



Analysis of issues related to the scientific and conceptual basis of legal responsibility for violation of tax discipline

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ABSTRACT

This scientific article provides a systematic analysis of the legal basis of legal responsibility for violation of tax discipline. So far, the scientific basis for legal responsibility for tax discipline violations has not been thoroughly studied. Therefore, practice in this sphere was observed. In recent years, the issue of legal responsibility for violations of tax discipline in Uzbekistan has not been sufficiently studied from a legal and economic point of view. The author tried to illuminate the issue on the theoretical aspects of legal liability for violations of tax discipline. The author also analyzes the content of the concepts of “financial responsibility for tax violation”, “administrative responsibility for violation of tax discipline” and “criminal responsibility for violation of tax discipline”, which are relevant today. The author’s comparative analysis of the legislation of foreign countries served to reflect the special characteristics of the article. This article discusses the possibility of reducing the number of violations of tax discipline in Uzbekistan through the introduction of artificial intelligence in the taxation system and the actions to be taken in the near future, based on the improvement of existing legislation. The author argues that the main direction in finding a legal solution to these issues should be to ensure tax discipline, develop the tax culture and expand the use of information technology. In addition, the article develops suggestions and recommendations based on the analysis of existing problems in this sphere.

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Soliq intizomini buzilgan uchun huquqiy javobbarlikning ilmiy-kontseptual asoslariga tug'ilgan savollar tahlili

ANNOTATSIYA

Kalit so'zlar:

soliq intizomi, soliq ma'muriyati, soliq tizimi, huquqbuzarliklar, soliq turlari, soliq majburiyati, soliq to'lovchi, javobgarlik, yuridik javobgarlik, moddiy javobgarlik, ma'muriy javobgarlik, jinoiy javobgarlik, huquqbuzarliklarning ob'ekti va sub'ektlari, javobgarlik ob'ekti va sub'ektlari.

Ushbu ilmiy maqolada soliq intizomini buzganlik uchun huquqiy javobgarlikning huquqiy asoslari tizimli tahlil qilingan. Shu paytgacha soliq intizomini buzganlik uchun huquqiy javobgarlikning ilmiy asoslari yetarlicha o'rganilmagan. Shuning uchun bu sohada amaliyot kuzatilmoqda. So'nggi yillarda O'zbekistonda soliq intizomini buzganlik uchun yuridik javobgarlik masalasi huquqiy va iqtisodiy nuqtai nazardan yetarlicha o'rganilmagan. Muallif soliq intizomini buzganlik uchun yuridik javobgarlikning nazariy jihatlarini masalasini yoritishga harakat qilgan. Shuningdek, muallif hozirgi kunda dolzarb bo'lgan "Soliq intizomini buzganlik uchun moddiy javobgarlik", "Soliq intizomini buzganlik uchun ma'muriy javobgarlik" va "Soliq intizomini buzganlik uchun jinoiy javobgarlik" tushunchalarining mazmunini tahlil qiladi. Muallifning xorijiy mamlakatlar qonunchiligining qiyosiy tahlili maqolaning xususiyatlarini aks ettirish imkonini berdi. Ushbu maqolada O'zbekistonda soliqqa tortish tizimiga sun'iy intellektni joriy etish orqali soliq intizomini buzish holatlarini kamaytirish imkoniyatlari va amaldagi qonunchilikni takomillashtirish asosida yaqin kelajakda amalga oshirilishi lozim bo'lgan chora-tadbirlar muhokama qilinadi. Muallif ushbu masalalarning qonuniy yechimini izlashda soliq intizomini ta'minlash, soliq madaniyatini yuksaltirish va axborot texnologiyalaridan foydalanishni kengaytirish asosiy yo'nalish bo'lishi kerakligini isbotlaydi. Bundan tashqari, maqolada ushbu sohadagi mavjud muammolarni tahlil qilish asosida taklif va tavsiyalar ishlab chiqildi.

Анализ вопросов, связанных с научно-концептуальными основами юридической ответственности за нарушение налоговой дисциплины

АННОТАЦИЯ

Ключевые слова:

налоговая дисциплина, налоговое администрирование, налоговая система, правонарушения, виды налогов, налоговая ответственность, налогоплательщик, ответственность, юридическая ответственность,

В данной научной статье проводится системный анализ правовых основ юридической ответственности за нарушение налоговой дисциплины. До настоящего времени научная основа юридической ответственности за нарушения налоговой дисциплины изучена недостаточно. Поэтому практика в этой сфере соблюдена. В последние годы вопрос юридической ответственности за нарушения налоговой дисциплины в Узбекистане недостаточно изучен с правовой и экономической точки зрения. Автор попытался осветить вопрос о теоретических аспектах юридической ответственности за нарушения налоговой

материальная
ответственность,
административная
ответственность,
уголовная
ответственность,
объект и субъекты
правонарушений,
объект и субъекты
ответственности.

дисциплины. Автор также анализирует содержание актуальных на сегодняшний день понятий «материальная ответственность за нарушение налоговой дисциплины», «административная ответственность за нарушение налоговой дисциплины» и «уголовная ответственность за нарушение налоговой дисциплины». Проведенный автором сравнительный анализ законодательства зарубежных стран позволил отразить особенности статьи. В данной статье рассматривается возможность снижения количества нарушений налоговой дисциплины в Узбекистане за счет внедрения искусственного интеллекта в систему налогообложения и действия, которые необходимо предпринять в ближайшее время, на основе совершенствования действующего законодательства. Автор доказывает, что основным направлением в поиске правового решения данных вопросов должно стать обеспечение налоговой дисциплины, развитие налоговой культуры и расширение использования информационных технологий. Кроме того, в статье разработаны предложения и рекомендации, основанные на анализе существующих проблем в данной сфере.

Before approaching the issue of legal responsibility for violation of tax legislation, we must first consider the issue of legal liability in general. Legal responsibility is, first of all, a coercive measure applied by the state to the offender in accordance with the legislation, within the framework of the relevant sanctions. In jurisprudence, legal scholars have approached this concept as follows. In particular, according to the lawyer H.T.Odilkariyev, legal responsibility is the application of coercive measures by the state on the basis of sanctions provided by law, in which the guilty person is deprived of certain rights (personal, property, organizational, etc.) [1].

Without a perfect system of legal responsibility, the law is weak and powerless and unable to perform the social functions entrusted to it. If the government fails to organize the restoration of violated rights, the fulfillment of duties and the punishment of offenders of legal prohibitions, the legal norms and the rights and duties of members of society arising from them will not be realized. On the other hand, the obligation of the state, which serves to protect law and order, to a certain extent affects the person, personal interests, rights, and freedoms. If it is used to protect against injustice, it is considered illegal or unlawful. In this regard, the problem of the social interaction of law and state coercion is becoming more acute.

Based on the above criteria, a group of scholars argues that: "... legal responsibility is the application of coercive measures of the state against the offender, expressed in the form of personal, organizational or property restrictions provided for in the sanction of the legal norm" [2]. "Legal responsibility is the application of coercive measures prescribed by law to a person who has committed an offense" [3].

M. Akhmedshaeva states that "legal responsibility is the need to apply state sanctions and certain negative consequences to the guilty person on the basis of sanctions provided by law, and the person is deprived of certain benefits (personal,

property, organizational and other rights). “Legal responsibility is the governmental response to an offense, a way to enforce the sanctions established by law”. [4]

According to Z.M. Islamov, “legal responsibility is the obligation of an individual to experience certain restrictions on the state power for the offense” [5].

G.N. Magliossa states that legal responsibility is exercised in a procedural form in accordance with the law [6].

A.B. Vengerov defines legal responsibility as one of the forms of state coercion that provides the legal system of society and describes it as follows: “legal responsibility is a measure of coercion by public authorities in the manner prescribed by law, which provides for adverse consequences for the offender” [7].

According to Z.M. Islamov, “... legal responsibility is the obligation of a person to pass certain restrictions of a state-administrative nature for the offense” [8].

V.N. Khropanyuk thinks about this issue that “legal responsibility is a complex socio-legal phenomenon. It involves at least two parties: the state and the offender. A law enforcement relationship is formed between them, in which the state, represented by its competent authorities, participates as an authorized party, and the offender as a binding party. In this case, both the authorized party and the obligated party act within the law, the implementation of legal responsibility is based on the law and the sanctions of legal norms that provide for liability for this offense” [9].

Thus, legal responsibility is a coercive measure imposed by the state for an offense committed. In addition to its specific features, legal responsibility also has its constituent elements, that is, they consist of the basis of legal liability, subjects, conditions and measures, and the order of application of responsibility. Legal responsibility is one of the most widely studied issues in the theory of state and law. Therefore, the essence of this concept has been analyzed by many scientists. Each author gives his or her own definition, indicating the aspects he or she considers important and constituting the essence of legal responsibility. Most scholars define the concept of legal responsibility as a coercive measure of the state or a punitive measure imposed for an offense. Other scholars, on the other hand, consider legal responsibility within the existing legal categories and understand it as a specific form of the legal relationship, a sanction of a legal norm, or a legal obligation that protects it.

From the above definitions, it can be seen that the views expressed by scholars on the nature of legal responsibility do not differ significantly from each other. Only some of the scholars have even specifically mentioned what its features might be.

Legal responsibility is not only related to the violation of the rule of law but also directly related to it and is carried out in a clear procedural order. In other words, the application of legal responsibility to the offender is carried out only in the manner prescribed by law and by specially authorized bodies. Based on these considerations, legal responsibility can be briefly defined as a coercive measure imposed by the state on the offender.

From the above, it can be seen that legal responsibility can be divided into several types. It should also be borne in mind that there are specific aspects to the classification of legal responsibility, which include:

- types of legal responsibility are less than the spheres of law;
- the same type of responsibility can be applied to different areas of law;
- different legal responsibility measures may be applied in the same area of law.

It should be noted that the area of law is not the main criterion for classifying legal responsibility.

Generally, legal responsibility – is a coercive measure applied to an individual or a legal entity who has committed social misconduct under the legal system established in that territory by a state, state bodies, or state institutions in a certain territory.

General basics of legal responsibility. Firstly, the illegality of the act, secondly the sanction of the wrongful act, thirdly the ability of the subject to be held accountable, fourthly the fact of violation of the social relationship protected by law.

Legal responsibility has a special legal status in the legal system. The institution of liability for any act contrary to the law arises. Therefore, legal responsibility has an educational, regulatory, warning, preventive, and protective functions.

The Republic of Uzbekistan has the following general types of legal responsibility for violation of tax discipline: criminal, administrative, and financial.

As for the issue of legal responsibility for violation of tax legislation, first of all, this liability refers to any legal responsibility arising from the violation of tax legislation, and a number of legal scholars have expressed their views in this regard.

For instance, S.G. Pepelyaev stated that the essence of this legal responsibility for violation of tax legislation is a set of coercive measures of a punitive nature in the cases and in the manner prescribed by law. Indeed, if we consider a tax responsibility as a type of financial responsibility, we can say that it has important financial characteristics because it occurs to commit a tax offense, is carried out in a procedural form, and is based on state obligation [10].

Accordingly, and from what has been stated, we have found it necessary to define the concept of legal responsibility for violation of tax legislation as follows: is a state obligation that has certain negative consequences for the guilty person on the basis of the sanctions provided for in the relevant legal norms and is carried out in an appropriate procedural form.

It should be noted that the lawyer Yu.A. Krokhina touched upon the issue of legal responsibility for violation of the legislation on taxes and fees, noting that it is necessary to unify the legal responsibility in the area of taxation under various laws, based on the basic ideas of financial law and the principles of tax law. We suppose that it is worth noting [11].

According to the lawyer E.T. Khojiev, the introduction of a single system of rules (except for criminal responsibility) for violations of tax legislation and fees will facilitate the application of the law, and eliminate duplication of norms in the legislation [12].

However, according to Michael G. Allingham and Agnar Sandmo, representatives of the Theory of tax evasion, states that the decision to file a declaration of income is a decision in the face of uncertainty. This is because the tax authorities do not automatically respond to fines when income is not fully provided. The taxpayer will have the option to choose one of two options: 1) show full income 2) Understatement of income. If he chooses the second decision, it will depend on the luck of the inspection by the tax authority, if the inspection is not carried out, his condition will be much better than the first decision. If the inspection is carried out, it will remain in a much worse condition. The reason for the probability of this theory check is that the taxpayer always chooses one of the two decisions as a “gambling game” and the decision theoretically proves that tax evasion depends on the probability of detection and the amount of the

penalty when detected. More precisely, the essence of this theory is expressed in the fact that the taxpayer always chooses one of the above two decisions, and always deceives, and therefore the tax authorities must conduct an investigation [13].

The study tried to answer three questions: firstly, what is the concept of legal responsibility and the views of foreign scholars and local scholars on it; secondly, what is the role of responsibility for violations of tax discipline in the legal system; thirdly, whether there are special features of responsibility for violation of tax discipline.

In response to these questions, an author's position was developed, emphasizing a number of important features of responsibility for violation of tax discipline. This article focuses on the conceptual, theoretical, constitutional-legal, and practical understanding of common foreign methods. In this study, the methods of analysis, generalization, comparative-legal, system-structural, and formal-legal study of scientific knowledge were used.

Thus, given the fact that the issue of legal responsibility for violation of the tax legislation is covered in various pieces of legislation, the question arises as to what type of legal responsibility is currently recognized in the General Theory of law. Accordingly, we analyze the above views of scholars and take into account that the legal responsibility for violation of tax legislation arises mainly as a result of a violation of legislation related to tax, finance, and various sectors of the economy. Many legal scholars point to the application of financial, administrative, and criminal sanctions for violations of tax law. Some scholars point to disciplinary responsibility in addition to financial, administrative, and criminal liability for violations of tax law.

The concept that always goes hand in hand with taxes is tax offense. "An offense is a socially dangerous, criminal, unlawful act that harms an individual, property, the state or society as a whole" [14].

In addition to the concept of offense, many legal scholars have given their definitions of the concept of tax offense. For instance, lawyer L.B. Hwan describes the concept of tax offense in the textbook of tax law as follows: "a tax offense is an illegal, culpable act (action, inaction) expressed in non-compliance or improper compliance with the norms of the legislation, for which the legal norms of various branches of law provide for legal responsibility" [15].

According to V.A. Prokaev, T.A. Ilyushnikova, M.S. Esipova stress out that the result of partly payment or evasion of payment still depends on the objects of taxation, the amount of taxes, the status of an individual or legal entity, the most important aspects – perception. degree of responsibility [16].

According to V.V. Kuzmenko, D.M. Bondarev, and V.A. Molodyx state that the increase in tax evasion may threaten the strategic, political, and economic interests of society. This makes it expedient to look for effective means of preventing tax offenses by businesses and the population [17].

In the case of tax offenses, we can also see such signs as the illegality of the act, the existence of guilt, and the desirability of the act, which is common to all offenses.

The illegality of the act means that the act committed is prohibited by the norms of tax legislation. If the act committed is prohibited by criminal law, the illegality of the act represents one of the signs of the crime, or if the act committed is prohibited by the law establishing the administrative order, the illegality of the act is considered one of the signs of an administrative offense.

Guilt is a sign of a tax offense, which represents the act committed by the person who committed the tax offense and his mental attitude to its consequences. Tax law, administrative law, and criminal law also have both intentional and negligent forms of guilt, and there is a commonality in their definition.

The punishability of an act means that there is a penalty in the law for the wrongful act of the person who committed the tax offense.

The system of tax offenses is usually built not on the types of taxes, but on the objects of the offense, their nature and direction. With this in mind, we can divide tax offenses into the following types: offenses against the financial interests of the state; violations of the freedoms, rights, and legitimate interests of taxpayers; offenses related to the activities of government agencies whose activities are related to taxation; offenses related to the administration of the tax system [15. P. 118].

It should be noted that due to the expansion of the scope of social relations in the area of taxation, the objects of tax offenses and, in turn, the types of tax offenses may increase. Therefore, the view that tax offenses consist only of the types listed above does not justify itself much. Because the tax relationship is constantly changing. This causes some acts to be excluded from the types of tax offenses or some to be included in the types of tax offenses.

We, on the other hand, can explain the content of legal responsibility as follows, that is, the state coercive measures applied by the competent authorities of the state or its officials against the guilty person.

A local lawyer, L.B. Hwan believes that the essence of this responsibility is a set of legal measures of influence applied by the state to tax offenders in legal relations in the taxation [15. P. 116]. R.T. Berdiyarov and Z.N. Kurbanov also expressed their views on this concept, but also mentioned the following features: it occurs as a result of a violation of tax law; arises as a result of a guilty act or omission and imposes sanctions; the final decision is made on behalf of the state in respect of the act committed and the offender, and is carried out in an appropriate procedural form [18]. In our opinion, legal responsibility for violation of tax legislation is, first of all, coercive measures applied by state bodies or their officials against a person guilty of damage to social relations protected by tax legislation.

Legal responsibility for violation of tax legislation, being an integral part of the state obligation, reflects all its features and also has the following special features:

Legal responsibility for violation of tax legislation is caused by a violation of tax legislation;

Provides for the application of administrative, financial, and criminal responsibility against the perpetrators;

Establishment of a special procedure for responsibility for the relevant violation, etc.

Thus, the essence of legal responsibility for violation of tax legislation is a set of legal measures that provide for the governmental application of appropriate sanctions against those guilty of a violation of tax legislation. When prosecuting for violation of tax legislation, the following sanctions are imposed, taking into account the socially dangerous nature of the act, the degree of guilt, the amount of damage, and the relevant aggravating and mitigating circumstances established by administrative, financial, and criminal law.

Taxpayers, in particular citizens, individual entrepreneurs, legal entities, and their officials, are liable for violations of tax legislation.

Also, the competent authorities of the state and their officials can be the subject of legal responsibility for violation of tax legislation [18 – P. 241].

The legislation of our country, in particular, the Tax Code of the Republic of Uzbekistan, the Code of Administrative Liability, and the Criminal Code, establishes norms in this regard. For instance, Chapter 30 of the Tax Code of the Republic of Uzbekistan guarantees the procedure for appealing decisions of the state tax service, actions and inactions of their officials. This supports the right to appeal to a higher body of the state tax service (a higher official) or to the court [19].

The representatives of the Theory of Slippery Slope Framework Erich Kirchler, Erik Hoelzl, and Ingrid Wahl stated that the dependence of tax discipline on the relationship between tax authorities and taxpayers if there is a “police and thief” relationship between them, taxpayers believe that taxpayers should always be tax evaders and inspected as “thieves”. Taxpayers, on the other hand, try to hide because they are constantly being persecuted by the tax authorities (police). In this case, there is no respect or positive relationship between the parties, but the taxpayer works on the principle of “rational measurement”, for instance, the measurement of income and expenses of tax evasion. Proponents of this theory argue that tax authorities and taxpayers should work on a “service and client” basis, that the tax authority should serve taxpayers, and that taxpayers should voluntarily pay taxes because the tax system is fair and trustworthy. It also argues that the principle of voluntary payment by taxpayers reduces costly tax audits and leads to the avoidance of unnecessary costs such as “audit auditors” [20].

It is also important to note that effective tax administration helps to increase tax revenues in the budget, reduce tax offenses, improve the investment climate, and ensure the rights and legal interests of individuals and legal entities [21].

The representatives of the Theory Taxpayers service approach Glenn P. Jenkins, Edwin N. Forlemu stipulate that two principles of tax administration in achieving tax discipline, the first through random inspections and penalties, the second through the administrative evaluation of all taxpayers’ declarations, the principle of self-assessment and service of taxpayers push forward. The essence of this theory is that the cost of compliance with tax discipline is less than the cost of non-compliance with tax discipline, which suggests electronic processes, simplification of tax rules, training of taxpayers and assisting them in calculating and paying taxes, online information exchange, simplification of payments [22].

In general, in accordance with the above, legal responsibility for violation of tax legislation in the General Theory of law, independent of the forms of legal responsibility, is an integral part of the state obligation in the form of separate financial and economic liability. Accordingly, it will also have the following distinctive features. These are:

- violation of tax legislation is subject to legal responsibility for tax violations;
- the financial and economic interests of the state have been harmed as a result of the violation;
- provides for the application of administrative, financial and criminal responsibility against the perpetrators;

– appropriate sanctions are applied in a procedural manner by the state and its specially authorized bodies or officials, etc.

The descriptive features of legal responsibility for violation of tax legislation are as follows:

- appropriate liability measures apply equally to legal entities and individuals;
- appropriate accountability will be provided to ensure the sustainability of sectoral legislation, as well as adherence to tax discipline;
- appropriate financial, administrative, and criminal penalties shall be established by the relevant legislation;
- state coercive measures in the prescribed manner for appropriate responsibility shall be applied by specially authorized state bodies and their officials or by a court;
- the main purpose of the measures of state coercion established for the relevant responsibility is to ensure strict compliance with the tax legislation, full and timely transfer of taxes and fees to the state budget, and the established trust funds;
- the main order of application of the state coercive measures established for the corresponding responsibility is established by administrative and criminal-procedural norms, etc.

The bank is a separate subject of tax liability in terms of organization, registration, specific procedure for the formation of the charter capital, the need for a license to carry out special operations, and its place and importance in the economy [23].

It should be noted that the tax offense, in turn, is the factual basis of tax liability. However, the current Tax Code does not provide a legal meaning for the concept of tax liability.

In our opinion, it is expedient to give a substantive definition to it in the current Tax Code, as follows. That is, the tax liability is the application of coercive measures by the state authorities and their officials on the basis of sanctions provided for in the tax legislation against a person who has committed a tax offense as a result of a violation of tax legislation.

The essence of this form of legal responsibility is also a set of legal measures that provide for the application of appropriate sanctions by the state against those guilty of violating the tax legislation. Taking into account the socially dangerous nature of the act, the degree of guilt, the amount of damage, and the relevant aggravating and mitigating circumstances established by law, the following sanctions are imposed in accordance with the current legislation of the country:

- financial responsibility;
- administrative responsibility;
- criminal responsibility.

The legal basis for the application of these measures should be added to the Tax Code, the Code of Administrative Liability, the Criminal Code, etc., which set out the legal mechanism for prosecution.

In our opinion, it is expedient to include in the Code of Administrative Responsibility of the Republic of Uzbekistan a provision that “in the case of registration through a single automated information system of the State Tax Committee of the Republic of Uzbekistan, the recurrence of the offense is not taken into account”. The introduction of this norm will eliminate unnecessary steps and simplify the procedure by reducing the time of consideration by issuing a direct electronic decision without sending

an administrative report on tax offenses identified through the information system, and sending it through the personal cabinets of taxpayers.

In general, it reduces the human factor in the conduct of tax offenses, ensures its transparency, reduces corruption in the state tax service, and reduces administrative costs.

In our opinion, it is expedient to include in Article 164 of the Code of Administrative Responsibility of the Republic of Uzbekistan (violation of the rules of trade or services) the following norm, which determines the increase or decrease in the price of goods:

“Article 164. Violation of trade or service rules.

“Increasing or decreasing the price of goods and artificially increasing or decreasing the price of services, depending on the form of payment for cash or plastic cards – will result in a fine of thirty times the basic amount of money”.

It should be noted that business entities in the field of retail trade and services artificially increase or decrease the price of goods sold and services, depending on the form of payment for cash or plastic cards, such actions are set for the use of payment terminals for accepting payments on plastic cards violation of the order and a fine of 30 times the amount of the basic amount of money in the Resolution No. PP-2777 of the President of the Republic of Uzbekistan, of February 15, 2017.

In brief, as a result of the above analysis and considerations, the semantic expression of the concept of legal responsibility for violation of tax legislation, its role as an independent, separate type of financial liability from other forms of legal liability in the General Theory of law and other aspects were studied. We also believe that, in accordance with the above, the aspects that characterize the prosecution for violation of tax legislation are reflected in the following:

- appropriate sanctions are applied to both legal entities and individuals;
- the application of appropriate responsibility is aimed at ensuring the stability of the legislation of the sector, as well as compliance with tax discipline;
- appropriate financial, administrative and criminal sanctions shall be determined by the legislation;
- coercive measures in the prescribed manner for the relevant responsibility are applied by specially authorized state bodies and their officials or the court;
- the main purpose of the measures of state coercion established for the relevant responsibility is to ensure strict compliance with the tax legislation, the full and timely transfer of taxes and fees to the state budget, and the established trust funds;
- the main procedure for the application of coercive measures established for the relevant responsibility is determined by administrative and criminal-procedural rules, etc.

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