

## Tax Crimes in Kazakhstan: Experience, the Main Problems and Their Solutions

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**Abstract:** The legal framework regulating the tax sector since independence of the Republic of Kazakhstan, the association of certain norms used in crimes related to tax evasion and tax offenses, as well as bodies authorized to deal with tax evasion and tax offenses were discussed in the article. Also propose some solutions to combat tax evasion.

**Key words:** Tax crimes • Tax offenses • Tax evasion • Financial police • Tax authorities • The fight against tax evasion in the Republic of Kazakhstan

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### INTRODUCTION

Indisputably, that the main resource of the state budget of our country is taxes. The main types of taxes are income tax, in addition to the income tax of other eligible members of society and corporations. Production associations, enterprises, capital owners pay taxes on them respectively as the data presented. The tax authority is a watchdog who, on behalf of the state oversees the provision of payment of taxes. However, quite a few tasks allocated to the tax office.

In Address by the President of the Republic of Kazakhstan, Leader of the Nation, N.Nazarbayev "Strategy Kazakhstan-2050": new political course of the established state", 14.12.2012, to people of the Republic of Kazakhstan were defined binding in the near future the main directions. It says that: "We must introduce a favorable tax regime for those employed in areas of production and new technologies. Whilst this work has begun I would like to see it enhanced. We must conduct a revision of all existing tax preferences and maximize their efficiency.

We must continue the policy on liberalization of the tax administration and on systemizing customs administration. It is necessary to simplify and minimize tax reporting.

We must stimulate market participants to compete, instead of searching for new ways of tax avoidance.

Pragmatic reduction of tax supervision must minimize the dialogue between the economic entities and tax authorities. In the next five years everyone needs to move to electronic online reporting.

Starting from 2020 we must introduce the practice of tax credits. In doing this our main goal will be to stimulate investment activity among entrepreneurs.

New tax policy must be socially oriented. From 2015 it will be necessary to develop a set of stimulating measures, including the practice of tax exemptions for companies and citizens who invest their own funds in education and medical insurance for themselves, their families and their employees.

Future tax policy must stimulate internal growth, domestic exports and stimulate individual's savings and investments" [1].

Of course, at this time the importance and the role of taxation is not limited to the availability of funding public authorities. However, we must not forget that taxes are the main instrument of transfer in the state of national income. Increasing their role in macroeconomic terms and this can be seen in the increase in the tax share in the total national product. Taxes as the main lever for economic revitalization and permanent impact on the process of acquiring a new production application.

Despite this apparent dissatisfaction with state aid and indulgences of persons engaged in small and medium enterprises engaged in foreign activities. June 22, 2012 at the enlarged meeting devoted to business development head of state ordered: "Stop whining and should start to work." In addition, the President said, to pass a law banning the verification of small business before the end of this year [2].

Also, persons engaged in small and medium-sized businesses conducting foreign activities inappropriate use and relief assistance provided by public authorities

and wrongly interprets the shortcomings and weaknesses of the legislation. These problems are reflected in evading the payment of taxes to the state budget.

In the 35th article of the Constitution of the Republic of Kazakhstan on the specified duties specified by law each pay taxes and fees [3]. Kazakhstan's legislation on taxes is a set of legal documents including all tax laws and issues of taxation legislation of the Republic of Kazakhstan, which is constantly changing. Relations arising from the taxation of taxpayers called tax legal relations and they are governed by a separate branch of law - tax law norms. The task of the tax laws protects the lawful rights and interests of taxpayers on the one hand and the state on the other side. Also, for these purposes the criminal law is obliged to protect the interests of the state of crime in the taxation sector. However, please realize that the theory of criminal law, we shall pay special attention to the definition of "crime in the tax area." And, it is first necessary to clarify the meaning of the term "tax".

"Taxes" in the broad sense, can be understood as impose a certain order on the appropriate el of assessed contributions to the budget. But this concept can be with taxes include levies and duties.

Tax is the main source of income in any budget. They are divided into direct and additional taxes. The meaning of such a unit is that direct taxes paid by those who earn, has an income, property, etc. and additional tax paid by the buyer of the goods, that is, the tax is charged on the price of goods.

Thus the action of tax relationship is paramount for the state. In case of default or breach of tax relations, the state can affect, i.e. establishment of the regulation by law. In turn, in the scientific article we want to stop on the experience in fighting, prevention and counteraction to such violations of tax obligations, identifying and solving these problems.

**Main Part:** Occurring crimes, offenses and actions disruptive formed tax system negatively affect to the development of the state. Therefore, we must recognize that in our country there are tax violations and tax offenses. The fight against tax crimes and offenses conducted since independence of our country and the formation of the tax system. I would like to see more periods of formation of the tax system of the Republic of Kazakhstan.

Initially, as an independent state on December 10, 1991 government adopted a law "On the change of the name of the Kazakh Soviet Socialist Republic" [4].

According to this law country's name was changed to "Republic of Kazakhstan" and in all legal acts adopted after December 10, 1991 was to be used is the name of the country.

The most important document confirming the independence of the state - Constitutional Law of the Republic of Kazakhstan «On the State Independence of the Republic of Kazakhstan». The law specified that: «The Republic of Kazakhstan is an independent, democratic and legal state. It shall have full authority on its territory, determine and conduct internal and external policies» [5]. And as in Article 6 of Chapter II said that: «Citizens of all nationalities, united by common historical fate of the Kazakh nation, shall form together with united people of Kazakhstan, which is the sole bearer of sovereignty and the source of state power in the Republic of Kazakhstan, exercise state power, both directly and through their elected state bodies on the basis of the Constitution and the laws of the Republic of Kazakhstan» [5].

After independence territorial integrity of Kazakh state was legalized. Kazakhstan received security guarantees from the world's leading countries. National borders were approved. Constitutional Law of the Republic of Kazakhstan «On the State Independence of the Republic of Kazakhstan» and the declaration "On the State Sovereignty of the Kazakh SSR" was the basis for the adoption of the new Constitution of our country.

In our country the first tax system began to work on December 25, 1991. It was based on the law "On the tax system of the Republic of Kazakhstan". [6] This law was the first document defining principles of the tax system, taxes and fees, rules of admission of them into budget. According to the law 13 national taxes, 18 local taxes and fees, 11 mandatory local taxes and fees were introduced in Kazakhstan on January 1, 1992. Like as in all new developments, in the law was flaws and features, that is, in the first tax system of the Republic of Kazakhstan were several outstanding issues, such as the formation of the tax system we had collecting scientific and practical experience.

The tax office and taxpayers psychological were unprepared to such kind of activities. Taxation principles applied throughout the world practice, have not been saved. Therefore, this tax system could not fully meet the requirements of market relations. Most importantly that the tax system has had no effect on the development of production, could not play its role in the formation of budget revenue, i.e. taxes were not income or infusion in the budget, but conversely taxes were like a consumer. Having a large number of taxes, the difficulty of

determining turnover, excessively tax benefits, the difference between the tax rates for one type of tax, ignoring the basics of international taxation and other cons demanded further reforms in the tax system.

Government of the Republic of Kazakhstan in early 1995 adopted a long-term concept of tax reform, which was aimed at the gradual harmonization of tax legislation and tax system of our country with the international principles of taxation. In this regard, in April 24, 1995, by the Decree of the President of Kazakhstan having the force of law "On Administrative Provisions for Taxes and Other Mandatory Payments to the Budget," which led to big changes, for example, previous 42 types of taxes and fees have been reduced by 11 species [7]. Of course, during this period the tax system, tax liabilities, problems in case of default of these obligations, the issues of tax crimes and tax offenses, as well as all tax legislation required of changes and additions. As a result, formed a permanent form of organization rectify shortcomings regulation of legal relations. As a result, one of the legal acts regulating tax relations became adopted on June 12, 2001 N 209 Code, "On Taxes and Other Mandatory Payments to the Budget» of the Republic of Kazakhstan. That Code regulates the ratio of power in the appointment, implementation, calculation and determining the order of payment of taxes and other mandatory payments to the budget, in addition regulates relations arising between the state and the taxpayer (tax agent) in the tax obligations [8].

Of course, if these tax ratios will be executed in accordance with legal regulations, they will be deemed to form a correct action, but if there will be a violation of the rights of illegal and contradictions arise with these legal acts. Such cases require a legal rule, which is aimed at the implementation of protection of state interests and changes according to the requirements of time. It includes Code of the Republic of Kazakhstan "On Administrative Offences", which came into force in 2001, the Criminal Code of the Republic of Kazakhstan, came into force in 1998, regulatory decisions of the Supreme Court giving an explanation on the application of provisions of the Criminal Code of the Republic of Kazakhstan.

Code of the Republic of Kazakhstan on Administrative Offences dated January 30, 2001 <sup>1</sup> 155 -II (with alterations and amendments as of 04.07.2013) considers some violations in the field of taxation and the number of rules applied to data offenses is 17 units. They are: Article 205 Violation of the deadline posing on registration with the tax authority; Article 205-1 Improper implementation of activities in the application of the

special tax regime, Article 205-2 Implementation of activities in the period of the tax authority's decision to suspend the tax reporting; Article 206 Failure to submit tax reports and documents related to the conditional bank deposit; Article 206-1 Failure to report for monitoring of transactions, as well as the documents required for the control of transfer pricing; Article 206-2 Violation of financial controls; Article 207 Concealment of taxation; Article 208 Lack of records and violation of tax accounting; Article 208-1 Evasion accrued (calculated) amount of taxes and other mandatory payments to the budget, Article 209 Understatement of amounts of taxes and other mandatory payments to the budget, Article 210 Failure to comply with the fiscal agent responsibilities for withholding and (or) transfer taxes; Article 211 Extract fictitious invoices; Article 216. Dereliction of duty, provided by tax legislation, officials of banks and other organizations engaged in certain types of banking operations, stock exchanges, Article 217 Non-performance by banks and organizations engaged in certain types of banking operations, the duties established by the tax legislation, Article 218 Submission of false information on banking transactions, Article 218-1 Dereliction of duty by the tax legislation of the Republic of Kazakhstan, taxpayers on exports and imports of goods, performance of works, rendering of services in the customs union, as well as failure to entities with the legislation of the Republic of Kazakhstan, Article 219 Failure to fulfill legal requirements of tax authorities and their officials [9].

Criminal Code of the Republic of Kazakhstan since 1998 examines tax crimes articles, including Article 221 Evasion of citizen from tax and (or) other mandatory payments to the budget and Article 222 Tax evasion and (or) other mandatory payments to the budget organizations that have survived and updated at this time. But, Article 222-1 Illegal actions against the property, the limited available against taxpayer's tax debt were adopted in amendments of recent years [10].

Everything said previously is the organizational and regulatory activities provide constant activity tax service and protecting against tax evasion in our country. In this regard, there are some possible causes and conditions leading to this type of offenses. Considering the theoretical tried understand that many questions arise after each other, so I decided to cite the example of perspective on some issues leading scientists researching this topic.

American economist A. Laffer studying problems of taxation said: "The high tax rate is the greatest damage to

the economy. And this, in turn, is not favorable to taxpayers. If tax rates are higher, the taxpayer will not look for an opportunity to pay, but rather will seek to evade payment of taxes. The main reason hindering entrepreneurship and the desire of people to work are high tax rates" [11].

Also, we must recognize that improving economic security depends on the efficiency of the tax system, reducing the amount of taxes and improve their collection. According to, Russian scientist VV Wise, "analysis of the Russian tax legislation shows that the tax system can not function effectively for the reason that it contains insurmountable contradictions and conflicts, among which should include the inability of the individual standards of responsibility..." [12].

Professor A.N. Kozyrin, in his researches, said that negative consequences of mass tax evasion shortfall relates treasury funds, leading to a reduction in the revenue part and contribute to the growth of the state budget deficit, establishing inequalities between conscientious taxpayers and tax law violators, runs counter to the principles of market competition, breach of the principle of social justice, as defaulters additional taxes transferred the tax burden on those who regularly carries their tax obligations [13].

Also, scientists L. Arkhipov, A. Gorodetsky, B. Mikhailov argue that the negative effects of mass tax evasion may be the recognition of it as one of the source of funding for organized crime [14].

Professor I.I.Kucherov also says that the reason and negative impact of massive tax evasion is a non-banking and cash movement [15].

In his work well-known scholar A.K. Ben-Acryl as a cause of crimes, related to tax administration and taxation, calls cases of "confusion" in the calculations and order payment of taxes and "increase" per sent in the main taxes [16].

Thoughts expressed by scientists actually indicate that tax evasion is due to certain reasons. In our country there is a tax evasion related to various causes, such as the high tax rate, or shortcomings in the tax legislation. Such cases which the following actions: the withdrawal of balance and lead to taxable cash turnover, dodging to the next tax period by paying an old debt without paying for the income in the last period, Excessive use of tax breaks and goods with zero interest rate, the change in the tax on the additional cost exported goods, etc.. These reasons lead to evasion of payment of taxes and such actions are illegal according to the level of public offenses on tax evasion or crime to evade the payment of taxes.

In this case it is necessary to determine the difference between the offense and the crime to evade the payment of taxes, because they both belong to different degrees, different harm and also a danger to society and cases filed issues conducted by different government bodies.

The main difference is the difference in the degree of such danger to society. That is calculated volume of damage. For example, Article 221 of the Criminal Code of the Republic of Kazakhstan said, "Evasion of citizen from tax and (or) other mandatory payments to the budget by presenting the statement of income when filing the declaration is mandatory, either by inclusion in the declaration or other documents related to with the calculation or payment of taxes and (or) other mandatory payments to the budget, knowingly false data on income or expenditure or the property to be taxed, which has caused the non-payment of tax and (or) other mandatory payments to the budget on a large scale "[10]. And the failure of a large scale explained in the notes of this article: «Failure to pay taxes or a citizen of any other mandatory payments to the state budget recognized committed in large scale if the amount of the unpaid tax or mandatory payments exceeds two thousand monthly calculation indices" [10].

If we talk about tax evasion organizations, Article 222 says "tax evasion and (or) other mandatory payments to the budget organizations by presenting the statement when filing the declaration is mandatory, or by making a knowingly false declaration of income data and (or) expenditure by hiding other taxable items and (or) other mandatory payments, which has caused the non-payment of tax and (or) other mandatory payments to the large size." Also, this standard has the features of nonpayment of large size, which are specified in a note: "Failure to pay the tax organization and (or) other mandatory payments to the budget recognized committed in large scale if the amount of the unpaid tax and (or) other mandatory payments exceeding twenty thousand monthly calculation indices and on a large scale, if the amount of unpaid tax and (or) other mandatory payments exceeds fifty thousand monthly calculation indices"[10].

In two articles of the Criminal Code refers tax evasion on a large scale, but if one is a citizen's evasion from payment of taxes amounting to more than two thousand monthly calculation indices, in other organization's evasion from payment of taxes amounting to more than twenty thousand calculated monthly. In addition there is a serious circumstance, if the organization refuses to pay taxes on a large scale, if the amount of unpaid tax and (or) other mandatory payments exceeds fifty thousand MCI.

Therefore, crime and offense against tax evasion has caused the difference according of damage to the state. If the damage is a large scale it is a crime, but if less it is an administrative offense. Thus, this difference depends on the amount of damage.

To these crimes are directly related administrative offenses as Hiding objects of taxation (Article 207), absence of records and violation of tax accounting (Article 208), evasion accrued (calculated) amount of taxes and other mandatory payments to the budget (Article 208-1), understating the amounts of taxes and other mandatory payments to the budget (Article 209), the fiscal agent responsibilities Failure to withhold and (or) transfer taxes (Article 210). These articles are governed by rules considered administrative offenses, although these articles there are contentious issues.

For example, in the disposition of the rules on reduction of tax amounts and other mandatory payments to the budget indicated "understated amount of taxes and other mandatory payments to the declaration, calculation, application for import of goods and payment of indirect taxes, if this action does not contain the elements of a criminal offense" [10].

In this case, requires parsing the term "action does not contain evidence of a criminal offense». Criminal act may be in accordance with Article 221 "included in the declaration or other documents relating to the calculation and payment of taxes and (or) other mandatory payments to the budget, knowingly false data on income or expenditure or on property," and in accordance with Article 222 "in the making knowingly false declaration of income data and (or) expenditures by hiding other taxable items and (or) other mandatory payments" [10]. A large amount of damage in these two standards described in note where the sum of non-payment of taxes or other mandatory payments of more than two thousand monthly calculation indices for citizens, for organizations the amount of tax evasion or other mandatory payments of more than twenty thousand monthly calculation indices, except in special large size is the amount of tax evasion or other mandatory payments of more than fifty thousand MCI.

Administrative offenses are characterized by specifying false testimony in the declaration, which can be seen also in the criminal standards. But criminal acts can be punished if the state will cause damage on a large scale. If the damage is less than this major issue is regulated by an administrative offense. Therefore legislation Liability for tax evasion should be applied according to the damage and harm to the public. In this

case it is necessary to apply administrative sanctions if according to the norms of administrative offenses were listed in the declaration of reduced taxes and other mandatory payments to the budget, but if the damage caused by these acts exceed the amount provided by the Criminal Code and that the punishment should be followed according to the law on criminal LIABILITY. Because we have to distinguish between the action contains elements criminal offense and criminal liability in cases reduced in the declaration of taxes and other mandatory payments to the budget, as the damage in less than a large scale should consider rules of administrative offenses. We are confident that such notes will create a system of degrees of tax evasion. Of course, if the administrative rules will solve crimes, the administrative law will work. But if you can not decide what will be inevitable criminal liability.

Aware that tax evasion is governed by administrative or criminal punishment rules. But we need to figure out what state organ should bring to implement liability, disclosure, investigation, asking for tax evasion.

The first of them is the Tax Committee of the Ministry of Finance of the Republic of Kazakhstan. On March 16, 1990 by the decision of the Council of Ministers of the Kazakh SSR was organized the State Tax Inspectorate of the Ministry of Finance of the Kazakh SSR. After, this body got used some changes and by decrees of the President of the Republic of Kazakhstan on 20 August 2002 was organized the Tax Committee of the Ministry of Finance of the Republic of Kazakhstan.

The Tax Committee of the Ministry of Finance of the Republic of Kazakhstan (hereinafter referred to as "the Committee") is a department of the Ministry of Finance of the Republic of Kazakhstan which shall, within its competence, fulfil realization, control and supervisory functions of ensuring that taxes and other mandatory payments to the budget are received in full, that mandatory pension contributions and social payments to the State Social Insurance Fund are transferred in full and in a timely manner.

Tax Committee operates according to the main directions and only considers the offense to evade the payment of taxes and other mandatory payments to the budget.

But if the damage from the evasion of taxes and other mandatory payments to the budget exceeds the level of the offense, the matter should be examined according to the criminal codes. Therefore, in our country, in case of detection of the facts of a criminal nature of those crimes involved by the Financial Police.

On June 6, 1994 by the Decree of the Government of the Republic within the tax administration of the Ministry of Finance of the Republic of Kazakhstan the Department of tax militia was founded.

On January 22, 2001 in accordance with Decree of the President of the Republic of Kazakhstan "About measures for improvement of law-enforcement activity in the Republic of Kazakhstan" the Agency of financial police of the Republic of Kazakhstan was founded which was delegated the functions and authorities for management of inventory and works of being abolished Committee of tax police and Academy of tax police of the Ministry of Government Receipts of the Republic of Kazakhstan. The Agency of financial police is assigned tasks to prevent, detect and suppress crimes in economic and financial spheres.

On February 25, 2005 the Decree of the President of the Republic of Kazakhstan N1521 about reorganization of the Agency of the Republic of Kazakhstan on Fight against Economic and Corruption Crimes (financial police) into the state organ directly subject and accountable to the President of the Republic of Kazakhstan was signed.

This state body of the Republic of Kazakhstan, which reports to and is accountable directly to the President of the Republic of Kazakhstan, is spearheading efforts to ensure economic Safety countries is provided by the legislation preventive work on economic, financial and corruption crimes, their detection, detection, investigation and also carries other executive functions and resolutions. Besides its task as the definition, prevention, detection, investigation and prevention of economic and financial crimes, financial police is the main bodies developing and implementing the state program to combat economic crime. Also listed should organize the work on international cooperation in the framework of its competence.

These two bodies are the practical work on the problems of tax evasion and the theoretical side research work leads by the Financial Police Academy. The academy of financial police is formed on August, 18th, 1999. The governmental order of Republic Kazakhstan from May, 15th, 2001 before Academy puts following problems: preparation of experts with higher education for bodies of financial police and customs service; retraining and improvement of professional skill of the managerial personnel and employees of bodies of financial police and customs service; preparation of the scientific and pedagogical staff; carrying out of research works on actual problems of struggle against economic criminality.

Academy conducts deep research on evade taxes, prevention, combating these crimes, the main reasons for tax evasion.

According to my scientific topic, combating against crimes and offenses related to the evasion of payment of taxes and other mandatory payments to is conducted with that authorities. And to regulate the organization of interaction of these bodies (Tax Committee and the Financial Police) adopted a joint order of Chairman of the Tax Committee of the Ministry of Finance of the Republic of Kazakhstan dated July 11, 2005 <sup>1</sup> 311 and First Deputy Chairman of Kazakhstan Agency for Combating Economic Crimes and Corruption (Financial Police) July 8, 2005 <sup>1</sup> 152 "On approval of the interaction between tax authorities and the financial police of the Republic of Kazakhstan on the identification, prevention, suppression of offenses and crimes in the sphere of economic activity" [17]. Together with the Tax Committee of the Ministry of Finance of the Republic of Kazakhstan revealed enterprises not included in the business entity and aimed at tax evasion. One can cite some evidence in the form of evidence.

In our country, 555 crimes registered company totaling 57.5 billion tenge for tax evasion and 14.3 billion tenge of unpaid sum was returned to the budget. Along with this, in 2013, 32 criminal cases were initiated on illegal tax return to budget an additional cost that exceeds all indicators in 2012 [18]. These figures point to the success of work done in the fight against tax evasion.

### **Firstly Analyze Tax Crimes:**

- For crimes of citizen evading payment of taxes and other mandatory payments in 2013 registered collectively 43 crimes. In 2012 this figure was 44 crimes. Situation by region is as follows: 1) Astana - 1; 2) Akmola region - 2; 3) Aktobe region - 0; 4) Almaty - 4; 5) Almaty region - 2; 6) Atyrau region - 4; 7) East Kazakhstan region - 14; 8) Zhambyl region - 2; 9) West Kazakhstan region - 3; 10) Karaganda region - 1; 11) Kyzylorda region - 3; 12) Kostanay region - 1; 13) Mangystau region - 2; 14) Pavlodar region - 0; 15) North Kazakhstan region - 3; 16) South Kazakhstan region - 1.
- In the Republic for crimes of organizations evading payment of taxes and other mandatory payments in 2013 registered collectively 512 crimes. In 2012 this figure was 266 crimes. Situation by region is as follows: 1) Astana - 46; 2) Akmola region - 14; 3) Aktobe region - 11; 4) Almaty - 64; 5) Almaty region -

25; 6) Atyrau region - 16; 7) East Kazakhstan region - 48; 8) Zhambyl region - 12; 9) West Kazakhstan region - 5; 10) Karaganda region - 23; 11) Kyzylorda region - 18; 12) Kostanay region - 85; 13) Mangystau region - 10; 14) Pavlodar region - 38; 15) North Kazakhstan region - 15; 16) South Kazakhstan region - 76.

According to the results for the reporting period in 2013 evading tax of citizens is 43 facts and evading tax of organizations is 512 crimes. These figures compared to the previous year 2012 by the citizens of the deviations from the tax are the same, while dodging organizations from taxes compared with 2012 increased on 100 per sent.

If the 2012 tax evasion by citizens and organizations was 310 crimes, in 2013 this situation has grown to 555 facts.

In 2013, in the republic the proceedings of tax evasion were 647 criminal cases, the situation in the republic including regional management as follows: 1) Astana - 55; 2) Akmola region - 15; 3) Aktobe region - 16; 4) Almaty - 66; 5) Almaty region - 28; 6) Atyrau region - 20; 7) East Kazakhstan region - 58; 8) Zhambyl region - 12; 9) West Kazakhstan region - 29; 10) Karaganda region - 68; 11) Kyzylorda region - 26; 12) Kostanay region - 82; 13) Mangystau region - 15; 14) Pavlodar region - 52; 15) North Kazakhstan region - 20; 16) South Kazakhstan region - 83.

In 2012, in the republic the proceedings of tax evasion were 507 criminal cases, the situation in the republic including regional management as follows: 1) Astana - 33; 2) Akmola region - 13; 3) Aktobe region - 47; 4) Almaty - 56; 5) Almaty region - 57; 6) Atyrau region - 18; 7) East Kazakhstan region - 61; 8) Zhambyl region - 8; 9) West Kazakhstan region - 67; 10) Karaganda region - 15; 11) Kyzylorda region - 15; 12) Kostanay region - 7; 13) Mangystau region - 10; 14) Pavlodar region - 25; 15) North Kazakhstan region - 35; 16) South Kazakhstan region - 39.

Comparing these two, we can see that in 2013 in the production was of 647 criminal cases and in 2012, 507 criminal cases. This indicator rises in this year.

In the country on tax evasion in 2013 was closed 280 criminal cases, the situation in the republic including regional management as follows: 1) Astana - 12; 2) Akmola region - 9; 3) Aktobe region - 3; 4) Almaty - 10; 5) Almaty region - 15; 6) Atyrau region - 8; 7) East Kazakhstan region - 25; 8) Zhambyl region - 6; 9) West Kazakhstan region - 11; 10) Karaganda region - 18; 11) Kyzylorda region - 15; 12) Kostanay region - 79; 13) Mangystau region - 6; 14) Pavlodar region - 32; 15) North Kazakhstan region - 8; 16) South Kazakhstan region - 21.

The country on tax evasion in 2012 was closed 331

criminal cases, the situation in the republic including regional management as follows: 1) Astana - 23; 2) Akmola region - 6; 3) Aktobe region - 11; 4) Almaty - 39; 5) Almaty region - 46; 6) Atyrau region - 17; 7) East Kazakhstan region - 49; 8) Zhambyl region - 5; 9) West Kazakhstan region - 45; 10) Karaganda region - 1; 11) Kyzylorda region - 7; 12) Kostanay region - 1) Mangystau region - 6; 14) Pavlodar region - 15; 15) North Kazakhstan region - 29; 16) South Kazakhstan region - 29.

Just for closed criminal cases in the regional offices revealed that the damage caused to the state was reimbursed in the republic in 2013 amounting 57545820.364 tenge and the situation in the republic including regional management as follows: 1) Astana - 1088473,005; 2) Akmola region - 326534,144; 3) Aktobe region - 322000; 4) Almaty - 522602,595; 5) Almaty region - 1701000,679; 6) Atyrau region - 571211,115; 7) East Kazakhstan region - 2467500,65; 8) Zhambyl region - 153635,103; 9) West Kazakhstan region - 506184,396; 10) Karaganda region - 570590,948; 11) Kyzylorda region - 5657232,013; 12) Kostanay region - 31924737,92; 13) Mangystau region - 3348993,238; 14) Pavlodar region - 2893387,586; 15) North Kazakhstan region - 194671,400; 16) South Kazakhstan region - 5188023,389.

Just for closed criminal cases in the regional offices revealed that the damage caused to the state was reimbursed in the republic in 2012 amounting 33157112,997 tenge and the situation in the republic including regional management as follows: 1) Astana - 4964475,075; 2) Akmola region - 270193,995; 3) Aktobe region - 350556,000; 4) Almaty - 1682669,605; 5) Almaty region - 10462420,712; 6) Atyrau region - 2376037,365; 7) East Kazakhstan region - 2965423,428; 8) Zhambyl region - 3976,879; 9) West Kazakhstan region - 3243598,893; 10) Karaganda region - 0; 11) Kyzylorda region - 643153,174; 12) Kostanay region - 283545,757; 13) Mangystau region - 4135,215; 14) Pavlodar region - 2532017,505; 15) North Kazakhstan region - 402192,014; 16) South Kazakhstan region - 2794528,893.

Of course the difference is obvious indicators of current and past years in terms of disclosure, detection, direction of the court and damages to the budget of criminal cases related to tax evasion and other mandatory payments to the state budget. These achievements have been possible due to the interaction of the Tax Committee of the Republic of Kazakhstan and the Agency for Combating Economic Crimes and Corruption (Financial Police) of the Republic of Kazakhstan in the detection and prevention of offenses and crimes.

But, I suggest considering some indicators of

organizations evasion from payment of taxes and other mandatory payments to the state budget. In general, crime organizations on evasion from payment of taxes in accordance with its constructive structure are material. That is, in Article 222 tax evasion and (or) other mandatory payments to the budget organizations by presenting the statement when filing the declaration is mandatory, or by making a knowingly false declaration of income data and (or) expenditures by hiding other taxable items and (or) other mandatory payments, which has caused the non-payment of tax and (or) other mandatory payments to the large size. As stated in this article note the large size is considered damage if the unpaid tax and (or) other mandatory payments exceeding twenty thousand monthly calculation indices and the damage on a large scale if the amount of unpaid tax and (or) other mandatory payments exceeds fifty thousand monthly calculation indicators. To read the act on tax evasion crime damage must be more than 20 thousand monthly calculation indices (calculated monthly figure in 2013 was 1731 tenge), i.e. more than 34,620.000 m.

Along with this, the main problem is revealed in this article is a complete refund of the amount not paid to the budget in relation to tax evasion in the state budget. That is, if you rely on the data in 2013 in the republic was instituted 555 criminal cases, of which 280 are closed, all the closed criminal cases was offset 57545820.364 tenge to the state treasury. In 2013 was opened 43 criminal cases under Article 221 "Evasion citizen from tax and (or) other mandatory payments to the budget", of which the state budget were to be returned 24234.000 tenge. This year, for Article 222, "Tax evasion and (or) other mandatory payments to the budget organizations" was initiated 512 (92.3 %) cases, in average production published in 548 had to return to the state treasury 17725440.000 tenge. For two types of crimes in the state budget must be received 17749674.000 tenge. Of course the court handed down a decree for damages caused to the state according to the procedure prescribed in the appropriate article. This damage can not be repaired immediately, will be recovered gradually. In this case, the problem is that the refund amount is less blamed for the damage and the amount of gradual return much less the annual amount of tax evasion. This problem is not solved by legislation. And the government has been increasing its spending.

In conclusion of this part, it became clear that all forms of tax evasion should be held accountable for violations of administrative rules, as well as should be criminalized under the damage and there is no evidence of a criminal offense should be considered these actions

according to administrative responsibility for offenses standards.

Furthermore, it must be carried out research work on the organization of the return process and the amount of damages must be supplied legislation. This is important problem, because the state economy depends on taxes and other mandatory payments to the budget.

## **CONCLUSION**

Taxes, despite the socio-economic system and the political direction of the country, are the main source of national income of the state, the chief financial resources of the national income, as well as the leading source of income generation and income state budget. Therefore, the tax system is a very important sector of the economy of the country and one of the main priorities of the national policy.

Relevance article is to prevent tax evasion. Therefore, in the main part of the article we considered the responsibility for the tax evasion, a danger to society and the damage caused to the state. Administrative rules liability must be provided for in cases of decreased in the declaration of taxes and other mandatory payments and if the damage exceeds the specified standards of criminal responsibility, then these cases should be regulated in accordance with the rules of criminal liability. It should be determined by decreasing in the declaration of taxes and other mandatory payments relationships signs of criminal penalties and criminal penalties. That is, tax evasion before major damage should be governed by an administrative offense.

In addition to the above stated, this article provides indicators of damage caused by tax evasion and other mandatory payments to the budget, as well as reimbursement of the state treasury, or vice versa. For these crimes court issued a decision on damages caused to the state according to the procedure prescribed in the appropriate article. This damage cannot be refunded immediately, will be recovered gradually. In this case, the problem is that the refund amount is less blamed for the damage and the amount of gradual return much less the annual amount of tax evasion. This problem is not solved by legislation. And so the government has been increasing its spending.

By our opinion, the problem of tax evasion should not be solved only by improving the Criminal Code and the Code of Administrative Offences, but also need to consider the recent decision #1 of the Supreme Court of the Republic of Kazakhstan dated 27 February 2013 "On

judicial practice of tax law" [19]. Because, due to the necessity of some elucidation of tax legislation in this resolution should be considered the main tax legislation, the use of taxes, tax rates and other mandatory payments to the budget. However, there are only characterized by responsibility for the tax evasion and consideration by the court as a criminal offense is not disclosed. For example, we think that you need to pay attention to the issues arising in the practice of tax evasion, tax offense to differentiate from tax offenses on the process of returning damage from tax evasion if the company engaged in false entrepreneurship need to find a comfortable way of redress which individuals should be brought to justice, etc.

Along with this, one of the areas in the fight against tax crimes as a basis for tax evasion may be false business, fraud, regressive introduction of value added tax. Payment of value added tax pursuant to the daily tax line assigned to the supplier of the product. Therefore, supplier of the goods to the buyer at the sale takes the snow and also for payment of value added tax. Resale of goods value added tax is considered paid on the previous transaction, but whether it behaved in the budget is not known. This unscrupulous entrepreneurs an opportunity to tax evasion for value added tax. Also in the case of returning a zero rate to the exporter of all costs the illegal use of value added tax takes place. The main purpose of illegal operations with false invoice supposedly to pay the full cost of the budget which nothing comes. Therefore, to prevent these illegal acts need to consider these issues in legislation and legal conduct organizational activities. We hope that these proposals will personification in the new Criminal Code of the Republic of Kazakhstan.

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