



Foreign Experience of Prosecutor's Control over Legislative Implementation in Tax Authorities

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Abstract:

The state of affairs in the tax sphere is significantly influenced by such factors as the imperfection and inconsistency of the current legislation regulating the procedure for taxation and granting benefits, as well as bringing violators to justice; insufficient analysis of judicial and investigative practice due to the small number of criminal cases of this category sent to court; inconsistency of decisions taken by arbitration courts and courts of general jurisdiction on claims of legal entities and individuals against tax authorities; the ill-considered, legislative lack of regulation of the system of activities of regulatory and law enforcement agencies in every area.

Keywords: tax offenses and crimes, prosecutorial supervision, sanctions

1. Introduction

In the realm of law enforcement, the need for innovative approaches to address emerging challenges has become increasingly apparent [1,2,3]. In response to the complexities inherent in tax enforcement and regulatory oversight, there is a pressing call for a paradigm shift in legislative frameworks and the operational strategies of regulatory bodies [4,5]. This necessitates a reevaluation of the roles and responsibilities assigned to key institutions, including the prosecutor's office, in the prevention and deterrence of tax offenses and crimes [6].

Taking into account the problems arising in law enforcement practice, a radically new conceptual approach is proposed to change the current legislation, as well as to improve the activities of regulatory authorities, including by changing the structure of tax authorities [7,8].

The role of the prosecutor's office in the prevention of tax offenses and crimes has been determined, proposals have been made on the need to amend the Law "On the Prosecutor's Office of the Russian Federation" in terms of setting tasks for the prevention of offenses and crimes [6].

Taking into account the specifics of supervision, specific recommendations on its organization and implementation are given. Separate private methods of supervisory activities have been developed, as well as a system of measures to prevent tax offenses and crimes [9,10].

This paper advocates for a transformative approach to law enforcement practices, with a particular focus on enhancing the efficacy of tax authorities and regulatory agencies. Central to this proposal is the recognition of the prosecutor's office as a pivotal actor in the prevention of tax-related illicit activities. By redefining its mandate and empowering it with specific tasks related to offense prevention, the potential for proactive intervention and enforcement can be significantly augmented.

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Furthermore, recognizing the unique challenges inherent in supervision, this paper offers tailored recommendations for its organization and implementation. These recommendations are grounded in a nuanced understanding of the regulatory landscape and informed by the development of bespoke supervisory methodologies. Additionally, a comprehensive system of preventive measures targeting tax offenses and crimes is outlined, aimed at fostering compliance and deterring illicit behaviors.

Through the synthesis of theoretical insights and practical recommendations, this paper seeks to contribute to the ongoing discourse surrounding law enforcement reform. By advocating for legislative amendments, institutional restructuring, and the adoption of proactive enforcement strategies, it endeavors to foster a more robust and responsive framework for combating tax-related offenses and crimes [11,12,13].

2. Method

This study employed a literature review methodology to analyze the proposed conceptual approach for enhancing law enforcement practices, with a focus on tax enforcement and regulatory oversight. A systematic search of academic databases and legal sources was conducted using relevant keywords and inclusion criteria. Selected studies were synthesized to identify key themes and recommendations related to legislative amendments, institutional roles, supervisory methodologies, and preventive measures targeting tax offenses and crimes. Data extraction focused on empirical evidence and substantive analysis, while the methodological rigor of selected studies was assessed to ensure reliability. Through this approach, the study aimed to provide insights into the strengths, limitations, and implications of the proposed conceptual approach, contributing to the discourse on law enforcement reform in the context of tax-related offenses and regulatory compliance.

3. Results and Discussion

The conducted research shows that when developing and fulfilling certain requirements, the role of the prosecutor's office in preventing tax offenses and crimes can be very significant [14]. The means of prosecutorial supervision adopted have an impact on both the causes and conditions conducive to the commission of offenses in the area under consideration. The presented figures indicate the ever-increasing role of prosecutorial influence aimed at preventing tax offenses. Satisfaction of over 99% of claims allows us to assert a highly qualified approach of prosecutors to the protection of public interests in the field of taxation [15,16].

65% of the surveyed city (district) prosecutors consider it their duty to take measures to prevent tax offenses and crimes. They consider the following to be the most effective of them: 1) the use of the full range of means of prosecutorial influence from a warning to the initiation of a criminal case; 2) ensuring regular receipt of information to the prosecutor's office from tax authorities; 3) introducing acts of prosecutorial response; 4) exercising prosecutorial supervision over regulatory bodies and bodies of the Ministry of Internal Affairs of the Russian Federation; 5) interaction with the media; 6) increasing the responsibility of heads of tax authorities for the work of subordinates when violations are detected by prosecutors; 7) tightening sanctions for tax offenses and crimes; and 8) conducting training together with the operational staff of the Ministry of Internal Affairs of the Russian Federation and officials of regulatory authorities.

In France, the legislation on the prosecutor's office is developing in order to ensure guarantees of non-interference of the legislative and executive branches of government in the substantive activities of the tax authorities [17]. The powers of both legislative and executive authorities are defined in such a way that they have no legal grounds to interfere in prosecutorial activities. In any case, specific boundaries are being defined for such an intervention.

The prosecutor in France can apply for documents in all court cases, whether

criminal, civil or commercial, give explanations during the process and challenge court decisions of various jurisdictions in tax authorities [18]. Moreover, there are areas of civil law relating, in particular, to the condition and legal capacity of persons for whom the Prosecutor of the Republic is considered the guarantor of the correct application of the law in tax authorities.

The peculiarity of tax control in France is that, the French taxpayer must be warned about the tax audit at least 8 days in advance [18]. Without warning, a sudden check can be carried out only if there is reliable information that the company is evading taxes.

Inspections are usually carried out in the three preceding years. There are no special provisions on the frequency of inspections. With the rarest exceptions, repeated checks for one period are usually not carried out.

The choice of the company to be inspected is carried out according to many criteria, based on a risk analysis. Firstly, those enterprises that are potential violators are selected, and secondly, information from informants is used.

In the USA, there is no single legislative act that would define the functions, procedure and legal means of their implementation by the tax authorities [18]. They are largely determined by common law and court decisions. In order to get an idea of the complex, multifaceted and multifunctional activities of American prosecutors, it is important to consider the structure of bodies and the content of these activities. The structure of the tax authorities of the state attorneys is similar to the corresponding structure of the ministry, but not uniform.

It is not rigid, and largely reflects the essence of the activities of tax authorities to ensure the rule of law. Thus, the New York State Attorney's Department has twelve district offices in the state. The office of the Prosecutor's Office (Attorney General's Office) includes a number of structural divisions. These include the Civil Rights Bureau. It is engaged in the struggle for equal rights of men and women in the field of work, social guarantees and benefits, and against racial discrimination. And the Bureau of Legality in tax authorities the field of labor relations implements measures of criminal and civil protection of citizens' labor rights. The Bureau initiates tax cases against employers who have criminally violated the rights of citizens, sues in court against employers who have caused damage to employees by violations of their rights, non-payment, late or incomplete payment of wages, etc. The Bureau also sues non-payers of taxes and other financial fees to the state revenue [19].

As the organizational formation and improvement of forms and methods of work, the focus in the priorities of the General Directorate of Tax Investigations of the US Department of Internal Affairs is gradually shifting from the suppression of specific violations of tax legislation to penetration into a potentially criminal environment in order to promptly develop suspects, as well as identify the shortcomings they use in current legislation and new ways to legalize illegally obtained funds [20].

When conducting investigations in cases involving violations of financial and tax legislation, representatives of Steuf have the same rights as police officers who are guided in their activities by the relevant provisions of the Code of Criminal Procedure.

The German Tax Code provides significant powers to the tax police to conduct searches and personal searches of citizens, detain suspects and confiscate documents [17].

The management of Steuf has the right to appoint a special investigation into any violation of tax legislation. At the same time, the tax police have the exclusive right to seize documents and obtain the information it needs from almost all public and private institutions in the country, with the exception of some special services. There are many similarities in the activities of the tax police in Germany. However, the judicial practice of Germany reveals more widely the facts of violation of tax legislation.

When monitoring the correctness of taxpayers' calculation of tax amounts, tax authorities can use any information contained in databases available to them. At the same

time, in Sweden and Finland, the tax service has already initiated the independent preparation of tax returns for taxpayers, who then receive this declaration via secure communication channels and can either agree with it or wish to make their own changes and additions. In the first case, it is enough for them to confirm this declaration using the electronic signature mechanism, in the second case, they already need to get in touch with the tax service and provide the necessary documentary evidence to substantiate the proposed amendments and changes.

As for the fight against one-day firms, millions of firms open and close in developed countries every year, without having selfish goals. For example, Henry Ford managed to achieve success with only the fifth company, the first four attempts failed. In fact, it is necessary to master the ability to correctly and accurately regulate the processes of creation, operation and closure of legal entities. In the West, the authorities do not complicate their lives by searching for addresses or just signs of life of registered legal entities.

We also note the experience of Norway, where a joint investigation of tax crimes by law enforcement agencies is organized - based on the position that almost every crime has an element of a tax offense. The advantage of this practice is that, firstly, investigations are conducted using a single information base, and, secondly, if there are difficulties in preparing an evidence base for a crime for trial, the investigation remains able to bring to justice for committing tax offenses.

The use of foreign experience is appropriate and will have the proper effect as a thorough analysis of the possibilities of its implementation in the conditions of reality. The interstate exchange of experience and results of implemented measures on state control of tax offenses will ensure the prevention and neutralization of tax offenses, will allow maintaining a high level of budget revenues and strengthen awareness among citizens and organizations of the need to financially ensure the functioning of the state with payments of taxes, fees and other mandatory payments.

In this regard, ensuring the correct exchange of information between tax authorities and other executive authorities is one of the priorities and a systematic approach is needed here. The use of a single information base, which exists in many developed countries (for example, in Germany, Norway, France), is an important condition for increasing the effectiveness of their interaction [21,22].

In the United States, for example, information of interest to the Internal Revenue Service (IAS) for calculating income tax comes from the following sources: each taxpayer is required to send an annual declaration of his total income in the prescribed form to the IAS; at the same time, all government agencies banks, exchanges, firms, etc.

The array of information coming from these sources is entered into a computer accounting system, processed and compared with the data contained in tax returns. The use of secret, special mathematical models in information processing makes it possible to select tax returns with "increased potential" for thorough verification. The results of the work of the SVD show that 90% of taxpayers in the United States pay taxes in good faith and correctly, whereas in Russia, according to official data from various structures, from 20 to 40% of potential taxpayers hide from paying taxes. In 2003, the Internal Revenue Service established a special unit (professional responsibility Service) for interaction with tax consultants, state registration of their status, and supervision of compliance with established standards of activity [23,24,25].

4. Conclusion

The strategic direction of improving the work of tax authorities is the introduction into practice of new forms and methods of tax control based on advanced information and analytical technologies. Currently, the taxpayer has become more literate, and the unscrupulous taxpayer is more resourceful.

It is impossible to identify the most common tax evasion schemes based on the use

of double-entry bookkeeping, as well as complex mechanisms for concealing tax objects associated with the use of one-day firms on the basis of checking accounting documentation. Therefore, at present, the main task of the tax authorities, which should be addressed by their efforts - This is the task of strengthening the analytical component of the work of tax authorities, introducing into the practice of tax control a comprehensive systematic economic and legal analysis of financial and economic entities of the economy.

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