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Classification of intangible assets of the economic entities

The paper presents the classification of intangible assets of the economic entities that is made according to the national and international law. It also analyzes the approaches used by different authors to determine the structure of intangible assets. The components of company's intangible assets were defined, and the relationship between them as well.

Keywords: intangible assets, goodwill, company's intellectual capital, accounting.

Today, the vast majority of domestic enterprises and other economic entities use the achievements of science and technology in their activity. To provide a successful introduction of intangible assets in enterprise's economic turnover, any participant of this activity should have a good knowledge of intangible assets, their classification, essential characteristics, special properties, as well as patent legal documents accompanying them.

Therefore, the process of studying the classification and structure of intangible assets as a part of non-current assets of the economic entities is of great importance, first of all, in the organization of their estimation and accounting.

The essence, role and formation of intangible assets in the last years are in sight of both Ukrainian and foreign scientists, including E. Brooking, O.B. Butnik-Siverskyi, O.M. Vyshnevskaya, R. Kaplan, L.I. Kurylo, O.G. Mendrula and others. The majority of studies deal with defining the category "intangible assets", the possibility of their accounting and estimation in order to include them in the company's balance sheet.

That is, the intangible assets are the object being studied mainly by the economists and accounting specialists, and remain outside the view of jurists who regard them as a part of the economic entities' property.

Given the above, the purpose of the article is to determine the types of intangible assets (IA), which make up their complex and multi-level structure.

In the early 90-s Western economists have pointed out that to gain the advantages on the global market, the companies need to focus on their intangible assets [1, p. 79]. The correct structure and classification of intangible assets is needed for their separation and accounting in the companies, as well as for their estimation

and use. However, to define their structure is a problematic issue. Unfortunately, at the moment there is no neither a comprehensive classification nor a complete list of intangible assets. One more problem is that the intangible assets are created constantly.

Using the economic approach, some authors tried to describe mainly the structure of IA, to identify their main component and describe its effect on the market value (Edvinsson, Malone, 1997 [2]; Brooking, 1996 [3] et al.).

So, Edvinsson and Malone argue that the company's intangible assets include:

1. Structural capital which consists of a client (strength and loyalty of relationships with clients) and organizational (process of organization and methodologies used, for example, to improve the efficiency) capital.

2. Human capital, which consists of knowledge, skills and innovativeness of workers [2, p 52].

Intellectual essence of IA was highlighted in the works of the British scientist E. Brooking [3], who believes that in the third millennium such components as qualified workers, famous trademark, advanced technologies, corporate culture will be the most valuable.

E. Brooking considers the company as the sum of tangible assets and intellectual capital, according to him the intellectual capital is:

1. Market assets (trademarks, repeatability contracts, order book, distribution channels, various contracts and agreements, such as a license, franchise, etc.).

2. Intellectual property as an asset that includes know-how, industrial and trade secrets, patents and various rights of authors.

3. Human assets – a set of individual and collective knowledge of company's employees, their creativity, ability to solve problems, leadership skills, entrepreneurial and managerial skills.

4. Infrastructural assets, or technologies, methods and processes that make the work of the enterprise possible.

Some researchers, for example, Mayo (2001) [4], Ahonen (2000) [5] argue that IA consist mainly of human capital, which can be viewed from the three perspectives: as the number of employees, personal qualities of employees, and as a working community.

Other researchers (Andriessen, Thissen, 2000) [6] distinguish five groups of intangible assets:

- assets and deposits;
- skills and implicit knowledge;
- shared values and norms;
- technology and material knowledge;
- primary and management processes.

Somewhat different point of view on IA is expressed by D. Norton and Robert Kaplan, better known as the authors of the "balanced scorecard" [7], which offer to consider them as a primary source of company's value creation and divide them into three components:

1. Human capital (skills, talent, knowledge).

2. Information capital (databases, information systems, networks, and technologies).

3. Organizational capital (culture, leadership, appropriate personnel, teamwork, knowledge management).

A macro-approach uses the classification of IA, that is proposed by Corrado, Haltenom and Sichelem (2005) [8]. They identify the three main categories:

1. Economic competences which include the costs of strategic planning, training of employees, reorganization or reconfiguration of existing products on the existing markets, investments aimed at maintaining or increasing the market share, and investment and trademarks.

2. Innovation property relates to innovative activities and is based on scientific knowledge, as well as innovations in R&D connected with new product or process.

3. Computerized information.

According to the approach of Riley and Shvayhsa (2007) [9], the intangible assets include ten categories, united by their nature:

related to marketing (trademarks and service marks, trade names, trademarks and logos and colors);

related to technologies (patents, patents on processes, patent applications, patents on business methods, technical documentation);

artistic (associated with literary works and authors' rights, musical works and authors' rights, musical compositions, photos, maps, prints);

related to data processing (software platforms, software copyrights, automated databases, microchips and their templates);

related to customers (customer lists, customer's contracts, relations with customers, open purchase orders);

related to engineering (industrial designs, commercial secrets, drawings and diagrams, technical know-how);

related to contracts (licensing agreements, franchise contracts, licenses, subscription rights, futures contracts);

related to human capital (skilled labor and wages, contracts, trade unions, labor agreements);

related to location (the right to use mineral resources, easements, the right to air, the right to waters);

related to the Internet (domain names, addresses, communication, website design).

If we say about an accounting approach to the structure of intangible assets, it is possible give the accounting classification, as an example, developed by the International Federation of Accountants. According to it, there are three elements of intangible assets: human capital, capital of relationships and structural (organizational) capital.

In accordance with the International Accounting Standard 38 (IAS 38) [10], the intangible assets include the non-material assets that meet basic requirements: the identification, control over resources and the availability of future economic benefits, such as scientific or technical knowledge, design and introduction of new

processes or systems, licenses, intellectual property, market knowledge and trademarks (including brand names and publishing rights).

The intangible assets also include a client basis, market share, relations with clients and loyalty, skilled personnel, additional skills of personnel obtained after training, managerial and technical talent, market and technical rights as confirmed by the appropriate rights, such as authors' rights, restrictions in trade contracts or legal duty of employees to keep the confidentiality.

Besides, IAS 38 contains the classification of the intangible assets by the following features [10]:

1. The term of useful life (the period of time during which the asset is expected to be used or the number of units that the company expects to receive from the asset):

intangible assets with the definite term of use (§ 97-106);

intangible assets with the indefinite term of use (p. 107-110).

2. Criteria of recognition:

intangible assets acquired separately (p. 25-32);

intangible assets acquired as a result of business combination (p. 33-43);

self-created intangibles (p. 51-67).

3. Estimation after recognition:

re-estimated intangible assets (p. 75-87);

actual intangible assets (p. 74).

To make the accounting of IA according to the Accounting Provision (Standard) 8 "Intangible assets" [11], they should be divided into some groups:

1. The right to use mineral resources and other natural resources.

2. The right to use geological and other information about the environment.

3. The right to use a plot of land.

4. Trademarks and brands.

5. The right to computer programs.

6. The right to databases.

7. The right to use economic and other benefits.

Goodwill in accordance with the Accounting Provision (Standard) 19 "Business Combination" [12] is the excess of purchase price over the part of the buyer in the fair value of acquired identifiable assets and liabilities at the date of acquisition. That is, the value of any enterprise, on a whole as a single economic property complex differs from the total value of its assets and liabilities. In other words, there is a necessary difference between the value of the enterprise and net worth of the property. This difference is goodwill that can be either positive or negative.

Positive goodwill means that the enterprise's value exceeds the total value of its assets and liabilities due to the stable customers, recognized reputation, activities in the field of marketing and sales, technical know-how, business relationships, management experience, skilled personnel, etc. Thus, positive goodwill is premium price paid by the buyer in anticipation of future economic benefits. In contrast, negative goodwill is a discount price which confirms the absence of these factors

[12]. All the IA, which are difficult to identify or estimate, refer to goodwill [13, p. 261].

In addition, IA can be classified as business reputation or those which are identified separately and grouped into different categories. Hendrickson, Van Breda and Milner believe that the intangible assets can be divided into traditional intangible assets (business reputation, brands, patents) and deferred expenses (advertising, research and development, training costs) [14].

In terms of marketing, the IA can be classified into four categories based on the conceptual representation of a series of events that involve the creation of competitive advantages: creative values (advertising, product development and other marketing tools), market assets (trademarks, brands, entry barriers, information systems), display of values (image, reputation and price premium), combination of market assets (competitive advantage) [15].

Classification of IA by the method of acquisition is connected with features of their determination and estimation in the accounting statements.

So, using the method of acquisition, there are such IA:

1. Created by own forces.

2. Obtained by other means:

purchased for cash;

acquired in exchange for other assets;

acquired in exchange for equity instruments (as a contribution to the authorized capital);

obtained as a result of business combination;

obtained free of charge;

purchased due to special-purpose funding [16].

At present, a significant part of IA, from a legal point of view, are the industrial property facilities. They subject to any specific legislation, such as patent law. These objects can be clearly identified from the total ones, estimated and accepted on an account under its own name [17, p. 53]. Such facilities are called “identified facilities”.

The group of identified facilities, according to A.P. Aksenov, includes invention patents, rights to use various natural resources, specifically documented results of scientific researches, etc. [17, p. 64].

Unidentified IA are also the objects of law, not necessarily under a special law. Typically, they include the cost of a part of the operating enterprise that is determined by the opportunity and right to use a good name, business relationships, reputation, popular brand names, trademarks, etc.

Classification of IA depending on the legal rights allows to determine all the assets available at the enterprise, both own and borrowed; depending on the legal rights to management – to make managerial decisions whether to give them to other persons on terms of a possible licensing or sublicensing; depending on the legal rights to use – to determine whether the economic entity will receive useful benefits from the use of that asset [18, p. 24].

Conclusions. Thus, the classification of the intangible assets can be considered in terms of marketing, from the financial perspective or be based on a balanced scorecard which discloses information about IA in annual accounting reports.

Based on the study of the structure of the intangible assets, the inconsistencies in the classification of their constituents were discovered, which in turn complicates their estimation and subsequent use. In this regard, the authors propose the following structure of the intangible assets:

1. Human capital.
2. Intellectual capital.
3. Structural (organizational) capital.
 - 3.1. Internal (technological).
 - 3.2. External (market).
4. Natural capital.

Each element of this complicated structure should meet some requirements of the present legislation of Ukraine in order to determine whether the facilities are the intangible assets, namely: identification, non-monetary, absence of a material structure, capacity to bring the economic benefit in the future.

References

1. Гаранина Т. А. Роль нематериальных активов в создании ценности компании : теоретические и практические аспекты / Т. А. Гаранина // Корпоративные финансы. — 2009. — № 4 (12). — С. 79–96.
2. Edvinsson L. Intellectual Capital : realizing your companys true value by finding its hidden brainpower / L. Edvinsson, M. Malone — New York : Harper Collins buiness, 1997. — 372 p.
3. Брукинг Э. Интеллектуальный капитал. — СПб. : Изд-во «Питер», 2001. — 288 с.
4. Mayo A. The Human Value of the Enterprise / A. Mayo, N. Brealey. — L. : Nicholas Brealey publishing, 2001. — 307 p.
5. Ahonen G. Generative and Commercially Exploitable Assets / G. Ahonen // Ed. J. E. Grojer and H Stolowy // Classification Intagibles. — France : Group HEC, Jour-en Josas, 2002. — P. 206–213.
6. Andrissen D. Weightless Wealth : Find Your Real Value In a Future of Intangible Assets / D. Andrissen, R. Tissen. — L. : Financial Times and Prentice-Hall, 2005. — 256 p.
7. Каплан Р. С. Измерение стратегической готовности нематериальных активов / Пер. М. М. Смирнова, ред. И. Н. Баранов / Р. С. Каплан, В. П. Нортон // Российский журнал менеджмента. — 2004. — Т.2. — № 3. — С. 85–104.
8. Corado C. Measuring Capital and Technology : An Explanded Framework / C. Corrado, Ch. Hulten, D. Sichel // NBER Chapters // National Bureau of Economic Research, Inc. — N. Y., L. : M. E. Sharpe, Inc. — 2005. — P. 11–46.
9. Reilly R. and Shweih R. Valuing Intangible Assets. — N. Y. : McGraw-Hill, 1999. — 518 p.

10. Міжнародний стандарт бухгалтерського обліку 38 «Нематеріальні активи» [Електронний ресурс]. — Режим доступу : http://zakon4.rada.gov.ua/laws/show/929_050.
11. Положення (стандарт) бухгалтерського обліку 8 «Нематеріальні активи» : затверджений наказом Міністерства фінансів України від 24.12.2004 р. № 817 [Електронний ресурс]. — Режим доступу : <http://www.rada.gov.ua>.
12. Положення (стандарт) бухгалтерського обліку 19 «Об'єднання підприємств» : затверджений наказом Міністерства фінансів України від 07.07.1999 р. № 163 [Електронний ресурс]. — Режим доступу : <http://www.rada.gov.ua>.
13. Кожемякіна Т. В. Нематеріальні активи підприємства-експортера як чинник підвищення конкурентоспроможності на світовому ринку / Т. В. Кожемякіна, Д. Г. Матукова // Економіка Криму. — 2010. — № 1. — С. 260–264.
14. Мильнер Б. Нематериальные активы компании / Б. Мильнер // Проблемы теории и практики управления. — 2008. — № 3. — С. 109–119.
15. Плотникова Л. А. Нематериальные активы : обзор международного опыта и перспективы развития [Текст] / Л. А. Плотникова, А. Е. Каспин // Международный бухгалтерский учет. — 2006. — № 4. — С. 30–39.
16. Зубилевич С. Учет нематериальных активов [Текст] / С. Зубилевич // Бухгалтерский учет и аудит — 2001. — № 10. — С. 3–13.
17. Аксенов А. П. Нематериальные активы : структура, оценка, управление : учеб.-метод. пособие / А. П. Аксенов. — М. : Финансы и статистика, 2007. — 192 с.
18. Пожарская Л. Проблемы признания и классификации нематериальных активов / Л. Пожарская // Бухгалтерский учет и аудит. — 2012. — № 2. — С. 24–28.

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PROTECTION OF PUBLIC PROPERTY IN THE ECONOMIC JUDICIAL PROCEEDINGS

The paper analyzes some procedural aspects related to protection of the public property in the economic judicial proceedings, as well as the powers of the