

## Crime prevention in the sphere of business activity: tax evasion

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**Abstract.** Criminological characteristic of economic crimes is already complicated because forms and ways of these crimes with variety and ability to adapt quickly for changing conditions in a society, especially, in economy. In the field of a financial policy and monetary circulation in the country priorities of the Concept of a legal policy are connected with strengthening of the modern stable financial market, as real tool of interests' protection of the state, citizens and legal entities, with functioning of an effective financial system, as one of state policy components.

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### Introduction

Hiding incomes of the taxation is one of the most mass forms of illegal accumulation of the capital. Such criminal manifestations are closely connected with offences of administrative and financial character which are their peculiar «precriminal step». In the European scientific literature as a synonym to concept 'tax crime' the concepts 'economic crime', 'respectable' or "crime of white-collar people" are used [1]. Allocation of tax crime as an independent kind is based on specificity of the area in which there is committed this kind of a crime, exactly taxation sphere.

**The aim of the research** is development of offers (recommendations) according to the prevention of tax crime by financial police units that assumes knowledge of the circumstances determining or promoting to committing of this kind of crimes

**The methods of the research:** The research methodology was based on system of philosophical, legal methods of cognition of the socially-legal phenomena and economic knowledge with account of last achievements of domestic and foreign scientists in area criminology, criminal, civil, administrative, finance law, and other sciences. In the course of research there were applied methods of the theoretical and applied analysis of the studied phenomena, methods of statistical generalization and analysis of materials, etc.

### The main part

Under the Criminal Code of the Republic of Kazakhstan in force tax crimes include guilty committed socially dangerous acts provided in article 221 of the Criminal Code (tax evasion of the citizen)[2] and in article 222 of the Criminal Code (tax evasion of the organization)[3]. They are allocated in separate group on the basis of signs similarity of offence object – of the public relations

arising due to payment by physical and legal entities of taxes. Subjects of these relations are, on the one hand, taxpayers, and on the other hand - authorities of the state represented by tax authorities.

In light of the above, the tax crime can be defined as violence against property, mass socially-legal phenomenon representing set of tax crimes, committed or committing in certain territory for the established period of time. Criminological researches showed, that transition from an offence to crime committing is made unconsciously, as though discreetly [4]. Formation of the offender personality is influenced by the factor of a system of asocial acts commitment. Such behavior, finally, as a rule, leads to serious qualitative changes of properties of the concrete person, determining his future criminal behavior. Such person transfers from least socially dangerous offences to crimes [5]. Ideas of this person about degree of admissible behavior within a deviation from the standard interdictions and moral principles influences on "speed" and change character of qualitative characteristics of the person and transition from offences to crimes. Along with subjective factors the objective ones also influence on formation of negative properties of the person. Social and economic reform carried in Kazakhstan as a side-effect "shook" the moral principles of the society developed at the end of the 1980s - at the beginning of the 1990s, it generated considerable deformations of mass public consciousness and public morals. Among citizens there were extended ideas about an admissibility of deviations from those or other norms of behavior. In public consciousness commitment of many kinds of offences is supposed.

Public danger of tax crimes consists in violation of principles of economic activities realization, in intentional failure to fulfill the constitutional obligation of everyone to pay legally established taxes and tax collections. Finally, all this

leads not to income of cash assets in the state budget. Legal entities make a separate category of the taxpayer obliged, first of all, to pay corporate taxes. Unlike physical persons, the organizations in the majority have more high tax ability; therefore tax evasion (collection) from fulfillment of duties, as a rule, causes a great damage to a state financial system. Such actions are characterized by the raised public danger. Growth of quantity of tax crimes has forced to speak not about individual crimes, and about tax crime.

According to the data of financial police authorities of the Republic of Kazakhstan, in 2011-2013, superiority in activity of corruption relations belonged to offences in sphere of the taxation and transfer pricing, illegal capital outflow, false and deliberate bankruptcy, illegal manufacture and realization of excisable goods, offences in budgetary sphere, in the market of financial tools and in sphere of electronic operations [6]. «Tax» offences and crimes have the general determinants of illegal behavior, general legal nature, and similarity of the mechanism of formation of the criminal and delicate person. They are committed in identical, typical conditions, generated by the similar reasons and have a uniform orientation. The generality feature of commitment of tax offences and crimes is public danger. According to this basic feature in the theory of criminal and administrative law or according to the indicator of the activity («degree of public danger») in the law there is a differentiation of various forms of illegal behavior, i.e. their reference either to crimes, or to offences. Tax evasion of the organizations by inclusion in accounting documents of obviously deformed data on incomes or expenses or by hiding of other objects of the taxation, made in the large size (the sum of unpaid tax exceeds one thousand minimum wage rates) is a crime. If the sum of unpaid tax is lower than this size, such act is an offence.

The raised degree of public danger, in this case, the main material feature, allowing recognizing illegal act is a crime. The citizen, the businessman and/or the enterprise director, regularly committing tax offences and believing, that their single insignificance does not attract the criminal liability, can imperceptibly transfer "threshold" of the sum of unpaid tax and become criminals [7]. Thus, tax offences can outgrow in crimes within the limits of the same offence. For this purpose there is enough one of several circumstances for responsibility. The generality of tax offences and crimes is expressed in the motive, being basic personal determinant of any behavior, including criminal. The motive makes considerable impact on all mechanism of criminal behavior. In criminology and criminal law the motive

is almost always considered as a conscious motive. For economic, including tax crimes, the motive has a mercenary orientation. Behavior stereotypes in the mechanism of development of tax offences in crimes do not work automatically, i.e. there is no fatalism. The systematic character of previous antisocial behavior, undoubtedly, forms subject's psychological readiness for overcoming of the boundary separating offence from crimes. Differently, between various forms taxpayer's illegal behaviors there are objective interdependences, and frequently there is interconditionality. Offences usually precede transition to a criminal way and are caused by the same reasons, as crimes, studying of these offences allows to specify the forecast of crime tendencies.

It is possible to ascertain, that such element of structure of criminological characteristics of tax crime as a condition, structure and dynamics of crime does not give full data on the tax crimes used for their prevention [8].

For the successful control of the given phenomenon and effective activity on preventive maintenance of tax crime besides these data, information on administrative and financial offences has great value. The condition, structure and dynamics of crime, and also data on administrative and financial offences in taxation sphere characterize a condition of offences in tax sphere, which is one of elements of criminological characteristics of tax crimes.

The structure of criminological characteristics of tax crime consists of the following elements: a condition of offences in tax sphere; the characteristic of the persons who have made tax crimes; the factors determining tax crime. It is possible to reveal the reasons of legal character of tax crime in presence of a large quantity of the regulatory legal acts regulating taxes and tax collections that leads to a complexity of the legislation on taxes and tax collections, its instability and contradiction. Detailed studying and multilateral analysis of developing judiciary practice in taxation sphere is necessary. Tax and, greatly, law enforcement authorities, having the general data on offences in sphere of tax laws and using knowledge about algorithms of development of offences in crimes, can more reasonably choose object of check and carry out operatively-search actions for the purpose of revealing and prevention of tax crimes. The condition, structure and dynamics of crime, and data on administrative and financial offences in taxation sphere characterize a condition of offences in tax sphere that is one of elements of criminological characteristics of tax crimes.

The necessary precondition of the forecast of a criminal policy in sphere of struggle against tax

crime is the criminological forecast which should cover the following tendencies in interrelation: social processes directly influencing on tax crime; tax crime; struggle against tax crime. Thus for the forecast there are the following: quantity of tax crimes and persons who have committed crimes; distribution of criminogenic situations generating commitment of tax crimes; ways of commitment of tax crimes; consequences of tax crime; development and results of preventive activity and criminal law struggle against tax crime.

The present characteristic contains description and explanation of significant for realization precautionary activity in tax sphere of tax crime, typological properties of the persons psychologically ready for commitment of tax crimes or susceptible to such readiness, mechanism of criminal behavior, circumstances generating crimes in tax sphere or promoting or facilitating commitment of given crimes. Due to the criminological characteristic of tax crime such element of the characteristic of tax crime as a condition, structure, dynamics of crime does not give full data about the tax crimes used for their prevention. For the successful control of the given phenomenon and effective activity on preventive maintenance of tax crime, information on administrative and financial offences has great value [9]. The ratio of administrative offences and crimes testifies to existence between them of strong correlation dependence. Therefore the crime analysis should be combined with the offence analysis.

Only on this basis it is possible to follow up more adequately tendencies of crime and its separate groups, to study its communications with other social phenomena and processes, to predict criminological conditions in the country and its regions, to develop the interconnected strategy and tactics of struggle against crime and offences [10].

Specified above reasons of legal character of tax crime follow from the reasons of economic, social and moral character. Elements of criminological characteristics of tax crime are considered below. Financial activity of the state consists in realization of public expenses and income of necessary cash assets for this purpose. The expenses necessary for activity of the state, are established in the budget. The functional importance of taxes and harm to the budget are determination criterion of public danger of tax evasion, however, they cannot open completely all spectrum of the features characterizing the present problem. Formation of the budget profits from tax incomes is an obligatory condition of the state existence. The duty to pay taxes is the unconditional requirement of the state and there is public-legal character that is caused by the public-legal nature of

the state and the government [11]. In work we result quantity indicators of tax offences, but characterizing crimes criminologists use the various relative indicators more convenient for comparison. One of them is the coefficient of crime determined by the ratio of number of crimes facts to a population, reached age of the criminal liability. This indicator is applied to ordinary crimes. For tax crime the coefficient of tax crimes characterizing tax evasion can be such relative indicator. It can be defined by the ratio of quantity of tax crimes to number of taxpayers. Data are necessary for calculation of this indicator about total number and structure of taxpayers: distribution according to legal and physical persons, types of ownership, organizational-legal forms and other parameters.

### Conclusion

The conducted research showed that for creation of visibility of active work unreasonable and premature excitation of criminal cases by articles 221-222 of Criminal Code without acts of documentary audits is widely used, or under obviously unsuitable acts that leads to termination of the case.

Only criminal law indicators of struggle against tax crime do not always truly reflect an actual state of affairs. The condition, structure and dynamics of crime, and data on administrative and financial offences in taxation sphere fix the separate negative moments in activity of law enforcement authorities and more really reflect an actual state of affairs.

### Summary

Summarizing above mentioned, it is necessary to note the following. Many authors, opening the concept and content of criminological characteristics of crimes, give the various lists of the elements making in the totality and interrelations of its structure.

The Criminological characteristic of tax crimes represents typical information model criminogenic objects - commitment reasons and conditions of separate groups, a category of tax crimes, and also carriers of these reasons and conditions.

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