

SOME ASPECTS OF CRIMINAL LIABILITY FOR VIOLATIONS OF BUDGET LEGISLATION

Criminal liability for violation of budget legislation under Art. 210 and 211 of the Criminal Code of Ukraine (hereinafter - CC) of the Law of Ukraine «On Amendments to Certain Legislative Acts of Ukraine in connection with the adoption of the Budget Code of Ukraine» dated 8 July 2010 r. №2457-VI.

Article 210 of the Criminal Code provides for liability for misuse of budgetary funds expenditure budget or loans from the budget without a set budget allocations or their excess. Part 1 of Art. 210 of the Criminal Code contains features two separate offenses. The first warehouse - misuse of budget officer. Evidence of this crime coincide with signs of a similar budget offense under Art. 119 of the Code. This budget spending for purposes that do not comply, budget appropriations set by the State Budget of Ukraine (the decision on the local budget); areas of budget funds specified in the budget program passport (in case of program-target method in the budgetary process) or in the course of budget funds; Budgetary appropriations (painting budget, budget, budget funds use plan). Second offense under Part. 1, Art. 210 of the Criminal Code - a spending budget or loans from the budget without a set budget allocations or exceeding them against the Budget Code of Ukraine. Evidence of the offense coincide with signs of a similar budget offense under paragraph. 29 h. 1 tbsp. 116 of the Budget Code.

The subjective aspect of the crimes characterized by direct intention, that guilty person understands the nature of his actions (that they are violating the budget law) and wants to act in this way.

The subject of both offenses is any official, authorized to manage budget funds.

Article 211 of the Criminal Code provides for liability for the publication of regulations that reduce revenues or increase budget spending budget against the law. Publication of an official of regulations that reduce revenues or increase budget spending budget contrary to the law, if these actions were the budget in large amounts. The same actions were the subject of budget funds in a large scale or repeated. This corresponds offense in violation of budget legislation laid claim. 37 h. 1 tbsp. 116 of the Budget Code. However, if an offense is a budget entity - participant of the budget process, the offender can only officer of the executive authorities and their departments, with the power to approve their orders regulations, the implementation of which reduces budget receipts or increases budget expenditures.

From the publication of regulations that reduce budget revenues or increase expenses against the budget law as an administrative offense, this offense different sized funds are not received in the budget or were additionally spent. A large amount of money (the amount of one thousand or more times the non-taxable minimum incomes) establishes the offense under Part. 1, Art. 211 of the Criminal Code. A particularly large amount of money (the amount of three thousand or more times the non-taxable minimum incomes) establishes the crime provided ch. 2, Art. 211 of the Criminal Code. If these actions are not budgetary funds in large amounts committed constitute an administrative offense under Part. 5, Art. CAO 164-12.

Note that criminal responsibility for acts committed in intergovernmental relations, that is in the process of drafting, review, approval, execution of budgets, reporting on their implementation and monitor compliance with budget legislation is not limited to art. 210 and 211 of the Criminal Code. Acts of officials guilty of violating the budget legislation, under certain circumstances, may contain elements of the crimes in performance.

For example, the Public (local) loans, provision of public (local) guarantees in violation of the Code if it is committed by an official intentionally, with selfish motives or other personal interests

or interests of third parties, caused significant damage to legally protected rights, freedoms and interests of individual citizens or the state or public interests or the interests of legal entities punished for abuse of power or position (p. 364).