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The Cost of Exemption from Encumbrance of Property Ownership (on the Example of the Cost Indicators of Land Plots)

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ABSTRACT

This article is devoted to the study of cost indicators in relation to "problematic" land plots which have been built with unauthorized construction, contain emergency buildings, or are polluted by waste. Bringing these plots to the appropriate environmental and sanitary-epidemiological standards will lead to significantly higher costs than the cost of this land plot in a condition suitable for commercial or other use. The purpose of this study is to identify the financial principles behind the negative values of property indicators, and how these negative values can become obligations for the owner. To achieve this goal, the author has identified several key tasks: defining the basic principles behind negative value occurrence, describing the economic indicator "cost of exemption from encumbrances on property", and exploring how negative values can become obligations for property owners; a financial toolkit for the use of negative values in valuation activities is proposed. In the course of the research, methods of analysis, generalization, synthesis, comparison, as well as the method of regulatory regulation were used. The author shows and justifies the need to improve the tools of valuation activities, raising the question of the ambiguous understanding and interpretation of such an economic phenomenon as the negative value of property. The study provides recommendations for transforming negative property value into corresponding liabilities of the asset owner. It concludes that negative asset value should be transformed into informal liabilities that are not subject to accounting. It is reasonable to determine the amount of such informal obligations in the amount of the cost of exemption from encumbrance of ownership of property, property rights. The conclusions obtained can be used in the course of evaluation activities, in the implementation of financial analytical procedures during the analysis of the company's activities, in making management decisions, etc.

Keywords: valuation activity; market relations; financial analysis; informal obligations; negative value; imaginary asset; land plot; emergency structure; unauthorized construction; land pollution

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INTRODUCTION

Evaluation activities are an integral part of the economic system of modern society. The results of the assessment (of the value of property, property rights) are used in making managerial decisions, during the control of fiscal authorities, when performing legally significant actions, during court proceedings, etc. [1, 2]. In this study, we will focus on land plots, the value of which (during the evaluation and analytical procedures) is determined as a negative value. At the same time, an effective, reasonable owner will strive to get rid of property that brings only additional costs and losses and will not be able to produce a positive economic effect in the foreseeable future.

The research used methods of analysis, generalization, synthesis, comparison, as well as the method of regulatory regulation. The author shows and justifies the need to improve the tools of valuation activities, raising the issue of an ambiguous understanding and interpretation of such an economic phenomenon as the negative value of property. The study provides recommendations for the transformation of the negative value of the property into the corresponding obligations of the asset owner.

The purpose of the study is to determine the financial principles of the occurrence of negative values of value indicators in relation to property with the further transformation of negative values of financial indicators into obligations arising from the owner of this property.

To achieve this goal, it was necessary to solve the following tasks:

- to determine the basic principles of the occurrence of negative values;
- to describe the economic indicator "the cost of exemption from the encumbrance of ownership of property, property rights";
- to propose financial instruments for using the negative values in evaluation activities.

RESEARCH

Let's consider some possible examples of the existence of such variants of property (in particular, land plots) that have negative values for cost indicators.

The Object of Accumulated Environmental Damage

This concept is disclosed in the current legislation: "objects of accumulated environmental damage — territories and water areas where accumulated environmental damage has been identified, capital construction facilities and waste disposal facilities that are the source of accumulated environmental damage".1

At the same time, chemical, nuclear or other hazardous waste may be placed on the land, the elimination (destruction) of which will lead to significant financial costs. Current legislation provides for a special procedure for the disposal of such industrial waste.²

The described objects of accumulated environmental damage may also include landfills (landfills, etc.): "waste disposal facilities are specially equipped facilities designed to dispose of waste (landfill, sludge storage, including a slurry barn, a tailings dump, a rock dump, etc.) and include waste storage facilities and disposal facilities waste disposal facilities" (in the same document, the concepts of "waste disposal facilities" and "waste storage facilities" are disclosed).3 Garbage and waste disposal activities (of various categories) can generate income, at least until the possible volumes of their disposal are developed [3]. At the same time, it is possible to effectively use waste to obtain secondary raw materials [4] or electricity [5].

However, in the current situation, the waste disposal facility does not provide economic

 $^{^{\}rm 1}$ Article 1 of Federal Law No. 7–FZ dated 10.01.2002 "On Environmental Protection".

 $^{^{\}rm 2}$ Federal Law No. 89–FZ of June 24, 1998 "On Production and Consumption Waste".

 $^{^3}$ Article 1 of Federal Law No. 89–FZ dated 06/24/1998 "On Production and Consumption Waste".

benefits (the landfill has reached its capacity, is closed due to court order, recycling of garbage is impossible, etc.).

In the situation under consideration, the business entity owns a land plot, which is, in essence, an object of accumulated environmental damage. It should be noted that for "storage, disposal of industrial and consumer waste (waste disposal)" there is a "fee for negative environmental impact".4 At the same time, further use of this land plot is impossible in the foreseeable future (the object will not bring economic benefits), but the owner is obliged to bear the costs of disposal and maintenance of the land plot in accordance with sanitary and epidemiological standards. However, failure to comply with these standards will result in costs in the form of penalties. The regulations in force in Russia provide for administrative liability for "non-compliance with environmental and sanitary-epidemiological requirements during collection, storage, use, incineration, processing, neutralization, transportation, burial and other handling of industrial and consumer waste or other dangerous substances"; for "destruction of the fertile soil layer, as well as damage to land as a result of violations rules for handling pesticides and agrochemicals or other substances and production and consumption wastes that are dangerous to human health and the environment"; 6 for "pollution of glaciers, snowfields or ice cover of water bodies, or pollution of water bodies containing natural medicinal resources, or classified as specially protected water bodies, places of tourism, sports and mass recreation, by production and consumption wastes and (or) harmful substances, as well as burial of harmful substances (materials) in water bodies";7 for

"violation of the rules for the disposal of waste and other materials in internal sea waters, in the territorial sea, on the continental shelf and (or) in the exclusive economic zone of the Russian Federation";8 for "violating the rules of sanitary safety in forests". 9 The current legislation also provides for criminal liability for environmental offenses, for example, "violation of the rules for handling environmentally hazardous substances and waste". 10 Consequently, the legislation provides for criminal and administrative liability (including financial sanctions) for environmental pollution through the dumping of industrial or household waste (failure to implement waste disposal measures in accordance with the prescribed procedure). It should be noted that such norms of criminal and administrative liability for violation of environmental legislation are common in developed countries [6, 7]. The need to comply with environmental legislation leads to the formation in Russia of a pronounced tendency to increase capital investments and expenditures on environmental protection measures [8], which also confirms the idea of the formation and development of the obligation of an operating business to bear more and more environmental costs.

Land Plots for Which Expensive Land Reclamation Measures Are Envisaged (Provided That the Costs for Them in the Foreseeable Future Exceed the Cost of the Land Plot in an Ecologically and Sanitary-Epidemiologically Normal Condition)

"Land reclamation is the fundamental improvement of lands through hydraulic engineering, cultural engineering, chemical, erosion control, agroforestry, agrotechnical and other land reclamation measures". 11

⁴ Article 16 of Federal Law No. 7-FZ dated 10.01.2002 "On Environmental Protection".

⁵ Article 8.2 "Code of Administrative Offences of the Russian Federation" dated 30.12.2001. No. 195-FZ (hereinafter referred to as the Administrative Code of the Russian Federation).

⁶ Article 8.6 of the Administrative Code of the Russian Federation.

⁷ Article 8.13 of the Administrative Code of the Russian Federation.

⁸ Article 8.19 of the Administrative Code of the Russian Federation.

⁹ Article 8.31 of the Administrative Code of the Russian Federation.

¹⁰ Article 247 of the Criminal Code of the Russian Federation dated 13.06.1996 No. 63-FZ (hereinafter: the Criminal Code of the Russian Federation).

 $^{^{\}rm 11}$ Article 1 of Federal Law No. 4-FZ dated 10.01.1996 "On Land Reclamation".

Land reclamation measures often lead to an improvement in land quality and, as a result, to an increase in the value of land plots [9, 10]. However, if the analyzed land plots are significantly depleted, a situation may arise when the costs of land reclamation exceed (in monetary terms) the cost of these land plots in their current condition. A similar situation is possible when the land was intensively exploited, but land reclamation measures were not carried out on time and in full. In this case, the estimated value of the land plot, from a mathematical point of view, may have a negative value.

A Land Plot Built up with a Building or Structure in Disrepair That Cannot Be Restored or Reconstructed

It is necessary to understand that "the owner bears the burden of maintaining the property belonging to him, unless otherwise provided by law or contract". 12 The owner of the property is obliged to incur financial expenses for the liquidation of this emergency building [11]. He is also responsible for compensating losses to third parties if there are negative consequences from this emergency facility that are not eliminated by the owner in time. At the same time, the operation of the facility is impossible according to the technical parameters. In this example, it is assumed that the cost of the materials and scrap metal received during the liquidation of the real estate object, as well as the land plot released from real estate, is significantly lower than the cost of the liquidation of the emergency object itself. The land plot on which the building is located in a state of disrepair, unsuitable for operation, may have a negative value.

A Land Plot on Which Construction Is Not Allowed, with Unauthorized Real Estate

Such a plot of land may also have a negative value from an economic point of view. It should

be noted that "unauthorized construction is a building, structure or other structure erected or created on a land plot that has not been provided in accordance with the established procedure, or on a land plot whose permitted use does not allow the construction of this object on it, or erected or created without obtaining the necessary approvals, permits or with the consent of the state. violation of urban planning and building regulations, if the permitted use of the land, the requirement to obtain appropriate approvals, permits and (or) the specified urban planning and building regulations are established on the date of commencement of construction or creation of unauthorized buildings and are valid on the date of detection of unauthorized buildings". 13 If, with a high degree of probability, it can be argued that the owner, by a court decision (taking into account all judicial instances), will be obliged to liquidate (demolish) an unauthorized facility (and at his own expense) [12] and the cost of demolition work (minus suitable materials, scrap metal) will exceed the cost of the vacated land, then in this case, there is, from a mathematical point of view, a negative value of the property.

Negative Cost: the Principle of Occurrence

All of the above examples may have positive values of cost indicators in relation to the analyzed property (land plots), however, for this study, situations have been selected when the real estate object (with all rights, obligations and encumbrances) has, from a mathematical point of view, a negative value, i.e. the property not only does not bring economic benefits, but also and it obliges the owner to constantly bear expenses: this particular object leads to a negative cash flow. A negative cash flow indicates that the owner spends more than he earns (or earns nothing at all) from this property.

For a clearer understanding of this issue, here is a theoretical example.

¹² Article 210 "The Civil Code of the Russian Federation (Part One)" dated 30.11.1994 No. 51-FZ (hereinafter: the Civil Code of the Russian Federation).

¹³ Article 222 of the Civil Code of the Russian Federation.

The organization owns the land on which the building is located in a state of disrepair. The use of this facility is impossible in principle due to its technical condition. At the same time, there are risks that the structure will collapse on its own and may lead to losses to third parties, damaging nearby buildings during its destruction. In this example, the value of a land plot without an emergency building located on it costs 1.000.000 monetary units and the cost of demolishing the building, cleaning up construction debris and bringing the land for the proposed sale or construction of a new facility will amount to 1.500.000 monetary units. Thus, mathematically, the cost of a land plot with a building in disrepair is a negative value. (1000000-1500000 = -500000). From a financial point of view, it is reasonable to consider (minus) 500.000 monetary units in assets as a liability in the amount of 500.000 monetary units. When determining the amount of net assets of a given organization, regardless of where the cost indicator will be reflected in the calculation (in assets with a "-" sign, or as part of liabilities), it will not affect the total amount of net assets being determined.

Now let's turn to the analysis of the existence of cost indicators with a negative value. Let's consider the principle of the occurrence of negative value in relation to individual assets. From an economic point of view, a negative value for an asset arises when the seller is willing to pay extra to the buyer who takes (acquires) his products, paying extra for it, rather than receiving cash. Similar situations are possible in the production of oil (gas) or other natural resources [13, 14] or in the production of electricity [15], when it is impossible (economically impractical) to stop the production process, and the producer is unable (to the full extent) to store the produced product (electricity, oil). Therefore, (for a certain period of time), a situation may arise when the seller (for economically justified reasons) is ready to pay extra for the

products produced to the consumer, who takes the result of production in the current mode.

As already described, the probability of obtaining, from a mathematical point of view, a negative value of the property is possible. Despite the existence of such an economic phenomenon as "negative value indicators" in relation to individual assets (property, property rights), many economists deny the possibility of negative market value. Let's analyze the opinions of researchers and practitioners on this issue.

Regarding the validity of the existence of a negative value of property, there are two opposing points of view:

- when determining, from a mathematical point of view, the negative value of property values, the value of the property should be determined in the amount of 0 rubles 14 (or, alternatively, 1 ruble is the conditional theoretical value of a positive value indicator); 15
- a negative value of the property is possible [16], while it can be reclassified (transformed) into the obligations of the owner of the property [17].

Let's consider the arguments from both points of view. Many researchers and practicing appraisers adhere to the idea that the value of property cannot have a negative value, since any property is worth something, and value is a positive value [18]. A similar idea is also present in paragraph 3 of the Methodological Clarifications, ¹⁶ according to which "with zero / negative economic utility, it is recommended to indicate the evaluation

¹⁴ Letter from the Bank of Russia to the inquiry "What is the estimated value of an investment unit of a mutual investment fund (hereinafter referred to as the fund) to be indicated in the certificate of the net asset value of the fund if the net asset value of this fund is negative?" The question is the answer. Bank of Russia: official website. 2017. URL: http://www.cbr.ru (accessed on 28.09.2017).

¹⁵ Methodological clarifications on the issue of zero / negative estimated value No. MP-1/21 dated 18.10.2021 (approved by the Association SROV "Expert Council" and the Union of Forensic Experts "Expert Council").

¹⁶ Methodological clarifications on the issue of zero / negative estimated value No. MP-1/21 dated 18.10.2021 (approved by the Association SROV "Expert Council" and the Union of Forensic Experts "Expert Council").

result in the form of 1 (one) conditional ruble (the minimum whole monetary unit of the Russian Federation)". Similar principles are reflected in the Bank of Russia's position on negative valuation.17 The essence of the answer boils down to the following: "if the net asset value of the fund at the time of determining the estimated value of the investment unit of the fund is negative, the estimated value of the investment unit of the fund at the relevant reporting date should be recognized as zero," i.e. when mathematical tools determine the negative value of the property (in this answer, in relation to the estimated value of the investment unit of the fund), it is determined that the value of the property is recognized as zero. In addition to the above point of view about the inadmissibility of a negative value of property, there is also an opposite one, according to which the existence of a negative value of property is permissible [16-21]. This statement is supported by European valuation standards, which, in particular, states that "a negative value is a value that represents the legal and, consequently, financial responsibility of the user or owner of real estate. Negative value occurs when real estate objects, in accordance with physical, legal, financial or contractual obligations related to a legal interest, generate real or hypothetical negative cash flows or require significant costs to restore them. Such property becomes a liability or a negative value".18

Since in the Russian practice of valuation procedures, most experts are of the opinion that a negative value of the market value of property is unacceptable, it is advisable (if a negative value of the cost indicators is established) to transform the negative value of the asset (from a financial point of view) into

the obligations of the owner of this property. This will be especially relevant when carrying out valuation and financial and analytical procedures during the assessment of the value of a business or property complex as a whole.

If the owner has property or property rights to assets that no longer bring and cannot bring economic benefits in the foreseeable future (that is, they have lost all the signs of an asset, including the ability to generate income), then such property creates a negative cash flow. At the same time, in the course of valuation and other financial and analytical procedures, it is advisable to use the concept of "the cost of exemption from the encumbrance of ownership of property, property rights". It refers to the costs that an owner must incur in order to get rid of the burden of owning unnecessary, inefficient property (property rights) that does not, cannot, and will not bring economic or other benefits in the foreseeable future. Ownership of property or property rights obliges now or will oblige the owner in the future to bear the costs associated with the ownership of this property or property rights. From a financial point of view, it is advisable to consider such an economic category as "the cost of exemption from the encumbrance of ownership of property, property rights" as one of the options for informal obligations, i.e. the obligation of an organization to make expenses in the foreseeable future to legally get rid of ownership of unnecessary property that encumbers the organization [22].

An informal obligation is an existing or probable financial commitment of an economic entity. It arises from past or predicted events that may lead to an organization losing resources containing economic benefits. An informal obligation does not meet the qualifications inherent in the concept of "obligation" in accordance with the accounting paradigm. Informal obligations in terms of imaginary obligations that are unreasonably accounted for and reflected in accounting and reporting registers are

¹⁷ Letter from the Bank of Russia to the inquiry "What is the estimated value of an investment unit of a mutual investment fund (hereinafter referred to as the fund) to be indicated in the certificate of the net asset value of the fund if the net asset value of this fund is negative?" The question is the answer. Bank of Russia: official website. 2017. URL: http://www.cbr.ru (accessed on 28.09.2017).

¹⁸ European TEGOVA Real Estate Valuation Standards.

excluded from the amount of commitments taken into account when determining the value of an organization.

The concept of an "informal obligation" has rather broad boundaries, including the terms "imaginary obligation", "obligation that has lost some of its qualification characteristics in the process of transformational changes during significant transformations of an economic entity", "hidden obligation" that is not subject to reflection and evaluation in accounting, as well as such economic categories as "economic analog obligations", "probabilistic obligations" and other commitments and liabilities that do not have all the qualifying features of an obligation.

Informal obligations are defined as such from the point of view of the existing accounting rules and they are not subject to reflection in accounting and financial (accounting) statements. However, there is reasonable assurance that such obligations (informal obligations, from the point of view of existing accounting rules) have sufficient features within the relevant economics, discipline or field to be recognized as an obligation and can be used for valuation procedures, management accounting, financial analysis, business planning and other analytical procedures not regulated by accounting rules [19].

From a financial point of view, no effective owner will acquire property in respect of which a negative value has been established (by calculation using mathematical tools). At the same time, the existing owner cannot get rid of an unnecessary and inefficient asset without spending more money on it than he will receive from the new owner for this property: bringing the property into a condition suitable for sale on the open market for a price of positive value will require spending significantly more financial resources (demolition and disposal of emergency construction, unauthorized construction of a building, or cleaning of a

land plot from garbage or pollution to a level consistent with environmental and sanitaryepidemiological standards).

CONCLUSIONS

Summing up, it is safe to say that under certain conditions, the owner may own an asset (in this case, a land plot), which, from a mathematical point of view, may have a negative value. The issues of the existence of a negative value of asset values have not been worked out by the scientific community at the moment. This study shows the principle of preserving the scientific view that it is unacceptable to have a negative value of property through the transformation of the corresponding economic category of negative value of property (from a mathematical point of view) into liabilities, which from a financial point of view affects the amount of net assets (own funds) of an economic entity is identical. In this context, it is possible to speak about the reasonableness, from a financial point of view. of the following statement: "negative value of property = obligations (the projected amount of expenses necessary to be released from the encumbrance of property ownership)". The projected amount of expenses that an owner needs to incur in order to get rid of the encumbrance of property ownership is the cost of getting rid of the encumbrance of property ownership determined in this study. It is advisable to consider the negative value of property values, from a financial point of view, as an informal obligation that is not subject to accounting. At the same time, it is reasonable to determine the amount of such informal obligations in the amount of the cost of exemption from the encumbrance of ownership of property and property rights. The practical significance of the results of these studies lies in the possibility to consider and justify the occurrence and presence of negative (from a mathematical point of view) values of property, transforming this negative value into obligations (from a financial point of view) of the owner. The described

principle of financial transformation of negative asset values into liabilities can lead to the development of a unified position in the scientific community on the existence (or impossibility of existence) of negative asset values. The introduction and use of appropriate financial and analytical tools will make it possible to carry out financial, valuation and other analytical procedures more clearly and effectively.

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