

## Criminological characteristics of tax crimes and tax evasion offences

Vidadi Goja oglu Mammadov\*

*Center for Forensic Expertise attached to the Ministry of Justice of the Republic of Azerbaijan, Doctorate, Candidate for Doctor of Science, Doctor of Philosophy in Law*

**Abstract:** The cases of tax evasion have been observed more among crimes committed in economic sphere in recent years in Azerbaijan like in many other countries. During tax reforms in our country the improvement of tax legislation was carried out according to the tax policy since one of the most important areas of tax policy is to constantly adapt tax legislation to new economic processes. Dynamic development in economy of Azerbaijan which holds one of the top places among the states in the world for economic growth index has created necessity to adapt many fields as well as tax system to these processes and to implement flexible tax policy which provides dynamic development. In all tax crimes, the amount of money which has to be paid to the state budget is embezzled by subjects committing this crime with different means to their own use. General characteristics of tax crimes are as following: a) committed in the field of economic activity; b) committed by usage of similar illegal ways; c) committed intentionally for own purposes motivated by greed; d) committed against public interest; d) committed by individuals or legal entities as well as organized groups. All governments fight against cases of tax evasion on basis of existing legislative acts. Measures for enforcing tax evasion responsibility can be taken according to the norms specified in the Code of Administrative Offences, Criminal Code and Tax Code. The Criminal Code of the Republic of Azerbaijan comprises following articles on criminal liability for tax evasion offences: "Illegal Business" (Article 192); "Fake Business" (Article 193); "Tax Evasion" (Article 213); "To sell large amount of products (goods) which are subject to excise stamp without such kind of stamp, to possess it with intent to sell, to take out of the production building or import such items" (Article 213-1) (This article was added by decision dated June 20, 2003); and "Counterfeiting, purchasing or selling fake excise stamps" (Article 205-1). The creation of tax offences is affected not only by subjective, but also objective reasons. We think applying control methods and forms against tax crimes without knowing the reasons of its creation will lead to inefficiency in the end. That's why criminological characteristics of tax crimes should be investigated from scientific aspect, and complex preventive action plan should be prepared against it. Criminological characteristics of tax crimes are objective data collection on characteristics and sources of formed information which are important to address issues such as detection of crimes through crime mechanism, detection of criminally important and interrelated signs that allow a criminal investigation, detection of criminals to be prosecuted as specified by law. Criminological characterization is one of the important methodological foundations of criminological methodology for detecting tax crimes, organizing and implementing its investigation and prevention. In our opinion, the necessity for establishing scientific base that studies problems of economic analyses, tax policy, predicting and managing the process of fighting against violations of tax law, effectiveness of legislative acts and implementation of organizational and technical measures to realize them is becoming a pressing problem.

**Key words:** *Tax; Crime; Criminological characteristics; Prevention; Economic activity; Tax evasion*

### 1. Introduction

Azerbaijan has entered new phase of quality in its social and economic development. Development of the economy in country have been extremely accelerated by influence of factors such as oil strategy, effective cooperation of transnational corporations, implementation of large-scale infrastructure projects, expansion of the private sector in the country, the rapid growth of business entities etc. Remarkable achievements have been obtained in all spheres of economy, the role of private sector in the economic system have been

further strengthened, revenues of state budget have significantly grown, and social welfare has increased.

Dynamic development in economy of Azerbaijan which holds one of the top places among the countries in the world for economic growth index has created necessity to adapt many fields as well as tax system to these processes and to implement flexible tax policy which can provide dynamic development.

During tax reforms in our country the improvement of tax legislation was carried out according to the tax policy since one of the most important areas of tax policy is constantly adapting tax legislation to new economic processes.

The cases of tax evasion have been observed more among crimes committed in economic sphere

\* Corresponding Author.

in recent years in Azerbaijan like in many other countries. Main reasons for this are as follows: economy of country is in transitional period, people who commit such kind of crimes do not fully understand free-market relations, these people want to make more profit with less effort, gaps exist in legislation etc. Adaptation of legislative acts that exist in the field of economic relations to international laws and study of international experience are one of the key factors in the prevention of tax evasion cases.

## 2. Concepts of tax and tax crimes

Prof. Z.A.Asgarov who analyzed tax liability that is one of the liabilities of the citizens defined by Constitution characterized tax and other payments as non-refundable payments to the state budget (Asgarov Z.A., 2011, p. 270). In general, taxes are payments which paid mandatorily and regularly according to citizens' total income and property and directed to state and social needs.

No state can exist without taxes; taxes were created by establishment of governments. The role of taxes is irreplaceable in economy of countries which pass through transitional period. Being characterized by transitional period and having complex basic conditions, economy of Azerbaijan has been integrating into global economic system based on principles of market economy by fully gaining its attribute for independence. In such a historically important period, the role of taxes are steadily increasing in both meeting financial needs of the state and managing social and economic life according to the market rules.

Tax crimes are are criminal offenses committed by taxpayers and individuals with intent to evade payment of taxes. Statistics shows that especially these crimes have increased and caused considerable damage to the state in recent years. If we take into consideration the fact that although studies on economic crimes have been carried out through the decades there is still a need for certain improvement, then a need emerges for greater improvement in legislation in this area in terms of innovation of tax crimes, and regular works have been carried out in this direction.

Tax crimes is a type of economic crimes. Signs of these crimes are more similar. There is a great need for proper classification of tax crimes in this regard.

By emphasizing that the time for meeting analogous requirements for classification of these types of crimes has come, Russian scientist V.H.Kudryavtsev claims that due to the nature of cases all classification process is about sequentially differentiating every committed act with signs of other similar crimes (Kudryavtsev VN., 1999, p. 123).

The concept of tax is explained in Article 11 of Tax Code of the Republic of Azerbaijan as follows: Tax - a compulsory, individual and non-refundable payment made to the state or local budget in the form of collection of monetary means from taxpayers with the purpose of providing the financial basis to

the state and municipal activities (Tax Code of the Republic of Azerbaijan., 2013, p. 10).

According to the concept, taxes have economic and legal structure, and compared to other duties and charges it has features such as "obligation", "transfer to certain level of budget", "strict connection of tax with subject of taxation", "timely payment and completeness of tax". Additionally, regarding to the aspect of legal science, taxes have other other regulatory and functional characteristics such as "one-sided nature of its determination", "individual non-refundability", "fine with non-refundable terms", "use of power as contrary mechanism to the principles of civil relationships", "orientation to ensure the solvency of public authority subjects".

D.A.Glebov evaluated tax evasion which cause to criminal liability as any illegal offences committed by subjects who are due to pay large amount of statutory tax that result in threat to public safety and cause to criminal liability (Glebov DA., 2005, p. 246).

He described tax criminality as social-legal, historically variable and negative massive case with quantitative and qualitative indicators which was created by set of crimes of tax evasion committed by individuals and organisations during different periods.

We think such kind of approach can cause to confusion in identification of tax crimes. Thus, if we refer to D.A. Glebov's definition of tax criminality as the base, then we see that tax criminality and tax crimes are separate concepts. In other words, concepts of tax criminality and tax crimes should be considered as ingredients of the same content. Herein, making differentiation between tax evasion offences and tax crimes is more advisable. Because in practice, we always witness that every tax evasion offence is not a tax crime. But herein, we think making definition of tax crimes by taking into consideration the fact that tax evasion offences, which create criminal liabilities, are accepted as tax crimes would be more logical approach to this issue.

We offer the following definition of tax crimes: tax crime is intentional evasion of statutory tax payment in order to make a profit committed by subjects functioning in economic sphere in such amount that can cause criminal liabilities, as a result, state, municipalities and the citizens receive damage.

In all types of tax crimes, an amount of cash that supposed to be paid to the state budget is embezzled by subjects who committed the crime for own purposes with different illegal ways. Especially because of this feature, it would be better to generalize tax crimes under the heading of "Embezzlement of funds that supposed to be paid to the state budget" as independent category in Tax Code. In other words, it would be more correct to include crimes that are considered tax crimes under above-cited heading in new chapter as independent category in existing Criminal Code.

Tax crimes have common features:

- committed in the field of economic activity;
- committed by usage of similar illegal ways;

- committed intentionally for own purposes motivated by greed;
- committed against public interest;
- committed by individuals or legal entities as well as organized groups.

Every committed crime harms interests of another person. According to I.Kant, there is nothing above rights of others in the world. It is inviolable and unbreakable. So, the true free man is the one who does not violate others' right to freedom while practicing his own. According to Kant, "we should treat other people the same way as we except them to treat us" (Kant I., 1994, p. 196).

Why the person who understands that he/she has an opportunity to choose the act of conduct which is not considered criminal prefers to conduct the act that is considered crime? Could human's opportunities for choosing way of behaviour be limited? Of course, when people choose their act of conduct independently under any circumstances they mostly prefer the one that matches their interests. In society, there are existing incompatible features between individual and public interests, as well as interests of the state which generate confrontation in open or covered form. Mutual interests or unity of purpose should be achieved between subjects in order to remove this contradiction for a certain or long-term period of time. The higher the level of such interests and unity of purpose, it is less likely that people will give way to the act of criminal behavior. Therefore, the requirements of the norms of criminal law must be coordinated in a right way to the requirement of other general social norms.

The success of the impact arising from the requirement determined by criminal law depends on level of comprehension of this requirement by the members of the community, how inner spiritual feelings "accept" and defend it. Only criminal laws which are closely related to human existence and reflect it adequately can win the respect of surrounding people, unanimous relations with its requirements can be formed.

All states fight against cases of tax evasion on basis of existing legislative acts. Measures for enforcing tax evasion responsibility can be taken according to the norms specified in the Code of Administrative Offences, Criminal Code and Tax Code. The Criminal Code of the Republic of Azerbaijan comprises following articles on criminal liability for tax evasion offences: "Illegal Business" (Article 192); "Fake Business" (Article 193); "Tax Evasion" (Article 213); "To sell large amount of products (goods) which are subject to excise stamp without such kind of stamp, to possess it with intent to sell, to take out of the production building or import such items" (Article 213-1) (This article was added by decision dated June 20, 2003); and "Counterfeiting, purchasing or selling fake excise stamps" (Article 205-1) (The article was added by decision of the Republic of Azerbaijan dated May 31, 2007 and amended by decision dated May 16, 2008). Previous three articles came into force on the 1st of

September in 2000 and had reflected in Criminal Code of the Republic of Azerbaijan.

Tax is one of the necessary circles of chain in economic system of any state and the main source for budget revenues. Therefore, tax evasion cases threaten not only social system of the state, but also normal functioning of the state-funded enterprises. Moreover, evasion from tax and other payments by subjects of taxation not only harms budget formation, but this criminal offence also violates free-market competition and the principles of social justice in society.

Severe consequences of tax evasion offenses are known to the public. For this reason, criminal responsibility related to tax evasion cases hold one of the preceding places in the legislative acts of all countries. In ancient times, there were countries which had sentenced to death for this offence according to their law. In our opinion, combat against tax evasion offences should be carried out in accordance with requirements of the international legislation in modern times. First of all, the main purpose should be elimination of damages done to the citizens, organizations or government. For this reason, according to the legislative acts of most states, voluntary payment of evaded tax can release that person from criminal liability despite the amount of money and type of committed offence whether a person committed this offence for the first time or not. By evaluating it as an applaudable action, it is important to take into account this case when establishing the law.

Thus, there are still chances to improve the norms determining liabilities for tax crimes, i.e. differentiation of liabilities. We believe that terms and conditions of criminal liability for tax crimes should be equal and fair to everybody.

Therefore, identifying positive and negative sides of the legislation will allow us in future to put forward solid recommendations first about clarifying and strengthening the scope of tax crimes; secondly, in our opinion, about differentiation and stratification of criminal liabilities for correct application of signs of criminal activities in the process of individualizing punishment.

In Azerbaijan, laws on tax evasion offences should be revised, and in order to improve them, the differentiation of criminal liabilities should be relied on. In addition, it is necessary to eliminate gaps remaining in law and create perfect law. For example, let's look at the Article 192 of the Criminal Code. This article regulates liability issues for illegal business. In 'sanction' part of the article, the culprit is fined fixed amount of cash or punished with restriction or deprivation of liberty for this offense. These offences were regulated by Article 158 existed in Criminal Code until the year 2000. In 'sanction' part of this article, it was told that manufactured products, production tools and raw materials would be confiscated, fined and corrective labour was planned when such kind of offences were committed. When these offences were committed in a considerable amount by a person who was

previously convicted, he/she was sentenced up to five years' imprisonment with confiscation of property. In present article, when illegal business is found out, last decision about identified goods, inventory and equipment is not specified. It causes this article to be in operational condition from practical point of view in its own turn.

In another example, let's look at the Article 193 ("Fake Business") of Criminal Code of the Republic of Azerbaijan. From practical point of view, this article is not working, i.e. this article has been in force since 2000 in Criminal Code of the Republic of Azerbaijan. When we look at the statistics of tax crimes, it is clearly seen that not even one criminal fact related to this Article has been found out until now. In this case, what is the meaning of having this article in Criminal Code? While dispositioning this article, it would be better to combine it wherever its signs for criminal liability comply with other articles reflecting tax evasion offences that are active in practice.

As known to all, adoption of laws reflecting administrative and legal liabilities serve to prevent tax evasion cases. We think that it is impossible to prevent tax evasion only by adoption of laws and their improvement on a regular basis. Herein, it is possible to avoid negative consequences by conducting complex reforms in all areas. One of the main things is enlightening taxpayers and community, increasing tax culture and improving tax administration. The regulatory function of tax laws must be used more than its control function. If above mentioned cases is taken into consideration while establishing tax laws, the adopted laws will be more operational from practical point of view.

### 3. Criminological characteristics of tax evasion offences

The creation of tax offences is affected not only by subjective, but also objective reasons. These reasons should be taken into account while analyzing economic situation in the country.

Methods of committing crime in itself can not act as a criminogenic factor. But by examining patterns of use of crime methods, combat factors against them can be found at the end. Understanding the reasons of the spread of any crime method helps to identify cases with criminogenic content in many cases.

Causes for criminality are the central problem of the criminology.

Criminality is related to the situations and processes in many cases. Their reason is only genetic influence, i.d. culprits in result. If causes create the result, circumstances only help this process as mean of determination, thus, opportunities to influence causes arise. Namely, relation between cause and conditions leads to result (crime) (Alekseev AI., 1999, p. 28).

When it comes to causes of crime, G.G. Shikhantsov meant cases that create, support and cause to improve or weaken the criminality

(Shihantsov GG., 2001, p. 216). Beside causes of criminality, there are also circumstances that exist to create an opportunity for crime to be committed. It covers natural, social or technical factors. These factors do not create a crime by itself but they contribute to commit a crime.

If we use V.A.Nomokonova's formula, we can come to the conclusion that by being dependent on structural components of these crimes, complex cause of tax crimes still implies directly committed offences and determined causes (terms of spiritual formation of the identity of the perpetrator).

I.I.KucheroV mentioned another reason why taxes are not paid – legal reason. He believes that one of the main reasons of increasing tax crimes is the absence of improved tax legislation.

According to the author, the economic reasons for tax evasion are as follows: the decline in production, compression of income potential, conversion of ruble money supply to foreign currency, making investment abroad, non-bank circulation of cash.

I.I.KucheroV thinks that political reasons for tax evasion is related to regulatory function of taxes: the state pursue this or any other social or economic policy with the help of it. People whom this policy is directed make influence on ruling group by refusing to fulfil provisions of tax legislation. Direct dependence of tax discipline on general political situation is mentioned (Larichev VD, Reshetnyak NS., 1998, p. 90-106).

By grouping causes for tax evasion, P.M.Godme divide them generally into following groups: political, economic, moral and technical reasons (Godme PM., 1978, p. 324).

Political reasons are related to the fact that government use taxes not only as a mean to ensure budget revenues, but also as a regulatory tool. Government regulates this or any other social relations via this instrument. Those whose interests are violated by the state try to resist to this ongoing process via means of tax evasion.

Economic reasons has a major impact on taxpayers. If the amount of sanction for violating tax law is less than the amount of hidden tax, then of course, tax payer will be interested in tax evasion. Legislative acts that adopted to prevent tax evasion should be in working conditions and keep up with the times.

Moral reasons for tax evasion are related to the incompliance of the tax laws with the general legislative principles of equality, continuity and impartiality which undermines the reputation of the laws.

Technical reasons reasons for tax evasion are related to the lack of control forms and methods. The tax authorities are unable to control all economic transactions and verify the accuracy of all accounting documents.

According to E.P.Ishenko, the reasons for committing tax crimes are always related to personal and greedy nature of humans. This is about to become rich, to ensure their pride, to hold more

important and not deserved place in social hierarchy, to achieve great results in business by making financial gain via crime. However, experience of combating these crimes has revealed cases where they are committed with other intents and purposes: to pay a bank loan in a timely manner, to stabilize the financial position of the entity, to purchase more efficient equipment, new technologies, and carry out etc. The driving motive for the ordinary executive can be to keep their job by any means, to get promotion in the work of service, to refrain from retaliation of criminal colleagues (Ishchenko EP., Toporkov AA., 2005, p. 347).

Some authors offer to call causes and circumstances as case creating opportunity to commit crime or achieve criminal result (Yablokov NP., 2005; Foyntskago IJ., 1916).

Furthermore, V.M.Yegorshin and V.V.Kolesnikov mentioned following among general cases that conditions the state of modern criminology and trends in the economic sphere: inability of the government to ensure constructive reforms of economic relations and form civil social-oriented basic economic system, serious errors of the market reforms; estrangement of the state from open legal regulation of economic relations in setting the conditions of the market, keeping legal gap in this area for a long time; legal nihilism in society, unpreparedness of the population and economic entities to function within the framework of formed market relations, low effectiveness of the supervisory authorities in the field of economic activity; shortcomings in the performance of law enforcement agencies; purposeful actions of the criminal world chasing their own specific corporate interests in economic field.

In order to prevent tax crimes, B.D.Larichev and A.P.Bembetov showed complete and simple classification of criminogenic determinants of tax crimes and a number of occasions that enables an opportunity to commit a crime. Analyzing determinants of tax crimes, they came to the conclusion that these crimes form groups accordingly. In the meantime, authors differentiated their 1) general, complete and/or joint reasons; 2) concrete and/or specific reasons; 3) conditions and occasions that certain crimes are being committed (Larichev VD, Reshetnyak NS., 1998, p. 48).

According to D.A.Glebov and A.I.Rolik, the general or complete reasons of tax criminality are identified in practice of economic relations by revealing the list or system of its determinants by content and accounting standards. This reason is due to the transition to new forms of ownership and market relations. In contrast to the general reason, concrete or specific reasons of tax crimes are related to the content of economic policy that government pursues, the essence of economic reforms in relation to the real demands of the society, characteristics of the social environment (Glebov DA., Roller AI., 2005, p. 248).

In our opinion, applying control methods and forms against tax crimes without knowing the

reasons of its creation will lead to inefficiency in the end. That's why criminological characteristics of tax crimes should be investigated from scientific aspect, and complex preventive action plan should be prepared against it.

J.H.Movsumov and K.G.Sarijalinskaya noted that criminalistics contributes to fulfilment of duties of justice by defining scientific, technical and tactical methods and means of criminal investigation and investigation methodology of various crimes (Movsumov J.H., Sarijalinskaya K.G., 1975, p. 18).

According to the theory of criminology, criminological characteristics of crimes are collection of certain type (group) of crimes or information about particular felony (Alekseev AI., 2006; Criminology, 2007).

According to L.A.Sergeyev, criminological characteristics combine characteristics of different types of crimes which are important for investigation practice and the development of scientific recommendations and comprise following components:

- characteristics of methods and traces of relevant crime type;
- cases characterizing participants of crime and their criminal relation;
- objective side, time, location and conditions of commission of crime;
- The object of extortion, etc. (Sergeev LA, 1971, s. 473).

According to N.A.Selivanov, criminalistic characteristics – have great importance for investigated crime from forensic viewpoint, but it is information system or collection which does not include actual data. According to expert's viewpoint, structure of forensic characteristics are formed on the basis of a number of elements. Diversity of the elements of these characteristics are exposed to rigorous scientific systematization. Element of the crime acts as general logical basis of this division. Then, this element is taken from model elements that are dependent on objects of extortion and crime, circumstances that crime is committed, objective sides and results of crime (Forensics, 1993, p. 122).

Disagreeing with this, I.F.Panteleyev believe that external elements beyond criminal-legal, criminological and other types of crime characteristics should be included to forensic characteristics of crimes (Forensics, 1993, p. 94).

Systematizing structural elements of forensic characteristics of crimes, R.V.Radayev divides them into groups of three types of data: 1) exemplary elements of circumstances that crimes are committed; 2) important relations about these elements from existing forensic point of view; 3) information group on characteristics of trace-creating mechanism (Radaev VV., 1987, p. 189).

V.Y.Konovalova and A.N.Kolesnichenko, who did research on theoretical problems of criminalistic characteristics, describe criminalistic characteristics as information (data) system of crimes which has criminalistic importance (Kolesnichenko AN., Konovalov VE., 1985, p. 134).

R.Q.Tanasevich and V.A.Obraztsova interpret criminalistic characteristics from a slightly different point of view. They believe criminalistic characteristics should be considered as characteristics of the formation of information that are important to solve issues of criminal attempt, typical reflected and reflecting mechanism of objects, method of criminal justice and as objective information system on sources (Selivanov NA., 1978, p. 43).

From criminalistic point of view, tax evasion takes into consideration data collection that will ensure disclosure of crimes, implementation of investigation in comprehensive, objective and complete manner (Ishchenko EP., Toporkov AA., 2005, p. 601-631).

In science of criminology, qualitative and quantitative characteristics are considered as necessary indicators of tax criminality in the first place. Criminological characteristics of tax criminality can be elaborated with help of following elements in a more broad sense and theoretical content:

- 1) state of criminality, the structure and dynamics;
- 2) characteristics of offenders;
- 3) the causes and conditions (cases) which contribute to the commission of crimes in the area of taxation.

The relation of the last two elements to crimes casts no doubt, meanwhile, we would like to draw attention to some ideas about the first element.

So, criminalistic characteristics of tax crimes are characteristics of formed information that is important for solving issues such as disclosure of crimes in mechanism of criminal offences, reveal of criminally important and interrelated signs that creates opportunities for investigation, detection of culprits and setting criminal liabilities on them or data collection on objective information.

Criminalistic characteristics are one of the main methodological basics of crime methodology to disclose tax crimes, to investigate, to organize and implement its prevention.

In our opinion, the necessity for establishing scientific base that studies problems of economic analyses, tax policy, predicting and managing the process of fighting against tax law violations, effectiveness of legislative acts and implementation of organizational and technical measures to realize them is becoming a pressing problem.

Analyses of legal applied practice on tax crimes show that beside the most characteristic elements of the crimes' criminalistic characteristics, "legislative base", "tax payer", "tax and taxation element", "typical investigation condition", "documents and document management", "circumstances, location, time etc. of the crime", "trace-creation mechanism", "causes and conditions led to crime", "criminal identity" etc. should also be regarded as essential elements.

As a result of generalizing investigation practice of tax crimes carried out in recent years, we can say

that tax evasion offences are committed by the means as follows:

- illegal functioning without tax registration or license. This method is described by without getting VOEN (tax payer identification number) or license, without complying with the terms of the license, violating license rules and tax evasion;

- to operate without declaring taxes. Offence can be committed in two ways with the help of this method - keeping accounting or avoiding accounting;

- distorted input in tax statements. This method is also committed with the help of two ways - distortion of accounting documents, and distortion of taxation object in tax statement. Distortion of accounting documents is also carried out with the help of two ways - increasing costs and reducing revenues. These are carried out by creating fake documents. Fake documents can be found on the following cases:

- a) documentation of commodity transactions;
- b) the use of someone else's identity, falsification of signatures, documentation on behalf of a person who has been suffering from a serious illness or is not registered for tax payment;
- v) to use different forged copies of documents etc.

#### 4. Prevention of tax evasion offences

The measures taken to prevent crimes have been expressed in different terms in literatures on criminology. Mostly, the term "warning" is used, but terms "prevention" and "prophylaxis" are also used as synonyms.

But there is another idea existing about it in science. Namely, some scientists think that prevention should not be held equal to crime warning. Prevention is a component of warning, it has capacity to influence the sources and system of criminality because of its breadth and depth. By using beforementioned effects "It treats the disease from the beginning," and it is very important and effective factor in this work. But criminological prevention is accepted as measures for detection and elimination of causes and circumstances of criminality and associated offences (Bafiya E., 1983, p. 183).

Thus, criminological prophylaxis is a type of prevention of criminology. But measures for crime warning and prevention are similar in many cases. Measures of crimes' criminological prevention are almost the measures of crime warning.

In criminology, crime warning is a system of measures and their implementation by multilevel subjects who must do followings:

- a) detection of causes for separate crimes, their elimination, attenuation or neutralization;
- b) detection and elimination of circumstances that motivate or lead directly to commit crime in particular areas or environment;
- c) selection of high-risk groups in among population and reduction of this risk;

d) identification of people whose behaviour demonstrate potential risk to commit a crime and make influence on them and, if necessary, on close people to them.

In science, different definitions were proposed for "crime warning." İ.İ.Kucherov defined it as a sum of political, economic and socio-psychological processes with different composition which aimed to prevent the failure in fulfilment of tax obligations by tax payers. He believed that the characteristics of prevention of tax crimes are, firstly, should be aimed to reduce these crimes and make positive changes (Kucherov II., 2003, p. 79).

The aim of prevention in tax area is to protect financial interests of the state and society. This is meant for detection of causes and circumstances that create an opportunity to commit tax crimes, investigation and subsequent elimination, prevention of tax crimes and law violations, paying compensation for any damage caused by them, detection of people who prompt to commit tax crimes.

B.A.Kozlov described system of economic, organizational, technical, legal and educational measures which aimed at individuals and legal entities to comply with tax laws in order to prevent tax crimes and violation of law as follows:

- detection and elimination of causes and circumstances that lead to commit tax crimes;
- identification of people who are inclined to commit crimes and violate laws in in field of taxation and having warning-corrective influence on them;
- prevention of planned crimes and offences [11, p. 407].

Prevention of tax crimes should be implemented on different levels and directions.

Provision of economic stability on national level and increase of production capacity and solvency of business entities are some of key factors.

The issue of improving the legal framework also plays an important role in the system of prevention of tax crimes.

In our opinion, the main duties on tax crime prevention are as follows:

1. Dynamics and structure, as well as making preventive impact on the causes and conditions which contribute to the commission of tax crimes (social prevention);
2. Prevention of types and forms of criminal behaviour, prevention of crimes and offences in the field of taxation, prevention of tax crimes planned by group of people (criminological prevention);
3. Prevention of tax crimes and offences that will be committed by separate people (individual criminological characteristics);

All state and social institutions which make impact on prevention of criminality with its functioning in a broad a sense act as subjects of preventive action.

Subjects that involved in prevention of tax crimes and offences can be conditionally divided into the following groups:

- subjects that implement preventive measures while fulfilling their control and law enforcement duties;

- Subjects that directly involved in individual prophylaxis.

Subjects that implement preventive measures while fulfilling their control and law enforcement duties are courts, internal affairs and security agencies, prosecutor's office, tax and customs agencies.

Being among priority functions of law enforcement and control agencies fighting against criminality, prevention of crimes and offences in the field of taxation comprises specific complex measures carried out for following purposes:

- Identification of causes and circumstances that contribute to crime and offences, as well as measures for their prevention and neutralization;

- Identification of people who are inclined to commit crimes and making prophylactic influence on them in order to avoid criminal acts;

- Prevention of planned crimes hazırlanan (not let them to happen);

- Prevention of attempts to crime (i.d. prevention of action or inaction that is directly aimed at committing crime);

- Create the circumstances that impede committing crimes and offences.

Performance on the prevention of crimes and offences is based on the following principles:

- Rule of law;

- Compliance with constitutional rights and freedom of humans and citizen;

- Harmonization of obvious and non-obvious working methods;

- Mutual relations among public authorities, public organizations, associations and citizens.

Planned and implemented measures should meet the following requirements:

- Objectivity and relevance, namely, it should reflect the demand for implemented measure during adequate criminological situation and the ability of relevant subjects how they will carry out these measures;

- Complementarity, i.d. the consolidation of the efforts of the respective operating units;

- Priority, i.d. selecting forms of implementing warning and preventive measures and tactics in an optimal way.

## 5. Methodology of the Study

The methodological basis of study work include both general scientific (passage from abstract to concrete, systematic-functional approach, formal-logical (analytical)) and specific legal scientific methods (comparative law, systematic analysis, generalization of theoretical, normative and practical materials). All of these helped to have new approach to a number of theoretical and practical issues related to tax crimes and to put forward steady proposals on improvement of legislation in this field.

## 6. Conclusion and recommendations

Research conducted on the topic helped to come to the following conclusions:

1. Tax crimes are tax evasion cases committed by subjects functioning in field of economic activity with intent to make profit via evading statutory taxes in such amount that cause to criminal liability, as a result, it cause damage to the state, municipalities, and ultimately low-income families, pensioners, teachers, generally, all budget-funded fields. In all types of tax crimes, an amount of cash that supposed to be paid to the state budget is embezzled by subjects who committed the crime for own purposes with different illegal ways. Especially because of this feature, it would be better to generalize tax crimes under the heading of "Embezzlement of funds that supposed to be paid to the state budget" as independent category in Tax Code. In other words, it would be more correct to include crimes that are considered tax crimes under above-cited heading in new chapter as independent category in existing Criminal Code.

2. Performance on the prevention of crimes and offences is based on the following principles:

- Rule of law;
- Compliance with constitutional rights and freedom of humans and citizen;
- Harmonization of obvious and non-obvious working methods;
- Increasing tax services, reducing administration;
- Strengthening transparency and the fight against corruption;
- Increasing the number and quality of e-services (eg. e-statements, electronic audit, electronic signatures, on-line registration of individuals and legal entities and so on);
- Interactions among public authorities, media, public organizations, associations and citizens.

3. Measures that planned and implemented for prevention of tax crimes should meet the following requirements:

- Objectivity and relevance, namely, it should reflect the demand for implemented measure during adequate criminological situation and the ability of relevant subjects how they will carry out these measures;
- Complementarity, i.d. the consolidation of the efforts of the respective operating units;
- Priority, i.d. selecting forms of implementing warning and preventive measures and tactics in an optimal way.

4. Performance of law enforcement and control bodies on prevention of crimes and offences in the field of taxation is carried out in following directions:

- prevention of crimes and violations of law (general and individual);
- prevention of planned crimes and offences;
- prevention of attempts to crimes.

5. The subjects and objects which are influenced by authorized bodies during the process of

implementing the function of preventing tax crimes and offences are as follows:

- people who plan the crime or intend to plan the crime or have intention to commit illegal acts;
- people who plan illegal acts against workers of tax agencies, as well as their family members and property on basis of execution of their service duties;
- people who owe tax and other payment debts to the budget.

6. In the field of taxation, prevention of attempts to crimes are complex of the search-operational and crime-prosedural measures which aimed at stopping person's intentional action (or inaction) which is directed to commit a crime. Procedure of prevention of attempts comprises following measures:

- timely detection of attempts to crime;
- taking adequate measures to prevent the crime from being committed till the end and to avoid damage by started action;
- to convict people who attempted to commit crimes according to the legislation.

7. The increase in a number of tax and tax related economic crimes has a negative impact on international reputation of the country as a real threat to the national security until now. The effective way of fighting criminal alignments is only possible by disclosure and prevention of crimes, implementation of interregional and international preventive measures in order to detect crimes and through elimination of causes and circumstances leading to the commission of crime. The role of the government is also very important. In other words, the government should not only resist to the tyranny and lawlessness, but also create trust in citizens by showing that it is interested, ready and determined in actively resisting to criminality and conducts absolute combat against crimes through offensive tactics. The positive result of it will be provision of public safety which considered socially acceptable and defending its citizens from illegal acts in a maximum level. In circumstances where criminality touches to the interests of society, negative cases occupy new positions and use public institutions and state structures for its own purposes. But we believe these difficulties are temporary due to the hard historical and transitional period. Such type of cases will be gradually eliminated as the state keeps making steps on the path for sustainable development.

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