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Crimes in the Fiscal Sphere: Problems of Implementation of Criminal Responsibility

This article provides a comprehensive analysis of tax evasion, dues (mandatory payments) and the reasons of committing such types of crime in Ukraine. It also shows factors that adversely affect the performance of investigations of criminal fiscal offenses and make impossible collecting evidence in the investigation of crimes under the Art. 212 of the Criminal Code of Ukraine.

In the study of actus reus author defines the main ways of distortions of tax liability: infringement in the determining of the range of taxpayers; inadequate documentation of transactions; irregularities in transactions that are exempt of VAT or are not relevant to the economic activities; deliberate understatement of taxation object; non-payment or late payment of taxes.

Among the perpetrators various categories of taxpayers, including the large taxpayers are studied. It is emphasized that taxpayers can be divided into three risk groups: high, medium and low. The article concluded that criminal prosecution cases are considered only under the Chapter 22 of the Criminal Procedure Code of Ukraine «Notification of suspicion». Some problematic issues in the sphere of subjection to liability for committing such types of crime are also identified.

The author reveals specific types of exemption from criminal liability for the offense under the Art. 212 of the Criminal Code of Ukraine. Some legal gaps that do not allow to release the person from criminal liability in the initiated criminal proceeding because of the statutory bar to recover damages caused by late payment of taxes to the state before the entry into force of the court decision are also studied.

The author also submitted a proposal about inappropriate attribution of fiscal crimes, including tax evasion and duties (mandatory payments), to the plane of criminal liability. He also analyzed legal and economic aspects of taxation in the country, ways of optimization of budget revenues, areas of improvement of combating tax evasion both criminal and fiscal nature.

Keywords: fiscal crimes; criminal responsibility; tax; levy; tax liabilities; tax compromise; tax optimization; tax planning.