

- bezpeky i stiiikosti krytychnoi infrastruktury Ukrainy: analit. dop. [Organizational and legal aspects of ensuring the security and sustainability of Ukraine's critical infrastructure: analytical addition]. Kyiv: NISD [in Ukrainian].
14. Proiekt Zakonu pro krytychnu infrastrukturu ta yii zakhyst vid 27.05.2019 № 10328 [Draft Law on Critical Infrastructure and its Protection from 27.05.2019 № 10328] iportal.rada.gov.ua Retrieved from http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=65996 [in Ukrainian].
 15. Proekt Zakonu Ukrainy «Pro krytychnu infrastrukturu ta yii zakhyst» [Draft Law of Ukraine “On Critical Infrastructure and its Protection”] Ministerstvo rozvytku ekonomiky, torhivli ta silskoho hospodarstva Ukrainy (ofitsiyni veb-sait), (Departament ekonomiky bezpeky i oborony)». <https://www.me.gov.ua> Retrieved from <https://www.me.gov.ua/Documents/Detail?lang=uk-UA&id=a91bfd44-d9be-4a74-834f-3feaf92bb886&title=ProektZakonuUkrainiproKritichnuInfrastrukturuTaYiZakhis> [in Ukrainian].
 16. Pro Sluzhbu bezpeky Ukrainy: Zakon Ukrainy vid 25.03.1992 r. № 2229-XII. [About the Security Service of Ukraine]: (1992). *Vidomosti Verkhovnoi Rady Ukrainy (VVR) – Bulletin of Verkhovna Rada of Ukraine*, 27, art. 382 [in Ukrainian].
 17. Pro natsionalnu bezpeku Ukrainy [On the national security of Ukraine]: Zakon Ukrainy vid 21.06.2018 r. № 2469-VIII. (2018). *Vidomosti Verkhovnoi Rady (VVR) – Bulletin of Verkhovna Rada of Ukraine*, 31, art. 241 [in Ukrainian].
 18. Pro rishennia Rady natsionalnoi bezpeky i oborony Ukrainy «Pro Stratehiiu natsionalnoi bezpeky Ukrainy»: Ukaz Prezydenta Ukrainy vid 14 veresnia 2020 roku [On the decision of the National Security and Defense Council of Ukraine "On the National Security Strategy of Ukraine": Decree of the President of Ukraine of September 14, 2020] rada.gov.ua/ Retrieved from <https://zakon.rada.gov.ua/laws/show/392/2020#Text> [in Ukrainian].
 19. Dyrektyva Rady 2008/114/IEs vid 8 hrudnia 2008 roku pro identyfikatsiiu i vyznachennia yevropeiskyykh krytychnyykh infrastruktur ta otsiniuvannia neobkhidnosti pokrashchennia yikh okhorony ta zakhystu [Council Directive 2008/114 / EC of 8 December 2008 on the identification and designation of European Critical Infrastructure and the assessment of the need to improve their protection and security]. rada.gov.ua/ Retrieved from https://zakon.rada.gov.ua/laws/show/984_002-08/ed20081208#Text [in Ukrainian].
 20. Deiaiki pytannia obiektyv krytychnoi infrastruktury: postanova Kabinetu Ministriv Ukrainy № 1109 vid 9 zhovtnia 2020 roku [Some issues of critical infrastructure: Resolution of the Cabinet of Ministers of Ukraine № 1109 type 9 October 2020] rada.gov.ua Retrieved from <https://zakon.rada.gov.ua/laws/show/1109-2020-%D0%BF#Text> [in Ukrainian].

DOI <https://doi.org/10.51647/kelm.2020.3.3.38>

OSTRZEŻENIA PODATKOWE W ZAKRESIE OPODATKOWANIA: WYZWANIA DZISIAJ

Olha Pavliukh

*starszy wykładowca Katedry Teorii, Historii Prawa i Państwa oraz Prawa Konstytucyjnego
Uniwersytetu Państwowej Służby Fiskalnej Ukrainy (Irpień, Ukraina)*

ORCID ID: 0000-0002-7850-8977

Olga_Pavlyukh@ukr.net

Adnotacja. Artykuł analizuje opinie naukowców na temat ogólnej społecznej profilaktyki przestępczości w sferze opodatkowania. Należy zauważyć, że obecnie nie ma jasnego mechanizmu współdziałania organów ścigania, organów kontrolnych i instytucji systemu gospodarczego, które mogłyby zapewnić skuteczne przeciwdziałanie przestępstwom w sferze podatkowej. W związku z tym zaproponowano kierunki ogólnospołecznej profilaktyki przestępczości w zakresie opodatkowania.

Słowa kluczowe: przestępczość, przestępczość podatkowa, opodatkowanie, profilaktyka, profilaktyka ogólnospołeczna.

TAX PREVENTION IN THE FIELD OF TAXATION: TODAY'S CHALLENGES

Olga Pavlyukh

*Senior Lecturer, Department of Theory, History of Law and
State and Constitutional Law, University of the State Fiscal Service
of Ukraine (Irpień, Ukraine)*

ORCID ID: 0000-0002-7850-8977

Olga_Pavlyukh@ukr.net

Abstract. The article considers the opinions of scientists on the general social prevention of crime in the field of taxation. It is noted that today there is no clear mechanism of interaction between law enforcement agencies, supervisory

authorities and institutions of the economic system, which can provide effective counteraction to crimes in the tax sphere. In this regard, the directions of general social prevention of crime in the field of taxation are proposed.

Key words: crime, criminality, tax crime, taxation, prevention, general social prevention.

ПОДАТКОВІ ЗАПОБІГАННЯ У СФЕРІ ОПОДАТКУВАННЯ: ВИКЛИКИ СЬОГОДНІ

Ольга Павлюх

старший викладач кафедри теорії, історії права і держави та конституційного права

Університету ДФС України (Ірпінь, Україна)

ORCID ID: 0000-0002-7850-8977

Olga_Pavlyukh@ukr.net

Анотація. У статті розглянуто думки науковців щодо загальної соціальної профілактики злочинності у сфері оподаткування. Зазначається, що на сьогодні відсутній чіткий механізм взаємодії правоохоронних органів, контролюючих органів та інститутів економічної системи, які могли б забезпечити ефективну протидію злочинам у податковій сфері. У зв'язку з цим запропоновано напрями загальносоціальної профілактики злочинності у сфері оподаткування.

Ключові слова: злочинність, злочинність, податкова злочинність, оподаткування, профілактика, загальносоціальна профілактика.

Tax offenses have the largest share among economic offenses. Thus, among the criminal proceedings opened on the grounds of economic crimes submitted for economic examination, about 70 percent are cases related to tax evasion. Therefore, today the state of economic security of the country remains extremely difficult due to a number of challenges, including the criminalization of economic relations and the spread of semi-legal methods of tax evasion.

In the context of reforming Ukraine's economy, the most threatening in the criminogenic aspect is the situation in the tax sphere, where the number of illegal acts has recently increased, which leads to non-receipt of significant funds in the country's budget and their misappropriation of criminal elements.

The massive tax evasion available in our country, its nature, trends and other features indicate that tax crime in modern conditions is becoming one of the major threats to Ukraine's national security.

It should be noted that today there is no clear mechanism of interaction between law enforcement agencies, supervisory authorities and institutions of the economic system, which can provide effective counteraction to crimes in the tax sphere. Accordingly, the problem of preventing these socially dangerous phenomena becomes relevant.

Problems of crime prevention in the fiscal sphere at different times were considered by such scientists as P.P. Andrusenko, V.I. Borisov, L.P. Brych, B.V. Volzhenkin, V.V. Golina, D.I. Golosnichenko, A. E. Gutnik, N.O. Gutorova, I.M. Danshin, O.O. Dudorov, O.S. Zadorozhny, A.P. Zrellov, O.G. Kalman, O.E. Koristin, V.V. Lysenko, P.S. Matyshevsky, O.P. Milevsky, V.O. Navrotsky, V.V. Pivovarov, V.M. Popovich, V.V. Stashis, E.L. Streltsov, V.Y. Tatsiy, M.I. Havronyuk and others.

It should be noted that large-scale measures caused by the current state of development of society are aimed at meeting the most important goals of social development. However, at the same time, these measures affect the determinants of crime. It should be noted that not all social measures perform the functions of general prevention measures. The level of general social prevention measures includes only measures that affect the "origin" of a certain type of crime and give a certain preliminary effect. It should be noted that these measures in most cases do not affect the determinants of a particular type of criminal offense (cheating, tax crime, etc.), but all or most of the criminal acts, such as economic crime.

Thus, general social prevention measures have a wide range; they affect all types, groups, types of causes, conditions and other determinants that cause crime. The multifaceted, comprehensive nature of crime prevention is most evident at the general social level. The effective indicator of social prevention is the relationship of different content of measures (economic, social, cultural, educational, legal, etc.), as well as the ability on the basis of mutual complementarity not just to summarize the effect of anti-criminogenic action, but to give it a new, unfavorable value. Due to these characteristics, general social prevention is the basis, the foundation of special criminological prevention (Гильмутдинова, 1998: 82-85).

Such activities are carried out by various public authorities, public formations, for the functions of which the envisaged actions are not a priority.

In our opinion, it is advisable to consider measures of general social crime prevention in the field of taxation in the study of the determinants of moral and psychological, political, economic, social, organizational, managerial and legal nature.

Measures to prevent crime in the field of taxation in the moral and psychological aspect should include the development of a single ideology that focuses on the legitimate solution of problems related to the legal acquisition of property. It is necessary to gradually oust the cult of enrichment from the minds of Ukrainians illegally, and from the life of society - the prevalence of traditions, rules and other attributes of the criminal subculture.

It is expedient to dedicate a whole set of measures focused on the spiritual and moral sphere to the ousting of legal nihilism from the consciousness of Ukrainians. These are, first of all, measures to strengthen the role of state power, to revive the prestige of the law as one of the highest social values. Due to this, the immediate strengthening of liability measures and their implementation for tax crimes, administrative and financial offenses should become one of the important areas of tax policy of the state of Ukraine. In this regard, measures should be taken to strengthen the promotion of the benefits of tax compliance, for which the media should be involved.

Measures to prevent tax crimes in the political sphere are related to the economic policy of the state and in particular tax policy as a set of areas, specific measures and actions designed to replenish the revenue side of the budget and extrabudgetary funds.

It is known that with the help of tax levers the state regulates the market economy and its social orientation. The effectiveness of state tax policy largely depends on the implementation of principles in the tax system. These principles were first formulated by the English scientist Adam Smith in 1776. Their essence lies in fairness, certainty, convenience and efficiency. To these principles should be added the principle of stability, one-time taxation, selection of the appropriate source and object of taxation.

The principle of social justice provides for the general imposition and uniformity of tax distribution among citizens, commensurate with their income (Платонова, 1997: Кирова, 1998).

The principle of certainty in taxation is the need to determine:

- a) the exact date of payment of taxes;
- b) the method of their calculation;
- c) the amount of payment.

The principle of convenience is that the tax should be levied at the time and in the way when and how it is convenient for taxpayers.

The principle of efficiency comes down to the fact that each tax must be economically feasible. This implies, firstly, that its implementation does not have negative consequences, and secondly, that the funds spent by the state on its collection were minimal. Therefore, when introducing certain types of taxes, it is necessary to take into account the state of the country's economy, national traditions, social psychology and the ability of tax authorities to administer taxes.

Violation of this principle may lead to the fact that the collection of the tax may affect a large number of officials, whose salaries will absorb a significant part of the amount brought by the tax itself; a large number of taxes and a high share of funds withdrawn from enterprises (entrepreneurs) can lead to bankruptcy, thereby sharply narrowing the tax base; the heavy tax burden encourages individual entrepreneurs and enterprises of various forms of ownership to evade taxes, which leads to a significant reduction in their collection.

The principle of stability of the taxation system provides for the long-term stability of the main types of taxes, the order of their calculation, economic sanctions and the basic benefits provided. Thus the same object of the taxation can be taxed by the tax of one kind only once for the period of the taxation defined by the law (month, quarter, half-year, year).

Tax policy plays an important role in the allocation of resources, which is carried out during the implementation of the basic principles of such policy and should be based on a combination of equity participation at all levels in the main tax revenues. Such measures include:

- delimitation of powers of representative bodies of power, subjects and local self-government in part of establishment and administration of taxes and fees;
- setting marginal rates for general and local taxes; expanding the tax base, ie ensuring the full coverage of potential taxpayers;
- expanding the tax base by spreading the real tax burden to the areas where tax evasion is most practiced;
- equalization of tax conditions due to a sharp reduction in tax benefits.

Political measures should include measures to create reliable technologies to control the functioning of various parts of the political system. Of particular importance from the point of view of crime prevention is the control over the financial means provided by election campaigns.

A set of precautionary measures should be aimed at preventing corruption in the state apparatus and local self-government bodies. Here it is important to close the gap between the remuneration of civil servants, officials of local governments and market prices for goods and services, as extremely low wages of these employees contribute to their corruption (Куксин, 1998: 9).

Measures to prevent offenses in the economic sphere should be aimed at improving the tax system of Ukraine so that taxes become lower and more differentiated. Statistics show that the tax system causes a high level of shadow activity, where you do not need to pay taxes at all. In this regard, it is proposed to differentiate the tax system by sharply reducing taxes on various types of productive activities in order to stimulate the development of the economy, agriculture and other productive areas.

The tax system in the modern period should become one of the main tools for regulating market processes occurring in the economy. It is the flexible tax system that must create equal conditions for the management and use of earned funds by all participants in social production. With the help of tax levers, it is first necessary to stimulate producers in order to prevent a decline in production. In this regard, we should use the experience of our country in the previous stages of its development, in particular, and not automatically copy the Western experience of development.

In order to increase the collection of taxes by preventing evasion of their payment, it is necessary to take measures to sharply reduce cash payments, which requires streamlining the cash and non-cash circulation in the country.

It should be noted that currently companies are prohibited from depositing cash in the accounts of other persons – account holders (including individuals) bypassing their current account. Failure to comply with this procedure shall be subject to a fine by the tax authority and (or). However, as practice shows, these measures are not enough.

In this regard, it would be appropriate to increase the responsibility of persons performing managerial functions in a commercial or other organization for violating the rules of working with cash.

Measures of general social prevention of tax crimes in the social sphere should be consistent with the objectives of economic policy and should promote:

- formation of a class of private owners that stimulate the creation of a socially oriented market economy;
- social protection of the population, which requires a purposeful state policy to ensure employment of Russians, involving them in economic turnover, increasing incomes of various segments of the population;
- the process of stabilizing the financial position of Ukraine;
- creating a healthy competitive environment and demonopolizing the economy.

Measures to prevent tax crimes in the organizational and managerial sphere are important. In view of this, it should be noted that the commission of tax crimes is greatly facilitated by shortcomings in the organization of registration procedures. Therefore, it is necessary to strengthen the control by the registration authorities and the responsibility for the full and accurate reflection in the documents of all the data necessary for the registration of the enterprise. They must be carried out in compliance with the following requirements:

- direct participation of the founders, the presence of certificates issued by law enforcement agencies at the place of residence, confirming the identity of the founder and the authenticity of the passport, excluding registration by power of attorney;
- mandatory information from the tax authorities and the parties who have obligations under the agreements on the change of location of the enterprise by the heads of organizations and enterprises of all forms of ownership (Яни, 1995).

All this necessitates changes in the legislation that would expand the powers of tax authorities, which would significantly increase the effectiveness of law enforcement activities, would strengthen their role and place in ensuring the economic security of the state.

Without a comprehensive study and analysis of the types of tax crimes, activities to prevent them can not be comprehensive, systematic and scientifically sound, and therefore are unlikely to be effective and able to provide the desired results. Tax crime is one of the most dangerous types of economic crime, characterized by extremely high levels and latency, rates of criminal activity and activity, has a strong tendency to spread in severe forms and large sums, is the main source of reproduction of Ukraine's shadow economy. Tax crime as a special socio-legal phenomenon is characterized by a specific structure (in terms of geography, distribution by levels of the tax system, types of taxes and fees, areas of the economy, methods of commission, etc.). The massive tax evasion that is taking place in Ukraine, clarifying its nature, trends and other features shows that tax crime in modern conditions is becoming one of the major threats to the national security of Ukraine.

Список використаних джерел:

1. Гильмутдинова Н.С. Уголовная ответственность за уклонение от уплаты таможенных платежей: дис. ... канд. юрид. наук. М. 1998. С. 82–85.
2. Платонова Л.В. Криминологическая характеристика преступлений в сфере налогообложения. *Следователь*. 1997. № 3. С. 34–35.
3. Кирова Е.Л. Налоги и предпринимательство в России. М. 1998. С. 14.
4. Куksин И.Н. Налоговая политика России (теоретический и историко-правовой анализ). автореф. дис. докт. юрид. наук. СПб.: Санкт-петербургская академия МВД России, 1998. С. 9.
5. Яни П. Бланкетные «экономические» статьи уголовного закона. *Российская юстиция*. 1995. № 11. С. 46.

References:

1. Gilmudinova N.S. (1998). Ugolovnaia otvetstvennost za uklozenie ot uplaty tamozhennykh platezhek [Criminal liability for evasion of customs payments]: dis... kand. iurid. nauk. M. pp. 82–85. [In Russian].
2. Platonova L.V. (1997). Kriminologicheskaiia kharakteristika prestuplenii v sfere nalogooblozheniia [Criminological characteristics of crimes in the field of taxation]. *Sledovatel*. № 3. pp. 34–35. [In Russian].
3. Kirova E.L. (1998). Naloga i predprinimatelstvo v Rossii [Taxes and entrepreneurship in Russia]. M. p. 14. [In Russian].
4. Kuksin I.N. (1998). Nalogoivaia politika Rossii (teoreticheskii i istoriko-pravovoi analiz) [Tax policy in Russia (theoretical and historical and legal analysis)]. avtoref. dis. dokt. iurid. nauk. SPb.: Sankt-peterburgskaia akademiia MVD Rossii. p. 9. [In Russian].
5. Iani P. (1995). Blanketnye «ekonomicheskie» stati ugolovnogo zakona [Blank "economic" articles of the criminal law]. *Rossiiskaia iustitciia*. № 11. p. 46. [In Russian].