



STAGES OF INVESTIGATION OF CRIMES RELATED TO TAX EVASION OR MANDATORY PAYMENTS

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<https://doi.org/10.5281/zenodo.7460737>

ARTICLE INFO

Received: 10th December 2022

Accepted: 19th December 2022

Online: 20th December 2022

KEY WORDS

Tax evasion, tax offense, income, tax crime, tax authority, cash flows, intangible assets, mandatory payments, investigation of crimes.

It is of great importance to conduct a pre-investigation check, initiate a criminal case when identifying elements of a criminal structure and properly plan the investigation at the time of detection of an offense related to tax evasion and fees.

The initial and subsequent lines of investigation include:

- search, seizure and seizure of documents;
- interrogation of witnesses and suspects;
- inspection of the territory of the institution; appointment and conduct of the inspection;
- appointment of forensic medical and other forensic examinations for the study of documents;
- correspondence of suspects' property, as well as bank deposit accounts [1].

It is advisable to disclose the order and direction of the above investigative and procedural actions on the content.

ABSTRACT

This article provides a comparative analysis of the following and final stages of the investigation of crimes related to tax evasion or mandatory payments, the circumstances that must be proved during the investigation of crimes in the field of tax evasion or mandatory payments, the specifics of the investigation of crimes related to tax evasion or mandatory payments.

Also, this article discusses the main shortcomings and mistakes that are made when solving situational problems that arise at the stage of initiating a criminal case on a tax crime.

The search process is carried out in order to search for documents important for the investigation process, as well as to determine the property of a legal entity that can be attributed. Chapter 20 of the Criminal Procedure Code of the Republic of Uzbekistan discusses the procedures and grounds for conducting a search. In criminal proceedings, a search is carried out in the absence of specific information about the location of items that need to be seized, which determines its investigative nature.

In particular, article 158 of the Code of Criminal Procedure indicates that there is sufficient information to believe that in a residential, office, industrial building or other place or a person has something or documents related to work as a basis for a search. The decision should reflect the relevant grounds for conducting a search,



and the place of its conduct should be clearly defined.

In this regard, in today's investigative practice, attention should be paid to a common drawback, which is the incorrect or ambiguous designation of the place where the search should be conducted.

In accordance with the requirements of article 161 of the Code of Criminal Procedure, the inquirer, investigator is obliged to acquaint the person from whom the seizure or search is being carried out, before proceeding with the seizure or search, with the resolution or definition and sign it. What should be received after familiarization with the decision or definition and the offer to issue documents on a voluntary basis, the offer accepts without fail in case of refusal. If a person is not found in the place specified in the decision or resolution on the seizure of this thing and documents, a search is conducted.

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It should be noted that the disposition of article 158 of the Code of Criminal Procedure does not explicitly establish the procedure for searching for items and documents containing information about deposits and accounts in banks and other credit organizations. In addition, the Law of the Republic of Uzbekistan "On Banks and banking activities" [2] also did not pay attention to this issue.

According to article 27 of the Constitution of the Republic of Uzbekistan, as well as article 182 of the Code of Criminal Procedure, the investigator is obliged to take measures to ensure that the personal life of a person identified during a search, or information constituting a personal or family secret, is not disclosed, as well as damage to property that is not

According to part 7 of Article 181 of the Criminal Procedure Code, the found objects, documents or valuables must be understood and presented to other persons involved, if necessary, properly wrapped, sealed, certified with the signatures of the investigator and an impartial person.

In accordance with parts 2 and 3 of article 163 of the Criminal Procedure Code, an act is drawn up after the search and seizure. The protocol must specify exactly where and under what circumstances the item and documents were found, whether they were issued on a voluntary basis or received without fail. All received items and documents must be entered in the protocol in turn, indicating their quantity, measure, weight, specific features of any of



them and, if necessary, wrapped and sealed.

In case of an attempt to destroy or hide an object and documents sought during seizure or search, this circumstance should also be reflected in the statement indicating the measures taken by the investigator or the inquirer. The reason is that such actions can be assessed as the destruction of evidence relevant to the case, and then used as compromising evidence.

In our opinion, it is advisable to include this rule in article 163 of the Code of Criminal Procedure as part 4 and state it in the wording "attempts to destroy or conceal seized items, documents or valuables in the compiled protocol and indicate the measures taken in this regard". It should be noted that this procedure is established by part 3 of Article 256 of the Criminal Procedure Code of the Republic of Kazakhstan [3], part 8 of Article 120 of the Criminal Procedure Code of the Republic of Georgia [4], article 183 of the Criminal Procedure Code of the Russian Federation [5].

During the search, it is desirable for a legal entity to seize both official documents and their draft copies, all types of telephone numbers and surnames of other persons associated with the suspect, forms of forged documents, cliches of seals and stamps, technical means used in their preparation, as well as preliminary accounting reports.

In accordance with the disposition of article 157 of the Code of Criminal Procedure, it is implied that "the seizure is carried out as part of an investigative action - something valuable for the criminal case and the seizure of documents." It should be noted that the withdrawal

process largely coincides with the search process, therefore it is carried out in a similar procedural manner and with the participation of the same persons. The seizure protocol is drawn up in accordance with the rules of the search protocol.

At the same time, attention should be paid to the characteristics of the types of seizure that can be carried out only on the basis of the decision of the inquirer, investigator, prosecutor or court ruling.

R.A. According to Alekseev, when planning to check the facts of tax evasion, it should be borne in mind that the actions of the offender, although they are of a hidden nature, are usually reflected in various financial and economic documents [6]. Therefore, if at the initial stage of the investigation it is established that there are no separate documents of evidentiary value in the criminal case, the person conducting the investigation is obliged to take urgent measures to identify and seize them. In the process of withdrawal, it is advisable to obtain from a legal entity documents related to the conduct of financial and economic activities, registration documents of the organization.

When checking documents, the result is determined by the type of documents, by whom and when they were issued, signs of appearance, facts and circumstances in the document, signs of forgery. The main purpose of studying the received documents is to identify reliable information about the financial and economic activities of a legal entity.

The next investigative action that needs to be carried out is an interrogation. In accordance with article 97 of the Code of Criminal Procedure, "a witness, a victim, as well as a suspect, an accused and a defendant walking free, are summoned to



the inquirer, investigator, prosecutor and court by summons. The summons is sent by mail or delivered by courier." A person duly summoned for questioning must be present at the prescribed time or inform the investigator in advance of the reasons for non-appearance.

Failure to appear before the investigator at the appointed time without a valid reason may lead to the use of procedural coercive measures, for example, a forced drive.

The general provisions of interrogation are established in articles 94-108 of the Code of Criminal Procedure.

It is advisable to start the interrogation with officials who initially identified the offense, that is, with employees of the control and inspection department, tax authorities, auditors. Because these persons will have information related to the identification of signs of a crime of evasion of a legal entity from paying taxes and mandatory payments. Subsequently, employees of the legal entity directly involved in financial and economic operations, contractors are interrogated.

V.M.Proshin believes that "the above-mentioned persons can testify to information related to cash turnover in the organization, accounting on the procedure for issuing non-cash funds of the organization into circulation, the procedure for organizing tax accounting, the procedure for compiling accounting (financial) and tax reporting, acceptance of inventory, maintenance of material and production values, sale finished products and other materials, this information is reflected in the interrogation protocol [7].

According to article 125 of the Code of Criminal Procedure, during the

interrogation, it is possible to conduct an investigative action in order to demonstrate a confession for identification.

The next investigative action to be carried out is a check.

In accordance with article 187¹ of the Criminal Procedure Code of the Republic of Uzbekistan, "verification of legal entities and individual entrepreneurs is appointed in cases when information about cases significant for work can be obtained by studying and comparing accounting, financial, statistical, banking documents and other documents of the audited entities."

An audit may be initially assigned and conducted during the audit process prior to the investigation. In most cases, it is tax crimes that are determined based on the data of the end of the audit, and on the basis of this information, a criminal case is initiated. However, it cannot be denied that after the initiation of the case, it may also be necessary to appoint an additional or repeated check.

In accordance with article 187⁹ of the Code of Criminal Procedure, "an additional check is appointed to eliminate the shortcomings contained in the act on the results of the check and clarify newly identified cases in the case".

Repeated examination is prescribed in the following cases:

when the objections submitted by the subject, the accused or the defendant, checked for disagreement with the conclusions and results of the audit, are recognized as justified;

when the inspection results report contains contradictions with the inspection materials and other materials of the criminal case, as well as when documents, information and materials that are the



basis of conclusions in the inspection results report are found to be incorrect;

when the conclusions indicated in the report on the results of the audit are unfounded or their correctness is in doubt.

Persons who have passed the preliminary check cannot be appointed to conduct a second check.

Additional inspection or re-inspection shall be carried out in accordance with the procedure and terms established by this chapter.

In this case, the inspection is appointed on the basis of the decision of the inquirer, investigator, prosecutor or court order.

The decision on the appointment of the audit must specify:

- 1) the full name of the subject being audited and its organizational and legal form (surname, first name, patronymic of the individual entrepreneur), identification number and legal address of the taxpayer;
- 2) the number of the criminal case or the grounds arising in the course of the pre-investigation check for the appointment of the check or the grounds for the appointment of an additional or repeated check;
- 3) the scope of the issue or issues to be studied during the inspection;
- 4) the period during which financial and economic activities should be checked;
- 5) the name of the authorized body entrusted with the audit, including state bodies and organizations that are additionally involved.

During the audit, it is prohibited to study the issue or range of issues, as well as the period of financial and economic activity not specified in the decision or resolution on the appointment of the audit.

The bodies and organizations specified in article 187³ of the Criminal Procedure Code of the Republic of Uzbekistan shall issue an order indicating the persons appointed to conduct the inspection, no later than two working days from the date of the decision or resolution on the appointment of the inspection. According to article 187³ of the Criminal Procedure Code of the Republic of Uzbekistan, specialists of the Department for Combating Economic Crimes under the Prosecutor General's Office of the Republic of Uzbekistan, the State Tax Service, the Ministry of Finance and territorial financial authorities may participate as persons appointed for verification, and, if necessary, employees of other State bodies and organizations may also be [8].

It is known that in accordance with the Law of the Republic of Uzbekistan "On Banking Secrecy" [9], banking institutions provide information about the transactions, accounts and deposits of their clients (representatives); information received by the bank about this client (representative) in connection with the provision of banking services to their client (representative); information about the property, its property and value, stored in bank safes and; the information constituting a banking secret, which became known as a result of an exchange between banks, guarantees the secret storage of information concerning the client (representative) of another bank. But in accordance with articles 5 and 9 of this law, the secrecy of the bank can be disclosed at the legislative request of the prosecutor's office, preliminary investigation, inquiry bodies and bodies carrying out operational investigative activities. In this case, the required



information is provided with the approval of the prosecutor in:

- to the prosecutor's office, the bodies of preliminary investigation and inquiry in order to establish the circumstances of criminal cases in their proceedings, as well as to ensure the recovery of damage or transfer of property – by reasoned decision of the investigator or inquirer;

- on the basis of a reasoned decision approved by the head of the body carrying out operational search activities, in order to fulfill the tasks assigned to the bodies carrying out operational search activities, on operational search activities in their activities.

"In order to prevent misappropriation, expropriation, concealment, destruction or damage of property recognized as material evidence, reference is also made to this property" (part 1 of Article 290 of the Code of Criminal Procedure). The transfer of property is not connected with the deprivation of the property rights of the owner of the property and the transfer of these rights to another person or the state.

The transfer of property is carried out with the consent of the prosecutor by the decision of the inquirer or investigator, or by the decision of the court, which has the right to transfer the execution of this investigative action to the investigative body. In cases where there are no delays, the transfer of property can also be carried out without the consent of the prosecutor, but later within twenty-four hours the prosecutor will be notified with a copy of the decision and protocol attached.

Circumstances that cannot be postponed must be justified in the notification of the inquirer or investigator sent to the prosecutor.

The assignment decision or resolution indicates by whom, when and in what case it was issued, for what purpose and to whom the property should be recorded.

After the decision on the transfer of property by the investigator or inquirer is made, a corresponding entry is made in the register of pledges within one day, and after the court decision on the transfer of property is made, such an entry is made by the bodies authorized in accordance with the legislation within three days.

The action of the tax authority to restrict property rights in relation to the property of a legal entity that is a taxpayer is defined as a way to ensure the execution of a decision on the collection of tax debts [10].

In conclusion, the effectiveness of the process of investigating crimes related to the evasion of legal entities from paying taxes and other mandatory payments is expressed in the timely consideration of a crime report, the correct choice of a set of procedural actions, as well as cooperation with tax authorities and bodies of inquiry.

It is advisable to rely on the materials of forensic investigative practice in the development of forensic tactics and methodology for investigating crimes related to the evasion of legal entities from paying taxes and other mandatory payments.

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