

Administrative and legal instruments to combat offences in the field of taxation

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Abstract. *In this scientific article, the author analyses the concept, types and content of administrative and legal instruments. It is noted that thanks to administrative and legal instruments, the state creates the necessary legal conditions for economic growth, achieving social justice, environmental protection, modernisation of the management system, etc. Among the administrative and legal instruments, a number of basic and well-established ones can be distinguished: regulatory legal acts, administrative procedures, administrative and legal agreements, institutional and organisational means, sanction mechanisms, control and supervision instruments, etc. However, the author agrees with the position of other scientists that it is advisable to disclose specific instruments of public administration activity through the prism of the system of its institutional and functional characteristics in a certain sphere of social activity. Thus, in particular, it is seen that the administrative and legal instruments for combating offences in the field of taxation today should include: tax control, information exchange, administrative responsibility, interagency cooperation and digitalisation. Thus, in particular, the use of e-government tools, digital registers and artificial intelligence algorithms allows us to increase the transparency of fiscal administration, reduce corruption risks, promptly detect violations and respond to threats in the field of taxation in a timely manner. The interaction of tax authorities with law enforcement agencies is another important aspect of preventing offences in the field of taxation. Inspections are a central element of the administrative and legal mechanism for ensuring fiscal discipline, but their effectiveness largely depends on integration with other measures. The mechanism for providing tax benefits is also of great importance. We believe that the outlined list of tools is not exhaustive, and other administrative and legal tools for combating offences in the field of taxation can be identified.*

Keywords: *cadministrative and legal instrument, offence, taxation system, control, state budget.*

Problem statement. The current stage of state formation in Ukraine is characterised by significant transformations in all spheres of public life, in particular in the economy, public administration system, law enforcement and ensuring the financial security of the state. One of the key prerequisites for the stable functioning of the state as an integral organism is the effective operation of the tax system, which ensures the filling of the state budget, financing of socially important programmes, maintenance of infrastructure and the implementation of other state functions. In this context, tax legal relations are of great importance both from the point of view of economic development and from the point of view of ensuring legality and law and order.

The proper functioning of the tax system requires strict compliance with the legislation by all participants in financial and economic processes, primarily taxpayers. However, the realities of domestic practice show that tax legislation is one of the most vulnerable areas to offences, evasion, abuse, a formal approach to the performance of duties, and in some cases – to outright resistance to the fulfilment of tax requirements. All this forms a complex problem that has not only economic but also legal, social, managerial, and ethical dimensions.

The need to clarify methods and tools for combating tax offences is related not only to the need to ensure full receipt of funds to the budget but also to the requirement to guarantee fairness in the distribution of the tax burden, establish equal conditions for doing business, prevent monopolisation of the economy and shadowing of economic activity, and establish the principles of the rule of law.

State of the study. It should be emphasised that a wide range of problematic issues regarding the administrative and legal support of the functioning of tax authorities in Ukraine were considered in their scientific works by O.M. Bandurka,

A.L. Borko, Y.P. Bytyak, V.V. Galunko, V.M. Garashchuk, M.Ya. Demyanenko, O.Yu. Drozd, T.E. Kaganovska, A.M. Klochko, A.T. Komzyuk, G.V. Myronenko, O.Yu. Salmanova, O.Yu. Sinyavska, S.O. Shatrava and other scientists. However, despite the considerable number of scientific works in this area, scientists actually left out of their attention the problematic issues of the administrative and legal principles of combating offences in the field of taxation in Ukraine, in particular, administrative and legal instruments of counteraction.

Purpose and objectives of the study. The purpose of this scientific article is to clarify the essence and features of administrative and legal instruments for combating tax offences in Ukraine using modern methods of scientific knowledge, as well as on the basis of the study of scientific views of scientists, the norms of current legislation and the practice of its application. To achieve this goal, the author defines the meaning of the concept of administrative and legal instruments, the types, the content of these instruments, and their meaning, and also directly analyses the instruments for combating tax offences.

Presentation of the main material. Legal instruments are a set of legal means, mechanisms and methods used to regulate social relations, protect human rights and freedoms, and ensure law and order. They play a key role in the functioning of the legal system of each state, ensuring the implementation of legal norms, effective conflict resolution, and the creation of conditions for the stable development of society. Legal instruments are formed by state bodies, judicial institutions or other authorised institutions, which gives them an official character and gives them binding legal force. These instruments constitute the basis on which the entire legal system is built. Legal instruments perform a number of basic functions. First, they

regulate the behaviour of participants in social relations, establishing clear rules of interaction, which allows avoiding legal chaos, preventing conflicts and ensuring predictability in the legal sphere. Second, legal instruments ensure the protection of human rights and freedoms, providing mechanisms for legal response in the event of their violation. Thirdly, they contribute to the resolution of disputes and conflicts, determining the procedural ways of establishing justice.

In addition, an important function of legal instruments is to stimulate social development and implement reforms. Thanks to them, the state creates the necessary legal conditions for economic growth, achieving social justice, environmental protection, modernisation of the management system, etc. For example, state programmes, international treaties, regulatory acts, tax benefits or financial sanctions are legal instruments that contribute to the achievement of strategically important goals in the national and international dimensions [1]. In this context, legal instruments acquire not only a regulatory but also a transformational character, since their application is able to form a new quality of legal reality.

Counteracting offences in the field of taxation using administrative and legal instruments requires clearly coordinated and concerted actions by a number of entities, primarily tax control bodies and law enforcement agencies, as well as civil society institutions. Such interaction is critically necessary for the effective neutralisation of the multifactorial causes that lead to the commission of torts in this area.

The complex nature of tax offences requires a systematic approach to their prevention, detection and suppression. These include, in particular, violations of the procedure for collecting and administering taxes and fees, failure to comply with the procedures for exercising taxpayers' rights and guarantees, excess or improper exercise of powers by regulatory authorities, as well as other manifestations of dishonest behaviour or official negligence that directly or indirectly affect the effectiveness of the tax system as a whole.

Despite the insufficient theoretical development of the concept of "administrative and legal instrument" in modern legal science, this category is undoubtedly an important component of building an effective system of public administration based on the principles of legality, openness, control and accountability.

Among the administrative-legal instruments, a number of basic and most established ones can already be distinguished today: regulatory legal acts, administrative procedures, administrative-legal agreements, institutional and organisational means, sanction mechanisms, control and supervision instruments, etc. [2]. They allow implementing state policy in the field of public administration, including in the financial and economic sector, where control over compliance with tax legislation is one of the most important areas.

However, it should be recognised that today the classification of administrative-legal instruments is not complete or sufficiently established in scientific thought. The very range of such instruments, the criteria for their

isolation, the limits of application and effectiveness in specific areas of public administration remain debatable. The existing fragmentation of approaches and the lack of a holistic systematisation complicate the development of a single research methodology and also affect the quality of law enforcement in the practical activities of executive authorities.

The analysis of modern scientific approaches to the definition and classification of administrative and legal instruments was carried out, in particular, in the works of V. Lyukh. The scientist, relying on the work of other researchers, emphasises that it is advisable to reveal specific instruments of public administration activity through the prism of the system of its institutional and functional characteristics [3]. We agree with the scientist, because such an approach allows not only the systematisation of the types of administrative and legal instruments but also the determination of their functional purpose in the mechanism of public administration. As V. Lyukh emphasises, five types of public administration instruments (normative acts, administrative acts, administrative contracts, plans and actual actions) are key in the activities of state bodies in the process of ensuring financial security of the state [3]. Such a conclusion is especially important in the context of combating offences in the field of taxation because the effectiveness of the use of these instruments largely depends on the effectiveness of state policy in this area.

In modern conditions, characterised by economic instability, destabilisation of the financial market, partial destruction of internal and external economic relations, as well as mass displacement of business entities and individuals in connection with military operations, tax authorities found themselves faced with the need to quickly transform approaches to tax control. In response to new challenges, the State Tax Service of Ukraine was forced to make certain decisions to improve counteraction to offences. As Vasylenko O. V. rightly notes, additional measures are being introduced to monitor financial flows, ensure proper reporting and identify tax evasion schemes [4].

In particular, the role of digitalisation of administrative and legal procedures has recently been significantly increasing. The use of e-government tools, digital registers and artificial intelligence algorithms allows us to increase the transparency of fiscal administration, reduce corruption risks, promptly detect violations and respond to threats in the field of taxation in a timely manner.

Some scientists also note that it is important to properly motivate taxpayers to participate in interaction with tax authorities in the digital environment in Ukraine. They suggest using the successful experience of Poland, where a system of reminders about payments or debts is used with the possibility of using digital services [5]. That is, we are talking about the formation of a culture of digital interaction between the state and taxpayers, which will reduce the administrative burden and minimise bureaucratic processes.

It is important to pay attention to such a tool as a

tax audit. Inspections perform preventive, restorative-punitive and analytical functions and are a central element of the administrative and legal mechanism for ensuring fiscal discipline, but their effectiveness largely depends on integration with other measures, such as control over benefits, financial monitoring, international exchange of information and publicity of tax data. However, in the scientific literature and practice of tax administration, it is repeatedly emphasised that a quantitative increase in tax inspections in itself is not an effective tool for combating tax offences. Studies show that a significant increase in the number of inspections does not lead to a reduction in tax arrears and does not provide a significant increase in the volume of tax and fee revenues to the budget system of Ukraine [6].

The interaction of tax authorities with law enforcement agencies is another important aspect of preventing offences in the field of taxation. We believe that a comprehensive approach to combating tax crimes is effective, since cooperation between tax and law enforcement agencies can significantly reduce the level of violations and contribute to filling the state budget. The use of financial monitoring methods, analysis of bank transactions and detection of shadow schemes allows for a timely response to threats to the financial security of the state [7].

Another important administrative and legal instrument in the field of taxation, which is actively used in many countries, including Ukraine, is tax incentives. However, in practice in Ukraine, the mechanism of tax incentives often faces a number of problems that significantly reduce its effectiveness. The preferential tax

regime can transform from an economic incentive into a means of tax evasion and masking illegal activities.

Thus, we believe that such administrative and legal instruments as tax control, information exchange, administrative responsibility, interagency cooperation, and digitalisation are not only a mechanism for responding to tax offences but also a strategic means of preventing them, ensuring the sustainable development of the state, financial security, and public trust in the tax system.

Conclusions. Having analysed various approaches to the definition and characteristics of administrative and legal instruments for combating tax offences, we can say that they play a key role in ensuring the proper functioning of the tax system of Ukraine and the formation of an appropriate level of tax discipline. Their significance lies not only in the regulatory regulation of the activities of regulatory bodies but also in creating conditions for the timely detection, prevention and cessation of tax offences. The above-mentioned instruments combine the mechanisms of tax control, information exchange, administrative responsibility, interagency cooperation and digitalisation, creating a single set of means of influencing tax offences. Today, administrative and legal instruments are becoming one of the main factors of the state's financial security. They ensure the inevitability of liability for violations, contribute to filling the budget, and support economic stability and the state's performance of its social and defence functions. We believe that further improvement of these instruments, in particular their harmonisation with European standards and adaptation of best international practices, is the key to forming a more effective, transparent and fair tax system in Ukraine.

REFERENCE:

1. Sustainable Development Strategy: Textbook. V.M. Bogolyubov, M.O. Klymenko, L.G. Melnyk, O.O. Rakoid. Kyiv: VC NUBIPU, 2018. P. 82
2. Pershin O.V. On understanding the content of types of administrative and legal instruments in the field of ensuring economic security. *LAW AND SOCIETY*. 2023. No. 6. Pp. 534–540. URL: http://pravoispilstvo.org.ua/archive/2023/6_2023/79.pdf
3. Lyukh V.V. Instruments of administrative and legal provision of financial security of the state. *Legal science*. 2020. No. 2(104)/2020. Pp. 237–247. DOI: <https://doi.org/10.32844/2222-5374-2020-104-2.27>
4. Vasylenko O.V. Administrative and legal principles of preventing corruption offenses in Ukraine. *Scientific Bulletin of Uzhhorod National University. Series: Law*. 2023. Issue 74. Pp. 49–53
5. Prots I., Petkov S., Khmyz M., Kozyar R., Hudyma V., Yavnyi O., Chorniy B. Introduction of digital technologies in the tax sphere: foreign experience and prospects for Ukraine in combating the shadow economy. *Path of Science*. 2023. No. 9(10). Pp. 5029-5037
6. Komarnytska I.I. Administrative law in the prevention of offenses in the tax sphere. *Analytical and comparative jurisprudence*. URL: <https://app-journal.in.ua/wp-content/uploads/2022/12/50.pdf>
7. On preventing and countering the legalization (laundering) of proceeds from crime, the financing of terrorism and the financing of the proliferation of weapons of mass destruction: Law of Ukraine dated 06.12.2019 No. 361-IX. URL: <https://zakon.rada.gov.ua/laws/show/361-20#Text>