

ПОЛІСЬКИЙ НАЦІОНАЛЬНИЙ УНІВЕРСИТЕТ



РОЛЬ БУХГАЛТЕРСЬКОГО ОБЛІКУ, АУДИТУ ТА ПОДАТКОВОЇ ПОЛІТИКИ У РОЗБУДОВІ НЕЗАЛЕЖНОЇ УКРАЇНИ НА ШЛЯХУ ДО ЄВРОПЕЙСЬКОГО СОЮЗУ

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THEORETICAL ASPECTS OF ADMINISTRATIVE LIABILITY IN THE FIELD OF TAX CONTROL

Introduction. In today's environment, the effective functioning of the state tax system is an important element of ensuring economic stability and budget revenues. One of the key mechanisms for monitoring compliance with tax legislation is tax control, which is designed to ensure proper accounting and payment of taxes by business entities and individuals. In the course of tax control, situations often arise when taxpayers violate the requirements of tax legislation, which gives rise to administrative enforcement measures. Administrative offenses in the field of taxation cover a wide range of actions, including late submission of tax returns, improper accounting of income, tax evasion, etc. Such violations not only undermine the financial stability of the state, but also create unequal conditions for doing business, which requires a clear and fair system of administrative sanctions. Studying the peculiarities of administrative liability in the field of tax control is important for understanding the role of controlling authorities in ensuring compliance with tax legislation and maintaining financial discipline in the country.

Results of the study. An administrative offense (misdemeanor) is an action or inaction of a person that reflects his or her attitude to reality, other people, the state and society. It is important to note that beliefs or opinions that have not been externally manifested are not subject to the law. In order to recognize an act as an administrative offense, it is necessary that it has certain features, among which are public harm (danger), unlawfulness, guilt and administrative punishment. [1].

In Ukraine, as in any other country, there is a wide range of legally binding rules governing various areas of public life. These rules are intended to ensure law and order and discipline, in particular in the area of taxation, which has a direct impact on the economic interests of individuals, businesses, institutions and the state as a whole. In the context of tax control, such rules are aimed at ensuring timely and full payment of taxes, compliance with the procedure for submitting tax reports and preventing tax evasion. They regulate the rules of behavior of business entities in the field of taxation, including the procedure for tax audits, control over tax payments and compliance with tax legislation.

A similar opinion is expressed by Galagan I. O., who defines administrative responsibility as the application by authorized bodies and officials of administrative penalties provided for by the sanctions of administrative and legal norms to persons guilty of committing administrative offenses. This includes state and public condemnation of their actions, which is manifested in negative consequences for

them that they must fulfill. The purpose of such liability is to punish, correct and re-educate offenders, as well as to protect public relations in the field of public administration. [2].

Administrative offenses in the field of tax control have the following general legal features:

✓ *Action or inaction*. This can be a specific behavior of a taxpayer, which manifests itself in the form of action or inaction related to the fulfillment of tax obligations. For example, failure to submit reports, late payment of taxes, or intentional concealment of taxable items.

✓ *Illegality.* An act is considered unlawful if it violates the provisions of tax legislation governing the payment of taxes, submission of tax reports and tax audits. Such violations encroach on the legal order, which is protected by administrative liability measures.

✓ *Guilt.* An act related to the violation of tax legislation is considered culpable if it is committed intentionally or through negligence. This means that a person deliberately or negligently fails to comply with the established tax requirements.

✓ *Administrative punishment*. Violations in the field of tax control are subject to administrative liability, which is applied to ensure compliance with tax regulations and restore lawfulness in this area.

Specific types of administrative offenses in the field of tax control are grouped in eleven chapters of the special part of the Code of Ukraine on Administrative Offenses (CAO). This grouping is based on the object and sectoral principle, which means that violations are systematized by the generic object or areas of public administration that regulate tax relations.

When qualifying administrative offenses in the field of taxation, it is important to clearly establish a causal link between the unlawful act and the existing negative consequences. For example, late submission of tax reports or incomplete transfer of taxes may result in losses for the budget, which requires an appropriate response.

In some cases, the amount of damage caused may be a criterion for classifying an offense as an administrative offense or a crime. For example, in situations involving tax fraud, such as tax evasion or falsification of tax returns, the amount of damage may determine the degree of liability.

The current legislation of Ukraine on administrative liability does not contain special provisions regulating attempted administrative offenses or complicity in them, in particular in the field of tax control. However, the legislator often mentions the presence of “another person” among the signs of the objective side of certain tax offenses. This may be the case when a person fails to comply with the requirements of the tax authorities, or, for example, when attempting to evade their tax obligations with the participation of third parties.

Some of the legal features of the objective party defined in the legislation may include qualifying elements that indicate the existence of tax offenses. This applies, in particular, to cases where the dishonest fulfillment of tax obligations is accompanied by the participation of other persons or manipulation of documentation. Such circumstances are essential for the qualification of offenses in the context of tax

control.

According to the conceptual understanding of an administrative offense in the context of tax control, it is important to abandon the limited use of this term in relation to violations of tax legislation. It is also necessary to avoid narrowing the concept of administrative liability arising from administrative offenses in the field of taxation.

According to the provisions of the 1996 Constitution of Ukraine and the 2005 Code of Administrative Procedure of Ukraine, the state and its representatives should be held liable for violations of citizens' rights, including in the tax area. The Fundamental Law clearly states that “the state is responsible to the individual for its activities” (part two of Article 3), and also guarantees the right to compensation for material damage caused by unlawful decisions or actions of state authorities, including in cases related to tax control (Article 56). This emphasizes the importance of ensuring law and order and compliance with tax legislation by the state [3].

In the context of tax control, it is important to note that the relevant provisions of the legislation are formulated as follows: “The ground for administrative liability is the commission by a person of an offense that violates the norms of tax legislation” (Article 1 of the Code of Administrative Offenses), ‘An administrative offense is an act or omission that causes damage to the rights and legitimate interests of the state in the field of taxation’ (Article 2 of the Code of Administrative Offenses) [4].

According to this logic, offenses in the field of taxation, firstly, may not contain signs of a criminal offense; secondly, may not be directly defined in the Criminal Code; thirdly, may not be intentional or unintentional; fourthly, may be committed by persons who do not fall under the definition of a criminal subject.

Conclusions. Thus, Ukrainian legislation allows for the existence of tax offenses that are not criminal offenses. In this context, it is important to pay attention to the position of the Supreme Court of Ukraine, which emphasizes that “the distinction between administrative and criminal liability is made by the degree of social danger of the actions committed”, which is especially relevant for offenses in the field of tax control.

The main objectives of preventing administrative offenses in the field of tax control are as follows:

- Limiting negative social phenomena (reducing the impact of factors that contribute to tax evasion and other tax offenses).
- Education of citizens (formation of consciousness in compliance with tax legislation, development of legal culture and responsibility among taxpayers).
- Influencing risk groups (active work with individuals who are prone to tax offenses in order to reduce the likelihood of committing tax crimes).

These goals are aimed at ensuring an appropriate level of tax compliance and creating a favorable environment for the development of legitimate business in Ukraine.

Thus, a comprehensive approach to administrative liability in the field of tax control is aimed not only at punishment, but also at shaping legal awareness and ensuring fairness in taxation.

Administrative responsibility in the field of tax control is an important element of ensuring law and order in the economy. The main goals of preventing administrative offenses include limiting negative social phenomena, raising legal awareness of citizens and influencing risk groups. The system of administrative offenses related to tax violations requires clear regulation and identification of cause and effect relationships for effective control and punishment of offenders. Raising the legal culture and awareness of citizens are key aspects in the fight against tax offenses.

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