
Economic and Legal Assessment of Tax Evasion Countermeasures

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Abstract:

At present, tax evasion in Russia and globally has been occurring on a massive and organized scale. In modern Russian society, tax evasion appears to be a social and economic practice featuring enterprises, organizations, and individuals.

The subject of the study is tax evasion countermeasures in the region. The study is aimed at establishing the sufficiency and justification of authorities' efforts to counter tax evasion.

Scientific relevance of the study is driven by missing unbiased and case-based approaches to economic assessment of tax evasion countermeasures. Practical relevance of the study is to propose a methodology possibly applicable for estimating rational costs of tax crimes prevention.

It was in the study that such methods of inquiry as abstraction, synthesis, analysis, induction, deduction, formalization, and modeling were employed. The study was conducted based on the files of supervisory authorities of Khanty-Mansi Autonomous Okrug – Ugra as of from 2014 to 2016.

The study results are that an economic assessment method of tax evasion countermeasures was developed. Based on the developed method, tax offense countermeasures were assessed in Khanty-Mansi Autonomous Okrug – Ugra.

Keywords: *Tax, offense, evasion, countermeasure, assessment, efficiency.*

JEL Classification: *O10, O14.*

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1. Introduction

The science-based approach to study the criminal tax evasion and prevention methods was employed not so long ago, namely, in the latter half of the XXth century. In their works, the authors attempted to set out definitions, study the shadow economy, develop a research methodology (Bobrova 2015; Pugachev *et al.*, 2017; Musaeva *et al.*, 2018).

Other researchers Grossman, Kaliberda, Koryagina, Kaufman and Schneider comprehended issues associated with illegal relations and their scale occurring in a planned economy. Makarov, Ponomarenko, Ispravnikov, Oleinik likely belong to the researchers of the modern period, who studied the concept and structure of the shadow economy (Lyudkevich, 2017; Dudin *et al.*, 2018). The research by Takmasheva is dedicated to dealing with the challenges, including budget revenue inflow in Northern regions (Bogomolova *et al.*, 2017).

The main tax evasion drivers are low efficient countermeasures system being implemented by supervisory authorities and lack of motivation among taxpayers to follow the statutory tax regulations. The composite authors paper by Korosteleva *et al.* (2015) is devoted to the oil tax payments stimulation as the main source of tax revenues in the Russian Federation. Also, the paper by Islamutdinov (2017) is dedicated to the tax exemptions impact on the region's economy.

The central problem when implementing tax crimes countermeasures is the delay in considering the factual background of tax offenses, meanwhile unscrupulous taxpayers are in a position to conceal property, followed by the failure to compensate for the damage caused to the state (Maiburov, 2015). To address this issue, a model was developed to strengthen tax discipline alongside preventive value of criminal law protection of tax legal relations, the use of which will allow for reducing tax audit time limits by three months. Another issue is missing a viable economic assessment method for tax evasion countermeasures. The authors proposed and tested a metrics system based on the Khanty-Mansi Autonomous Okrug case study, providing for supervisory authorities performance assessment in this field.

2. Methods

The research process involved the following milestones: (1) assessment of the modern tax evasion countermeasures mechanism; (2) designing interaction models between tax and law enforcement authorities when tax auditing separately initiated by tax authorities and Investigation Committee officers; (3) designing an author's interaction model between tax and law enforcement authorities; (4) economic assessment of tax evasion countermeasures efficiency in Khanty-Mansi Autonomous Okrug – Ugra; (4) economic impact assessment of unification of tax evasion countermeasures mechanism in Khanty-Mansi Autonomous Okrug – Ugra.

3. Research findings

3.1 Assessment of the tax evasion countermeasures mechanism

Tax evasion refers to the category of tax crimes classified as economic crimes. There are different forms of liability for tax evasion, including criminal, tax and administrative ones. A number of government agencies are involved in countering tax evasion featuring the Federal Tax Service of the Russian Federation (FTS), the Investigation Committee of the Russian Federation, the General Prosecutor's Office of the Russian Federation, the Economic Security and Anti-corruption Administration of the Ministry of Interior, etc.

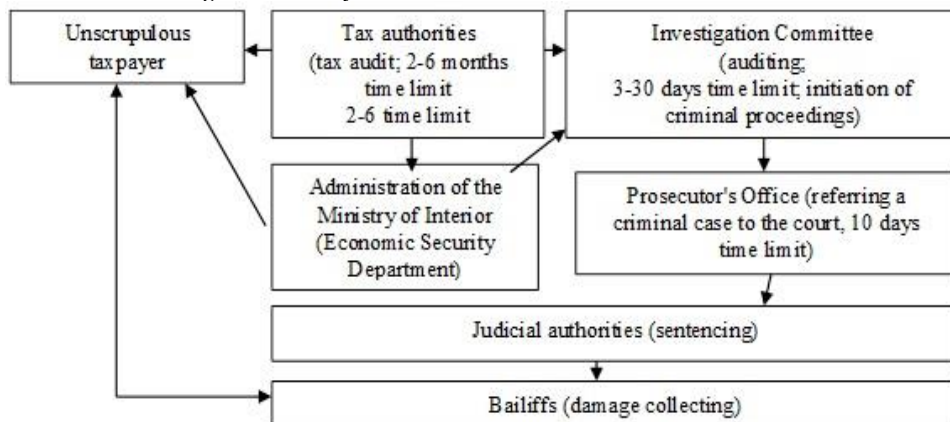
Every agency countering tax evasion interacts with each other. At present, the modern mechanism to counter tax evasion is complicated by multiple interconnections triggering delays in compensation of damage caused to the state. Legislative body provides for several possible options for procedural audit performed by Investigation Committee investigators: initiated by tax authorities and Investigation Committee investigators.

Figure 1 illustrates current interaction model between tax and law enforcement authorities amid tax auditing initiated by tax authorities. This tax evasion countermeasures model is regulated legislatively. Thus, under the Article 37 of Tax Code of the Russian Federation, if requested by tax authorities, internal affairs authorities participate together with tax authorities in field tax audits to be performed by tax authorities. In addition, according to the joint order of the Russian Ministry of Interior and the FTS dated June 30, 2009 No. 495 / MM-7-2-347 *"On approval of the procedure for interaction between internal affairs authorities and tax authorities to prevent, detect and suppress tax offenses and crimes"*, audits are conducted by officers at departments for tax crimes of internal affairs authorities, who must prevent, detect, suppress, and file relevant crimes and administrative offenses (On approval of the procedure for interaction between tax and internal affairs authorities to prevent, detect and suppress tax offenses and crimes, n. d.). Either way, whether internal affairs officers and tax authorities conduct a joint or an independent audit (if any elements of crime), the ground to conduct an audit shall be a reasoned decision of the relevant department, signed by its head. The current legislation stipulates for a liability of tax authorities, in certain cases, to refer available files to investigative authorities to whether initiate criminal proceedings.

The Federal Tax Service entrusts territorial authorities with a mission to improve interaction efficiency between tax authorities and the IC RF investigative authorities as for referring specified files with a cover letter attached reporting the revealed fiscal legislation violations, including a description of tax evasion schemes, featuring the total amount of unpaid taxes and fees, as well as the calculation of unpaid taxes and fees (broken down by years and indicating the unpaid tax-fee ratio to the total amount payable) in the event of discrepancy between the maximum

amount of unpaid taxes and fees, stipulated for the notes to Articles 198 and 199 of the Criminal Code of the Russian Federation (Criminal Code of the Russian Federation, n. d.).

Figure 1. Current interaction model between tax and law enforcement authorities amid tax auditing initiated by the FTS



The foregoing cover letter to the IC RF investigative authorities must report information on internal affairs officers having participated in field tax audits, taxpayer data (migration, reorganization, closing down, etc.) as from the audit date to the files reference date, as well as information on amounts of unpaid additional taxes, penalties, fines as of the files reference date.

The Letter to the Russian Federal Tax Service dated December 29, 2011 No. AS-4-2/22500 "On Applying the Provisions of Paragraph 3, Article 32 of the Tax Code of the Russian Federation" clarifies which investigating authority the relevant files are to be referred to. The FTS recommends to refer the files specified in Paragraph 3, Article 32 of the Tax Code of the Russian Federation to an investigative authority under which jurisdiction the tax authority is located, that revealed the facts suggesting to presume committing fiscal legislation violation with elements of crime (On application procedure of the provisions of Paragraph 3, Article 32 of the Tax Code of the Russian Federation).

Figure 2 illustrates the interaction model between tax and law enforcement authorities, namely, a process of disclosing unscrupulous taxpayers initiated by law enforcement authorities. The key factor of tax office efficiency is to improve existing audits. The ultimate goal for all participants of interagency cooperation, namely the Administration of the Russian Ministry of Interior of the Khanty-Mansi Autonomous Okrug – Ugra, the Administration for Debt and Bankruptcy Management of the Russian Federal Tax Service, the Ministry of Interior's Department for Bankruptcy Crimes and Raiding Suppression of the General Administration for Economic Security and Combating the Corruption, alongside

regional law enforcement, investigative and tax authorities, is not merely to prosecute tax evaders, but also to ensure surplus funds flow to the budget of the Khanty-Mansi Autonomous Okrug – Ugra. The tax authority examines the materials referred by the investigator. Based on the examination results, tax authorities refer a statement or information to the Investigation Committee. Actions of tax authorities depend on a number of factors (Table 1):

Figure 2. Interaction model between tax and law enforcement authorities amid tax auditing initiated by the FTS

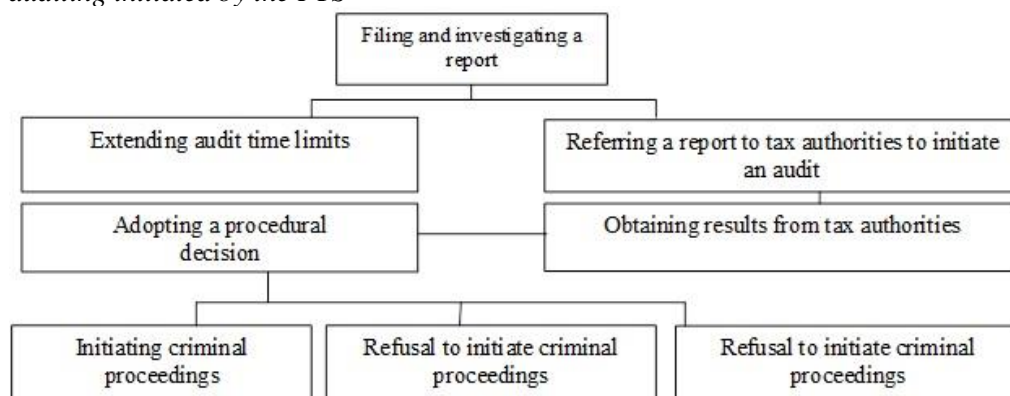


Table 1. Time Limits for Information To Be Referred To Investigators By Tax Authorities

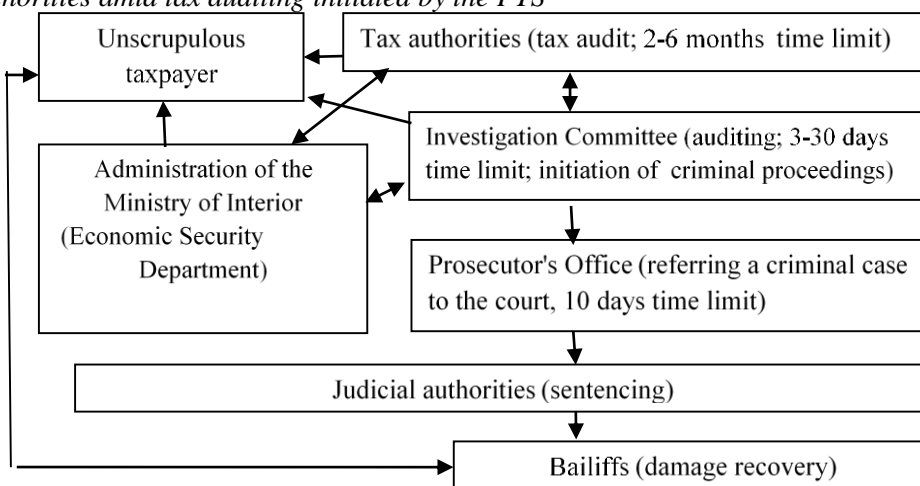
| Within 15 days as from filing the materials, the tax authority refers it to the investigator: | | |
|--|--|--|
| Option I | Option II | Option III |
| The following is provided based on the audit results if tax violation occurred | The following is provided if tax auditing extended | The following is provided if no tax violation occurred |
| 1. The statement on fiscal legislation violation and on the estimated amount calculation accuracy of the alleged fiscal (taxes and/or fees) arrears 2. Information on circumstances specified in the crime report were the investigation subject during the pre-scheduled tax audit, followed by an effective tax authority decision, as well as information on appeal or stay of the execution of such a decision. | Information on the tax audit against a taxpayer (tax agent, levy payer), based on results and followed by the decision that has not been rendered or become effective yet. | Information on missing data on fiscal legislation violation (if the circumstances specified in the crime report were not the investigation subject during the tax audit) |

Upon filing a tax authority statement, the investigator shall make a procedural decision. Such a decision shall be made within 30 days as from the crime report filing date. Therewith, tax criminal proceedings can be initiated by the investigator prior to the tax authority statement or information, if there appears to be a reason and sufficient data showing elements of the crime. Thus, the investigator has the

right to initiate tax criminal proceedings independently, with no information required from the tax authority.

Following the results of the crime report examination, the inquiry body, the interrogator, the investigator, and the head of the investigative authority shall make one of the following decisions: (1) to initiate criminal proceedings; (2) to refuse to initiate criminal proceedings; (3) to refer a report to investigative jurisdiction (Art.151 of the Criminal Procedure Code of the Russian Federation) (Criminal Procedure Code of the Russian Federation). The applicant is informed of the decision and is explained his/her rights to appeal this decision, as well as the appealing procedure itself/ There is another interaction algorithm, when tax authorities initiate control actions against an unscrupulous taxpayer (Figure 3):

Figure 3. The author's interaction model between tax and law enforcement authorities amid tax auditing initiated by the FTS



With a view to efficiently exercise powers of regulatory authorities to ensure the economic security of the Russian Federation and the obligations imposed on them by the Constitution of the Russian Federation, the Tax Code of the Russian Federation, and the Federal Law No. 403-FZ dated December 28, 2010 "On Investigation Committee of the Russian Federation" (2010), the Law of the Russian Federation dated March 21, 1991 No. 943-1 "On Tax Authorities of the Russian Federation" (1991) it is proposed to amend the current tax evasion countermeasures mechanism, which would reduce time limits of tax audits and procedural investigations. This will allow for early prediction of both audit and final decision outcomes (initiation or refusal to initiate criminal proceedings). This particular circumstance will promote early withdrawal of stolen property and money, as well as early arrest of it during the preliminary investigation, which would compensate for the damage to the regional budget. The period ranging from tax audit initiated by the Investigation Committee to trial will be 3 to 9 months.

The success of tax crime investigation, compensation of the damage caused to the state, first of all, depends on the initial stage of their detection, evidence recording, including that obtained from tax audits. Solving of tax crimes seems more efficient amid closer interaction between tax and investigative authorities. In both cases, the duration of pre-investigation audits, the lack of agility both aimed at restoring the property of unscrupulous taxpayers results in the fact that by the time criminal proceedings were initiated, the guilty person had managed to dispose of the available property.

Moreover, the statute of limitations for prosecuting perpetrators often expire due to the tax audit time limit. The analysis of the modern tax crime countermeasures mechanism made it possible to identify the efficiency decline issue in regulatory authorities due to the excessive duration from the beginning of the audit to the trial. In order to reduce time limits for audits initiated by tax authorities, the author suggests the following interaction model (Figure 3). The said model is designed to strengthen tax discipline and preventive value of criminal law protection for tax legal relations, and as a consequence, of financial interests of the state. Implementation of this model will allow for cutting audit time limits by 3 months.

3.2 Economic assessment of the modern tax evasion countermeasures mechanism

The stand-alone problem interfering with the establishing a coherent system to counter tax offenses is missing an effective methodology to assess the tax evasion countermeasures efficiency. Economic assessment methodology for tax evasion countermeasures includes calculation of the following performances:

1) Efficiency of criminal proceedings initiation (Ecpi) is calculated by the formula:

$$Ecpi = A / Cpi, \quad (1)$$

where A is the total amount spent on administering financial, tax, customs and financial supervision authorities; Cpi is the total amount claimed due to initiated tax evasion criminal proceedings.

2) Efficiency of tax collection (Etc) is calculated by the formula:

$$Etc = A / Cpi, \quad (2)$$

where Cpi is the total amount of taxes collected from initiated tax evasion criminal proceedings.

3) Efficiency factor of tax collection (Eftc) is calculated by the formula:

$$(Eftc) = Etc / Ecpi, \quad (3)$$

In our opinion, the suggested relative performances will allow for performance efficiency assessment of tax evasion countermeasures. We assess tax evasion countermeasures performance efficiency as per our suggested methodology (Table 2):

Table 2. Tax Evasion Countermeasures Efficiency

| Value | 2014 | 2015 | 2016 | 2016-2014 growth ratio, % |
|---|---------------|---------------|---------------|---------------------------|
| Administering financial, tax, customs and financial supervision authorities, RUB' 000000 (Execution of the budget of the Khanty-Mansiysk Autonomous Okrug - Ugra for 2016). | 336.6 | 344.0 | 356.9 | 106.30 |
| Criminal proceedings initiated (Investigative Committee of the Russian Federation on the Khanty-Mansiysk Autonomous Okrug – Yugra), organizations RUB' 000 | 56 1431415 | 63 1354328 | 59 1208577 | 105.36 84.43 |
| Taxes transferred to the budget, organizations RUB' 000 | 12 562830 | 14 511810 | 11 398460 | 97.67 70.80 |
| Criminal proceedings initiated efficiency, % | 0.43 | 0.39 | 0.34 | X |
| Tax collection efficiency, % | 0.17 | 0.15 | 0.11 | X |
| Tax collection efficiency factor | 0.40 | 0.38 | 0.32 | X |

The table 2 analysis provides for the following conclusions: – as per 2014-2016 budget quarterly breakdown, the amount for administering authorities supervising over the completeness of fiscal transfers and countering tax evasion tend to increase, with the 2016-2014 growth ratio – by 106,3%:

- number of criminal proceedings initiated over the review period increased by 5.4%. However, the amount claimed decreased mostly due to tax crimes reduction among individual entrepreneurs. In the view of Araslanov and Bogomolova (2016) extension of the tax base in the Khanty-Mansi Autonomous Okrug – Ugra is the main concern of the regional Government;
- despite the increased number of initiated criminal proceedings, the number of organizations having compensated taxes to the budget in 2016 compared to 2014 decreased by 2.3%, and the amount transferred – by 29.0%. This is due to the fact that it takes more than 6 months between detecting a tax crime and collecting taxes. In the meantime, the perpetrator is in a position to withdraw the property, therefore, he/she will be declared bankrupt;
- in view of the foregoing circumstances, efficiency indicators of criminal

proceedings initiation, determined by the formula (1); tax collection efficiency determined by the formula (2); tax collection efficiency factor determined by the formula (3) show a negative trend. Thus, the performed analysis makes it possible to prove regulatory authorities performance as per countering tax evasion to be ineffective. In conclusion, we performed a cost-efficiency analysis of the measures we proposed.

Based on data in Table 3, 59 criminal cases amounting to 1208577 thousand RUB were initiated in 2016, where 11 cases amounting to 398460 thousand RUB were satisfied. Consequently, unrecovered damage on 48 cases amounted to 810117 thousand RUB (1208577-398460). The time period ranging from tax audit to trial took 9 to 12 months. Thus, the budget's monthly losses amounted to 1406 thousand RUB (810117 thousand RUB / 48 cases /12 months). If we cut the audit-trial time limit down by 3 months, financial resources transferable to the budget may raise amounting to 202464 thousand RUB (1406 thousand RUB * 48 * 3 months). By doing so, the economic impact following the suggested measures will amount to 202464 thousand RUB. In 2017, the euro to Russian ruble annual average exchange rate was equal to 66.03.

4. Conclusion

Two key issues were detected after tax evasion countermeasures field was studied: first, delays in considering the factual background of tax offenses lead to shortfall in tax revenues to the budget due to property concealed by unscrupulous taxpayers; second, there is no effective methodology to assess tax evasion countermeasures.

The interaction model for tax and investigative authorities proposed by the authors will allow to reduce time limits for considering the factual background of tax offenses and to gain additional revenues to the budget. The metrics system proposed by the authors will provide for unbiased assessment of the tax evasion countermeasures efficiency.

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