigation, the bodies performing operational search activities, tax, customs and antimonopoly bodies and other state bodies and other persons. As with the access of such bodies to information on the private life of a person and personal data, the said authorities are obliged to create conditions ensuring confidentiality of information constituting commercial secret (part 1, Art.12 of the Law), officials of these bodies are not entitled to disclose information, which constitute a trade secret, or grant access to them to third parties (part 3, Art.12 of the Law).

Also, measures of legal responsibility for the disclosure of information are different: in addition to administrative responsibility with respect to trade secrets, criminal liability is provided for in accordance with Art.255 of the Criminal Code of the Republic of Belarus [12].

Summarizing the above on the legal regime of trade secrets allows us to conclude that ...

The purpose of the professional secrecy regime is to prevent the negative consequences of the dissemination of confidential information about a person who has become a well-known representative of a certain profession in the course of his professional activities.

In the legislation of the Republic of Belarus, the essence of the lawyer secret, medical secrecy, banking secrecy, secrecy of the notarial act is defined. In our opinion, it is also necessary to attribute to professional secrecy the binding of officials of state bodies who have access to confidential information about a person in connection with the performance of official duties, and in respect of which the law establishes the duty not to disclose such information.

The subject composition of legal relationships arising from the preservation of professional secrets includes:

• owner of confidential information;

• the holder of a professional secret – an official or a person engaged in professional activities, who, in connection with their professional activities, has become known to confidential data;

• user of a professional secret – an official who has access to confidential information in connection with the performance of official duties.

Allocation of subjects of the third group is connected with the necessity of binding non-disclosure of confidential information of persons who do not directly conduct the activities mentioned above, but have access to such information in connection with the existence of a legitimate opportunity to familiarize themselves with them. For example, such persons may be an assistant to a notary, medical staff of the medical institution.

The main way of legal regulation of the regime of professional secrecy is to prohibit the dissemination of confidential information, established by legislative or another regulatory legal act. As the researchers note, such a ban operates indefinitely, that is, it continues to operate after the termination of legal relations between entities (advocacy), as well as after the death of a person, participant in legal relations (banking) [11]. As with the personal data regime, restricting access to certain types of confidential information protected by the regime of professional secrecy is not unconditional. Legislation may establish conditions for granting access to such information in order to protect state, public relations, law enforcement and the administration of justice.

The protection of confidential information constituting a professional secret is vested in a person who has become familiar with them (obtained access) in the performance of professional duties. The subject of professional secrecy protection can take such measures to ensure the confidentiality of information:

• organize the circulation of documents containing professional secrets in accordance with secret clerical procedures;

• limit the number of persons who have access to information sources that may contain confidential information;

• use available technical means of protecting confidential information stored electronically.

The generalization of all of the above makes it possible to conclude that information of limited access is confidential or secret, the legal status of which is provided for by national

legislation, and the data itself is protected by their owner or holder in the manner prescribed by law.

Confidential information consists of information owned, owned, used or disposed by private law entities that determine the procedure for storing, establishing access to such information, and the stages of its life cycle. Secrets are information constituting a state or other secret provided by law, the disclosure of which is detrimental to national security, the rule of law, public order and morality, the legal rights and interests of individuals and legal entities, and organizations without the status of a legal entity.

The application to secret information of a legal regime of limited access should be provided for by law. The secrets include: state secrets, trade secrets, bank secrecy, restricted information, classified information, professional secrets, lawyer secrecy, and other types of secrets.

It should also be noted that the highest quality level of legal regulation of such types of secrets as state secrets, commercial secrets, bank secrecy. In its turn, the concept of official information in the limited information provided in the Law on Information is characterized by certain shortcomings and requires more precise legal regulation.

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ФУНКЦІЇ НЕПРЯМОГО ОПОДАТКУВАННЯ

INDIRECT TAXATION FUNCTIONS

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У статті проаналізовано різні наукові підходи щодо наявних функцій податку. Автором акцентується увага на доцільності виділення та аналізі саме функцій непрямого оподаткування та розкритті особливостей реалізації кожної з них. Запропоновано згрупувати функції непрямого оподаткування у два блоки, зокрема основні функції непрямого оподаткування та додаткові функції непрямого оподаткування.

Ключові слова: податки, функції податків, непряме оподаткування, функції непрямого оподаткування, фіскальна функція, регулююча функція, контрольна функція.

В статье проанализированы различные научные подходы к имеющимся функциям налога. Автором акцентируется внимание на целесообразности выделения и анализе именно функций косвенного налогообложения и раскрытии особенностей реализации каждой из них. Предложено сгруппировать функции косвенного налогообложения в два блока, в частности основные функции косвенного налогообложения и дополнительные функции косвенного налогообложения.

Ключевые слова: налоги, функции налогов, косвенное налогообложение, функции косвенного налогообложения, фискальная функция, регулирующая функция, контрольная функция.

Today different scientists looking at tax functions differently. This issue is unresolved and requires new researches. Necessity of taxes is revealed in the functions they perform. That is why understanding the functions of indirect taxation, the directions of its influence on social processes in the state, is important and will allow reforming the system of indirect taxation.

We propose to group the functions of indirect taxation into two blocks: the main functions of indirect taxation and additional functions of indirect taxation. The main functions of indirect taxation are mandatory and determine the essential purpose of indirect taxation. The main functions of indirect taxation are: fiscal function and regulatory functions. The regulating function also includes stimulating and distimulatingsub functions.

With the help of additional functions, the main objectives are clarified, and unlike the main functions, they are optional. Additional functions of indirect taxation are: a control function and a distributive function.

Key words: taxes, functions of taxes, indirect taxation, functions of indirect taxation, fiscal function, regulatory function, control function, distributive function.