

Consideration of the interests of entrepreneurs in the formation of a strategy for effective legislation and evidence in cases of offences related to tax evasion from legal entities

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Abstract. Corporate tax evasion remains a significant problem, the complex mechanisms of which require modern criminological approaches to its solution. The purpose of the study was to characterise the interests of entrepreneurs in shaping the strategy of effective legislation and evidence in cases of crimes related to tax evasion by legal entities in Kazakhstan. The research used a number of methods, including data analysis, analogy, generalisation and formal legal methods to study the topic. The main conclusions of the study were the identification of problems in proving tax evasion, especially in cases involving offshore companies and specially created organisations for the purpose of evading tax liabilities. It is worth noting that the operational investigation of cases falling under Article 245 of the Criminal Code of Kazakhstan is subject to close attention, with a particular focus on the role of documentary evidence. The study demonstrated that the presence or absence of financial documentation has a significant impact on the outcome of criminal proceedings in the field of taxation. In addition, the study suggested that Kazakhstan's tax system could be optimised by introducing simplified tax rates, differentiated sectoral taxation and mandatory electronic invoicing, which could increase transparency and reduce opportunities for tax evasion. The conclusions

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emphasised that improved investigative procedures and a comprehensive assessment of evidence are crucial for the fair and effective conduct of criminal proceedings. In addition, the study proposed recommendations for legislative changes to strengthen Kazakhstan's legal framework for combating tax evasion, facilitate cooperation between companies and the government, and stabilise the country's financial system. This study contributed to the development of reliable methods of detecting and proving tax evasion offences

Keywords: fiscal policy, tax audits, legal reforms, risk factors, financial regulation, economic crime

Introduction

Taxes are a key mechanism of the state, providing not only the preservation of the social organism but also the effective functioning of legislative and regulatory documents governing the legal use of this instrument, on which the subsequent development of the economy of Kazakhstan depends. The provision of the 35th article of the Constitution of the Republic of Kazakhstan (1995) prescribes the obligation and duty of every citizen to comply with taxes, fees and other mandatory payments established by the legislation. It should be noted that no country in modern practice can fully guarantee the full collection of tax revenues, as the phenomena associated with tax evasion are widespread and present in all economic systems.

Under the conditions of transition to a market economy and active development of entrepreneurship in Kazakhstan, tax legislation becomes the subject of active changes entailing the formation of complex tax legal relations. Nevertheless, this process is accompanied by negative consequences, the main of which is an increase in the number of criminal offences related to the evasion of taxes and mandatory payments to the budget. Such acts have a serious impact on the financial stability of the state, as significant monetary funds do not enter the budget, which entails the formation of insufficient funds in the state's extra-budgetary funds (Rexhepi, 2023). The research relevance is determined by the need to develop effective strategies and mechanisms to combat tax evasion and ensure the financial sustainability of the state. In the considered context it should be noted that proving crimes of tax evasion from the organisation in Kazakhstan were the subject of scientific study by Kazakhstani scientists.

D.B. Sanakoiev and B.T. Seitov (2021) provided a comparative legal analysis of various types of tax offences under the criminal laws of Kazakhstan and Ukraine. This analysis reveals the peculiarity of tax crimes – their secrecy and variety of methods used, which gives them a heightened public danger and makes it difficult to stop them. Moreover, these crimes have a negative impact on the economic security of the country, as they limit the financial capacity of the state to implement important government programmes. Therefore, the need for further improvement of criminal legislation is emphasised, and they propose amendments to Articles 244 and 245 of the Criminal Code of the Republic of Kazakhstan (CC RK) (2014) to combat this category of crimes more effectively. R. Chimirova (2022) analysed the current situation with tax crimes, and their criminal liability, as well as considers the causes, consequences, and prospects for their prevention. The importance of this problem is confirmed by systematic reforms in the national legislation of Kazakhstan, including tax and criminal legislation. As a result of the analysis, the importance of control over the legal and economic consciousness of all subjects obliged to pay taxes and other mandatory payments to the state budget is emphasised. Such direction implies preventive measures to prevent the

commission of tax offences and contributes to ensuring the stability of the economic system of the country.

K. Andrienko and O. Artyukh (2023) investigated the main problems that exist in the current tax legislation of Ukraine, in particular, in the context of combating tax offenses and tax evasion. As a result of the study, the authors determined that one of the main problems is the imperfection of tax administration, which facilitates tax evasion, as well as the lack of effective monitoring and punishment for violations of tax legislation. They also emphasised the need to reform the tax system, in particular, to improve the legislation governing tax offenses, as well as to introduce more effective methods of controlling and preventing tax evasion.

S. Ciucci (2024) studied the relationship between the level of education, tax evasion and the development of the shadow economy. The study found that a high level of education directly reduces the likelihood of tax evasion, as educated citizens have a clearer understanding of the importance of taxes for the development of the state and their own economic stability. The author also notes that in countries with a high level of shadow economy, the lack of transparency of the tax system and the mismatch between the tax burden and the real benefits for citizens can lead to increased tax violations, regardless of the level of education. Author suggests including educational programs aimed at raising tax awareness as part of a broader strategy to combat the shadow economy.

P. Doligalski and L.E. Rojas (2023) studied the effectiveness of resource redistribution in countries with developed shadow economies. The authors determined that effective redistribution in the shadow economy can significantly improve economic equilibrium and reduce tax evasion, but this requires a proper organization of the tax system and transparency of government social support programs. The authors emphasised the importance of adjusting incentive mechanisms to reduce shadow practices through a proper combination of tax policy and social benefits. It was also noted that for the effective implementation of redistribution, it is necessary to take into account social responsibility and the level of public trust in the state.

M.T. Kulzhabayeva (2019) identified a variety of methods of tax evasion designed to ensure the concealment of income and reduce tax liabilities. In addition to the deliberate actions of subjects, the objective reasons contributing to such behaviour are also argued. The existing deficiencies in tax legislation, which contribute to tax problems and unjustified benefits, are also emphasised. In light of these circumstances, monitoring of compliance with tax legislation and analysing the results of control measures on the part of fiscal authorities remain relevant and important tasks. N.Sh. Zhempiisov and B.T. Seitov (2021) think that it is necessary to further modernise criminal legislation to effectively counteract tax crimes. To ensure economic security and sufficient filling of the state budget with tax revenues,

certain measures are proposed based on the conducted study of regulatory and legal tools. The article considers the inclusion of article 216 of the Criminal Code of the Republic of Kazakhstan (2014) in the category of tax crimes with a formal corpus delicti, as well as the author's proposed revision of articles 244 and 245 of the Criminal Code of the Republic of Kazakhstan. Furthermore, a revision of statistical reporting concerning the qualification of certain types of offences as tax offences is proposed.

The purpose of this study was to analyse the interests of entrepreneurs in developing a strategy for effective legislation and collection of evidence in cases of offenses related to tax evasion by legal entities in Kazakhstan. To achieve the set goal, the following tasks will be conducted:

- an analysis of the criminal-legal characteristic of the corpus delicti of the offence provided by article 245 of the Criminal Code of the RK (2014);
- study on the peculiarities of the investigation of the circumstances of a criminal case by the parties to criminal proceedings in this category of cases;
- determination of the criminological basis of tax evasion in Kazakhstan.

Materials and methods

The study was based on various legal, criminological and economic theories. The criminological approach was used to study the causes, methods and consequences of tax evasion by organisations in Kazakhstan. This theoretical framework is informed by criminology, specifically white-collar crime theory, which posits that financial crimes, such as tax evasion, are often perpetrated by individuals or entities in positions of economic and organizational power. The theoretical underpinning also draws on legal theories related to the application of criminal law and tax legislation, focusing on how legal structures can deter or fail to prevent illicit activities.

The study used a wide range of methods that allowed to comprehensively consider the problem of proving crimes related to tax evasion by organizations in Kazakhstan from various aspects. In particular, formal-logical and formal-legal methods were used to formulate key conclusions and proposals for improving the policy of combating crime. The formal logical method helped to systematize the collected data and identify general patterns in tax evasion processes. This approach made it possible to build a clear logical structure of the research results, which ensured effective identification of the main areas for further action.

In turn, the formal legal method allowed for a deeper analysis of national legislation, in particular laws regulating taxation and combating tax offenses, which helped to identify possible problems in their application and practical implementation. This method allowed us to assess the effectiveness of current legislative initiatives and identify areas for improvement. To obtain additional valuable information, authors analysed the experience of other countries in preventing tax offenses. The use of comparative jurisprudence allowed us to study the measures that have already been implemented in other countries and assess their effectiveness. This helped to develop recommendations for improving the policy of combating tax evasion in Kazakhstan based on the successful experience of other countries, which makes it possible to apply effective strategies in the context of the Kazakh reality.

The research follows a clear and methodical structure. It starts with an in-depth analysis of Kazakhstan's legal framework, particularly focusing on the Tax Code of the Republic of Kazakhstan No. 120-VI (2017), which outlines taxation policies and the responsibilities of individuals and organizations. The Entrepreneurial Code of the Republic of Kazakhstan (2015) is also examined to understand how business regulations intersect with tax obligations and the legal environment surrounding tax evasion. The study includes a comparative element, using Decree No. 49 (2024) of the President of the Kyrgyz Republic to gain insights into how neighbouring countries handle tax policies and social security involvement, offering potential improvements for Kazakhstan's approach.

The research proceeds to investigate the criminological characteristics of tax evasion, analysing the methods organizations use to hide taxable income. Following this, the economic and social consequences of tax evasion are explored, particularly its detrimental effects on Kazakhstan's public finances and the broader economy. The integration of statistical data helps pinpoint regions and sectors where tax evasion is most prevalent, allowing for a more detailed examination of the problem in a regional context. The findings contribute to formulating recommendations for enhancing Kazakhstan's tax policy and enforcement strategies.

The research shifts to a comparative legal analysis, where the experiences of other countries with similar economic conditions are explored to identify effective countermeasures to tax evasion. Finally, the study proposes a set of recommendations for improving Kazakhstan's tax legislation and enforcement mechanisms, based on both the local context and successful international practices. The research concludes with a call for a multi-faceted approach that combines legal reform, increased public awareness, and stronger institutional mechanisms to combat tax evasion.

Results and discussion

Criminal and legal characteristics of tax evasion from an organisation in Kazakhstan. In comparison with similar countries with similar levels of per capita income, Kazakhstan continues to record low levels of tax revenues relative to gross domestic product (GDP) (Fig. 1). In 2024, cases of tax evasion continued in Kazakhstan, which negatively affected the stability of the country's financial system. For example, criminal proceedings regarding the illegal activities of several betting companies are ongoing in the city of Almaty: LLP "Olimp KZ Bookmaker Office", LLP "Alpha Bet", and LLP "Onlybet" (2023). Twelve employees and founders of these companies are accused of creating an organised criminal group, legalization of property and tax evasion. A criminal case against the head of another company in the city of Shymkent, who is also accused of tax evasion and other mandatory payments in the amount of about 250 million tenge, has recently been completed. These illegal actions threaten the tax system by preventing the planned receipt of tax revenues to the budget, which are necessary for the performance of government functions. They also cause an imbalance between honest taxpayers and those who violate tax laws, violating the principle of social justice and disrupting the normal functioning of the economy. Insufficient tax revenues at various levels of the budget lead to delays in the payment of salaries, pensions and subsidies, and limit the implementation of social and scientific programs. In this regard, the fight against

tax evasion remains an important task for ensuring the sustainability of the country's financial system. According to the Tax Code of the Republic of Kazakhstan No. 120-VI "On Taxes and Other Mandatory Payments to the Budget" (2017),

tax evasion is a criminal offense punishable by fines, corrective labour or imprisonment. In addition, in accordance with the Criminal Code of the Republic of Kazakhstan, persons guilty of tax evasion may be held criminally liable.

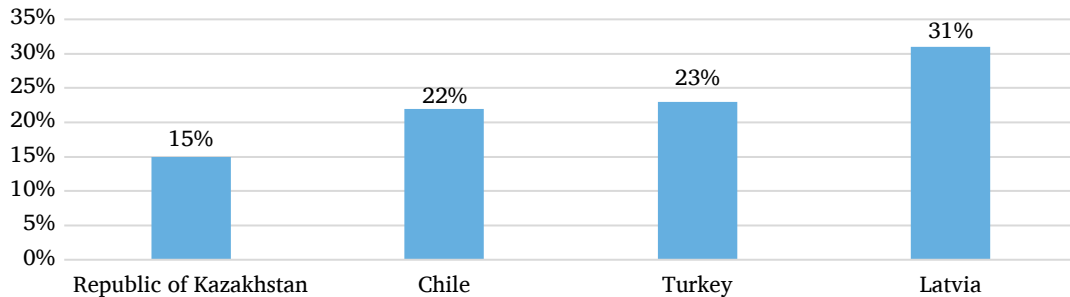


Figure 1. Tax to GDP ratio including tax evasion offences in the period 2020-2023

Source: What is the essence of the ongoing tax policy reform? (2023)

A common trait of tax evasion methods is the use of deception. Numerous studies of ways to commit tax evasion confirm that deception is a basic component of the illegal actions of criminals (Altaf *et al.*, 2019; Enofe *et al.*, 2019; Adekoya *et al.*, 2020). Obtaining information about business entities whose financial and economic indicators do not correspond to reality, gives grounds for the beginning of checks by operational units and possible initiation of investigative proceedings. Deception may be the provision of knowingly false information about the object and/or taxable base – inclusion or exclusion of physical, quantitative, cost indicators, transactions, financial and economic operations related to the acquisition, possession, disposal or use of property, goods, income (profit) or their components, the volume of sale of goods (works, services), supply of goods (works, services) and other objects defined by the tax legislation, the presence of which is associated with the emergence of the taxpayer's taxable base (Tax Code of the..., 2017). The process of deception itself is complex and requires preliminary preparation, including determination of the method of tax evasion, search for accomplices, planning of actions for preparation, commission and concealment of the offence, as well as creation of business entities to be used as counterparties in fictitious, seemingly financial and economic transactions, and involvement of persons who will perform the necessary actions to conceal tax evasion without being aware of their role in the offence. Moreover, actions on preparation and concealment of tax evasion may independently constitute corpus delicti of other offences provided for by the Criminal Code of the Republic of Kazakhstan (2014), or fall under the prohibitions contained in civil, economic, tax, and administrative legislation.

Unfortunately, such conduct continues to exist and poses a serious threat to the stability of the financial system of the state. Therefore, it is necessary to actively develop and implement measures to promote legality in the field of taxation and improve legal culture among the population and entrepreneurs. Only joint efforts of the state, society and the business community can ensure the reduction of tax evasion and guarantee the stability and prosperity of the country's economy. The determination of the specific penalty for tax evasion remains within the competence of the court, which considers the circumstances of the case and other factors when deciding on the imposition of punishment. According

to the Normative Resolution of the Supreme Court of the Republic of Kazakhstan No. 3 "On Certain Issues of Application by Courts of Legislation on Cases of Criminal Offences in the Sphere of Economic Activity" (2020), tax evasion and (or) other mandatory payments to the budget is considered only with the direct intent.

Economic, legal, and social aspects are to be considered to grasp the complexity of this phenomenon. The essence of tax evasion consists of deliberate actions aimed at avoiding taxation, which poses a threat to the economic stability and social well-being of the state. It is particularly important to identify the reasons and motives that induce organisations to evade taxes to develop effective measures to prevent and suppress such violations. Possible measures include improving tax legislation, increasing liability for tax offences, and strengthening control by the tax authorities. The relationship between tax evasion and corrupt practices should also be emphasised. Tax evasion is often associated with the illegal influence of tax authorities, which exacerbates the problem and requires additional measures to curb corruption (Kurhan *et al.*, 2023). In Kazakhstan, tax evasion is often associated with illegal influence on the tax authorities, which complicates the problem and requires additional measures to combat corruption. For example, in 2020, assets related to Bulat Utemuratov, a former aide to President Nursultan Nazarbayev, worth up to USD 5 billion were frozen in England. These assets included stakes in luxury hotels, cash in bank accounts in several countries and a Burger King franchise. This was the result of a settlement of a dispute between BTA Bank and Utemuratov, which highlights the existence of corruption schemes related to tax evasion in Kazakhstan (British court freezes billion-dollar..., 2020).

Corporate tax evasion is a criminal offence in Kazakhstan, which carries criminal penalties in the form of fines, correctional labour, or imprisonment (Baturin & Moroz, 2024). The final decision on punishment is made by the court, which considers the circumstances of the case, the amount of money evaded and other factors. This means that each case of tax evasion is considered individually, and the punishment is determined by the court based on the evidence collected and the regulations in force. Funds evaded the degree of systematicity, and other circumstances may affect the imposition of a stricter penalty. Thus, courts in Kazakhstan can impose criminal penalties on individuals and

organisations that evade tax payments. This contributes to maintaining tax discipline and ensuring the fair functioning of the tax system in the country. In Kazakhstan, courts have the authority to impose criminal penalties on individuals and organizations that evade tax payments, thereby upholding tax discipline and ensuring the fair operation of the tax system. For instance, On July 4, 2022, the Court of District 2 in the Baikonur area of Nur-Sultan convicted the head of LLP “ZhylytDelStroy”, for tax evasion by submitting false data in tax declarations, reporting unperformed work and services. This caused damage of 138.5 million tenge (Head of LLC convicted..., 2022). This case highlights several critical aspects of Kazakhstan’s legal system regarding tax evasion. First, it shows how tax evasion is treated as a criminal offense with severe financial and legal consequences, even in cases involving false reporting of expenses. The penalty provisions under Article 245 reflect the seriousness with which the government treats such crimes, as tax evasion can have a detrimental effect on the national budget and social programs (Criminal Code of the..., 2014).

The court’s application of mitigating factors, such as remorse and the presence of minor children, demonstrates a level of leniency based on the individual’s circumstances, which is common in criminal justice systems worldwide. However, the imposition of an imprisonment sentence, albeit reduced by the application of amnesty laws, serves as a strong deterrent against future offenses. Challenges persist in the judicial process concerning tax evasion cases. A notable issue is the inconsistency in sentencing, where similar offenses may result in varying penalties, undermining the principle of equality before the law. There are concerns about the efficiency of the judicial system in handling complex financial crimes, which can lead to prolonged proceedings and potential miscarriages of justice. Addressing these issues is crucial for enhancing the effectiveness of the legal framework in combating tax evasion.

Peculiarities of evidence and investigation of organisational tax evasion offences in Kazakhstan. To fully understand the nature of criminal procedural evidence, especially in the context of the general digitalisation of law enforcement, several key features must be highlighted. Criminal procedural evidence primarily aims to establish the circumstances that occurred in the past. As a result, the process of proving is retrospective, with its main objective being the clarification of events that have already taken place. This retrospective nature determines the tools used in the process of proof and underscores the complexity of the task, as it involves finding and establishing facts from the past based on available traces of the offence, whether left in objective reality or in the minds of individuals. The activity of criminal procedural evidence is also strictly regulated by law. Obtaining evidence must be carried out by authorised individuals using the legal means and methods prescribed by law. This ensures the integrity of the process and the protection of the rights of all parties involved. Criminal procedural evidence serves the purpose of establishing the necessary circumstances for a particular case. The subject of proof in criminal proceedings is of significant interest to researchers in procedural science, as it plays a crucial role in determining the outcome of legal cases.

Several authors unreasonably narrow or expand the subject of evidence in a criminal case (Faccia & Mosteanu, 2019; Mardanov, 2022; Suryadi & Budianto, 2022). System

analysis of the legislation allows to conclude that the circumstances subject to proof can be divided into the following categories: (1) the circumstances that characterise the offence; (2) circumstances characterising the personality of the guilty person, including mitigating and aggravating circumstances which are essential for the assignment of punishment; (3) other circumstances established by law that may also be relevant to the criminal case.

Analysing the elements presented in criminal proceedings, it is possible to identify the following key aspects, as outlined in the Criminal Code of the Republic of Kazakhstan (2014): establishment of the existence of a socially dangerous act that falls under the category of criminal offences; identification of the characteristics of the act committed that constitute a criminal offence, including its time, place, manner and other surrounding circumstances; compensation for damage caused by the offence and other expenses related to the pre-trial investigation; selection of the appropriate type and degree of punishment for the person responsible for the offence; restoration of the violated rights of the affected persons resulting from an unlawful act; preventing the commission of other criminal offences aimed at ensuring public safety. Upon investigation of the mentioned stages of the process of proving in the framework of criminal proceedings, the following stages can be distinguished: primary, subsequent, and final. In improving the methods of pre-trial investigation of tax evasion and other compulsory payments to the budget, significant problems have been identified and analysed, which it seems reasonable for the investigator (prosecutor) to solve at each of these stages.

At the initial stage of a tax evasion investigation, the investigator or prosecutor must clearly define the circumstances that need to be proven in order to proceed with the criminal case. This includes identifying key elements such as the concealment of income, the failure to report accurate financial information, and the evasion of tax liabilities. In many cases, suspects involved in financial and economic activities for an extended period may have accumulated uncontrolled profits, paid unofficial salaries to employees (often referred to as “wages in envelopes”), and deliberately concealed the actual amount of income and wages from taxation. Additionally, they may have failed to pay insurance contributions, claiming a lack of funds to do so. These illegal actions can be difficult to detect but can often be uncovered through careful examination of primary accounting documents, tax reports, and other financial records.

A recent criminal case in Shymkent involved the head of a company accused of evading taxes and other mandatory payments, amounting to approximately 250 million tenge (Head of LLC convicted..., 2022). The case was based on evidence gathered from primary financial documents, which revealed discrepancies between reported earnings and actual financial activities. The investigation in this case emphasised the importance of thoroughly reviewing accounting and tax records to identify fraudulent financial practices and establish the period during which insurance premiums were not paid. Another case in 2023 in Nur-Sultan involved the head of LLP “ZhylytDelStroy”, who was under investigation for tax evasion through the submission of false data in tax declarations. The investigation revealed that the company had been paying “wages in envelopes” and had failed to make the necessary social insurance contributions, despite the company’s financial capacity to do so. This case

highlighted how financial documents such as salary records and tax declarations can play a crucial role in uncovering tax evasion schemes and ensuring accountability.

These examples underscore the critical importance of detailed analysis of accounting and tax documents to uncover and prove instances of tax evasion and failure to contribute to social insurance. The investigation process relies heavily on accurate financial reporting and the ability to trace discrepancies between declared figures and actual financial activities. Proper examination of these records ensures that the perpetrators are held accountable and that the state can recover the lost taxes and social contributions, ultimately reinforcing the fairness and integrity of the tax system.

To acquire information on circumstances related to tax evasion and (or) other obligatory payments to the budget, after detection and seizure of documents, interrogations of both the offenders themselves – managers and accountants (chief accountants), as well as other employees of the enterprise (farm) are undertaken. Interrogation subjects are obliged to present relevant documents to confirm their testimony, which is recorded in the protocols. As a result, documents play a determining role in the formation of procedural sources of evidence, such as testimony (Criminal Procedure Code of..., 2014). When developing forensic tactics and methods of investigation of offences related to the evasion of legal entities from payment of taxes and other mandatory payments, it is recommended to be guided by the materials of judicial and investigative practice. Considering the aforesaid, the following list of necessary materials to complete the investigation of the offence under Article 245 of the Criminal Code of the Republic of Kazakhstan (2014) within a reasonable period is presented:

- primary accounting and tax accounting documents, including income and expense reports, invoices, bills and other documents related to the payment of taxes and mandatory payments;
- orders appointing and dismissing suspects to accounting positions and job descriptions that may influence tax evasion;
- documents confirming the suspects' ownership of movable and immovable property, cash and other valuables;
- certificates on the mental and physical condition of the suspects, as well as the conclusions of forensic psychiatric expertise (if available) to identify possible motives and intent;
- characteristics of the suspects and information on previous convictions, if any, to assess their criminal recidivism;
- materials collected in the investigation and indicating the involvement of suspects in tax evasion, such as witness statements, expert opinions, and other evidence.

According to the provisions of Article 25 of the Criminal Procedure Code of the Republic of Kazakhstan (2014), judges, prosecutors, investigators, and inquirers evaluate evidence following their inner conviction, relying on the law and conscience. It should be noted that the final decision on the admissibility of evidence and its evaluation is made by the court during the deliberations when considering the materials of the criminal case and adopting a judgment. In the investigation of offences under Article 245 of the Criminal Code of the Republic of Kazakhstan (2014) of particular importance is the documentary confirmation of the facts of deliberate tax evasion on the part of business entities. Witness testimony, as a rule, is not always able to fully disclose the essence of the offence, especially in cases of prolonged

investigation, when witnesses may forget certain facts. Thus, the analysis of court decisions shows that witness testimony often acts as indirect evidence confirming the facts established by acts of audits or other written documents.

Important aspects to be proved in the investigation of tax evasion offences are the guilt of the accused in committing the offence, the form of guilt and motives for committing it; evidence of the origin of the property subject to confiscation and its connection to the criminal acts; and the type and amount of damage caused by the criminal offence (Kostiuk & Drok, 2024). An analysis of the specifics of the evidentiary process for the above offences reveals the key factors that influence the success of the investigation and the bringing of the perpetrators to justice. Thus, cases related to tax evasion are often characterised by the complexity of proof due to the presence of atypical schemes, hidden operations, and the use of offshore companies (Constitution of the Republic..., 1995). This requires from the investigative authorities and judicial instances high qualifications and specialised knowledge to detect and solve such crimes. In the context of tax evasion investigation, financial expertise plays a key role in determining the amount of evaded funds, their sources, and consequences for the state budget (Criminal Code of the..., 2014). The ability to conduct complex analyses of the financial activity of the organisation becomes a prerequisite for successfully proving the crime. Effective investigation of tax evasion requires the interaction of various specialists, such as tax experts, financial analysts, auditors, and criminalists (Sanakoiev & Seitov, 2021). The cross-disciplinary approach allows to analyse information comprehensively and identifies illegal actions of an organisation. At the same time, it is equally important to respect the procedural rights of the accused in the process of proving tax evasion offences. The guaranteed right to defence, the right to defence counsel, as well as compliance with procedural rules and deadlines play a crucial role in establishing a fair trial and preventing possible violations of the rights of the accused.

To improve tax evasion investigations and better protect entrepreneurs' interests, two changes could be made to the Criminal Procedure Code (2014) and the Tax Code of the Republic of Kazakhstan No. 120-VI "On Taxes and Other Mandatory Payments to the Budget" (2017). First, the Criminal Procedure Code (2014) could mandate the involvement of financial experts or forensic accountants at the initial stage of a tax evasion investigation, especially for complex cases. This would improve the transparency and accuracy of investigations, ensuring fairer assessments of the evaded amounts and financial activities. Second, the Tax Code of the Republic of Kazakhstan No. 120-VI "On Taxes and Other Mandatory Payments to the Budget" (2017) could introduce clearer guidelines for tax audits, specifying deadlines for completion and allowing businesses to request independent reviews of audit findings. This would reduce ambiguity, prevent abuses by tax authorities, and help entrepreneurs contest discrepancies in a timely manner, ultimately safeguarding their interests. These proposed changes would lead to more efficient tax investigations, offer better protection for entrepreneurs, and contribute to greater fairness and transparency in the overall tax enforcement system in Kazakhstan.

Criminological characteristics of offences under Article 245 of the Criminal Code of the Republic of Kazakhstan. As noted earlier, tax deviations appear in various documents used for accounting reports submitted by taxpayers to

authorities. The tax deviations cited are often related to the intentional dissemination of false information about various aspects of tax liabilities. These manipulations include such actions as concealing the real volume of sales of goods, work performed and services rendered, falsely reducing indicators on the payroll and number of employees, as well as creating false documents on the return of goods or payment for services. Such manipulations result in significant tax reporting irregularities and non-payment of related tax liabilities.

Tax offence causes are similarly significant. These offences are widespread for different reasons. Some are due to general national shortcomings associated with the crisis state of the economy, while others depend on specific features of the functioning of the tax service and its counteraction to offenders (Onu *et al.*, 2019). Individuals and legal entities strive in various ways to reduce the amount of tax payments. Non-payment of taxes can lead to hidden financial resources that can be used for the purchase of personal goods, investment in business development and production, as well as payment of wages. This is exactly the position of taxpayers that encourages them to evade tax payments. It is important to note that in Kazakhstan the problem of tax evasion is also related to the attitudes of citizens who view this offence as something less serious (Bimo *et al.*, 2019; Irawan & Utama, 2021). Some people believe that tax evaders are not criminals but are more successful entrepreneurs with positive business qualities. It is important to note that the desire to enrich oneself is not the only motivation for tax evasion.

Common tax evasion tactics include overestimating production costs by including unjustified expenses, such as prepayments for non-received products, increasing labour costs, and artificially inflating the number of employees through fictitious contracts to conceal excessive wage payments (Tynaliev *et al.*, 2024). Other tactics involve transferring funds to special company accounts for non-existent services, work, or products. To combat tax evasion, E.T. Kassa (2021) recommends establishing a fair taxation system with appropriate tax rates, offering tax education to improve taxpayer understanding, and promoting tax morality by emphasizing citizens' moral obligations to contribute to the nation's development. D. Onu *et al.* (2019) suggest eliminating the belief in loopholes within the system, increasing taxpayer confidence, and ensuring fair treatment by authorities to reduce tax evasion. Other scholars emphasize the significant impact of reducing errors in management decision-making and the evaluation of corporate tax policy (Bimo *et al.*, 2019; Wicaksono *et al.*, 2021). Internal control mechanisms play a key role in ensuring compliance with laws and regulations, including tax laws, thereby reducing the risks of tax offenses. According to F. Irawan and A.S. Utama (2021), forensic accounting is crucial for detecting tax fraud and evasion, particularly in developing countries with high levels of informal sectors, corruption, and growing tax losses. This approach helps increase government revenues, which are vital for funding public goods and services, improving social and economic infrastructure, and reducing budget deficits.

Forensic accounting techniques to increase tax revenues also improve morale among taxpayers, which will increase tax compliance. It will also ensure tax fairness and equitability as the number of tax complaints by individuals and companies will decrease until the gap between those who

comply with tax laws and those who evade tax and will improve the quality of the taxpayer database as many taxpayers will be brought into the accounting records which will facilitate revenue planning and budgeting. In the long term, as compliance increases, the time and costs associated with investigation and recovery will be minimised and eliminated (Wilke & Macpherson, 2019; Ciocanea *et al.*, 2020).

After all, the processes related to the preparation, commission and concealment of tax evasion have a non-linear nature of cause-and-effect relationships, where the consequences of each previous action do not serve as a direct cause of subsequent actions. This should support the data in the tax or customs declaration. Thus, the choice of a particular type of tax, fee (compulsory payment), from which it is planned to evade, determines the peculiarities of accounting of taxable objects, determination of tax rates, calculation of amounts of tax, fee (compulsory payment) or taxable base, use of tax benefits. At the same time, it is necessary to form "actual" grounds for the data to be included in the tax or customs declaration, which determines the mechanism of committing an offence, where the imaginary results of actions that have not yet occurred become causal circumstances for subsequent actions. Thus, in the process of preparation for the commission of this offence, actions are carried out aimed at disguising from the controlling authorities the commission of this offence.

Thus, the criminological characteristic of crimes under Article 245 of the Criminal Code of the Republic of Kazakhstan (2014) reveals the main features and trends of these offences. First of all, such crimes are characterised by an economic component, as their purpose is the illegal evasion of mandatory financial obligations to the state. This may have serious consequences for the economic stability and development of the country. Crimes under Article 245 of the Criminal Code of the Republic of Kazakhstan (2014) are most often committed by organised groups or persons with special knowledge of finance and taxation. This indicates that such offences are planned and premeditated. These crimes can cause significant damage to the state budget and society as a whole, as they result in the loss of significant funds that could have been allocated to social programmes and the development of the country.

In conclusion, the criminological characteristic of crimes under Article 245 of the Criminal Code of the Republic of Kazakhstan (2014) indicates the need to take effective measures to combat such offences, including strengthening control over tax reporting, increasing legal literacy and awareness of the population in the field of tax legislation, as well as toughening the responsibility for committing such crimes. Only thus it is possible to ensure fairness and efficiency of the tax system, as well as to protect the interests of the state and society as a whole. After a comprehensive analysis of scientific sources concerning the problems of prevention of concealment of taxation objects and evasion of taxes and mandatory payments, it becomes obvious that it is necessary to develop a comprehensive system of socio-economic and legal measures. In this context, it seems appropriate to use some approaches to influence the behaviour of taxpayers and their intentions to conceal objects of taxation:

1. Stabilisation and clear formulation of tax legislation. It is advisable to improve and regulate tax regulations, codify tax laws, and simplify their wording to make these documents more accessible and understandable.

2. Lowering tax rates while broadening the tax base.

3. Reduction of administrative procedures related to fiscal management. Fiscal levies whose administration is excessively costly should be abolished, which will reduce the tax burden on economic entities and create better conditions for their development.

The Tax Code of the Republic of Kazakhstan (2017) plays a central role in shaping the country's tax policy, but there are areas where further improvement could enhance its effectiveness. One key aspect is the stabilization and clear formulation of tax legislation. While the Tax Code provides the framework for tax obligations, its complexity and frequent amendments create uncertainty for businesses. Simplifying and codifying the tax laws would make them more accessible and understandable, reducing the administrative burden on both taxpayers and tax authorities. Clearer language in the Tax Code of the Republic of Kazakhstan No. 120-VI "On Taxes and Other Mandatory Payments to the Budget" (2017) would foster greater compliance, as businesses would be better able to navigate the rules and avoid costly mistakes.

In addition, the Decree of the President of the Kyrgyz Republic No. 49 "On Creating a Favorable Tax Environment for Business Entities and Increasing the Interest of Insured Persons in State Social Security" (2024) offers valuable insights for Kazakhstan's tax policy. This decree, aimed at creating a favorable tax environment for businesses, proposes measures to enhance the efficiency of the tax system and ensure that businesses are not overburdened by taxes. Drawing from this, Kazakhstan could consider lowering tax rates while broadening the tax base. By reducing the tax burden on businesses, the government would encourage entrepreneurship and investment. Moreover, focusing on reducing administrative procedures related to fiscal management could be beneficial. In particular, eliminating or simplifying costly fiscal levies would create a more business-friendly environment and promote economic growth.

Tax culture and discipline improvement through active anti-corruption efforts, improvement of democratic institutions efficient use of tax revenues and setting marginal tax rates above the rates of penalties for violation of tax legislation are also especially significant. Increasing the effectiveness of tax authorities in detecting tax evasion and creating conditions under which such evasion becomes practically impossible is an integral element of countering this type of crime (Peterson *et al.*, 2016). Even a small increase in the probability of punishment will have a positive effect, contributing to the narrowing of the scale of evasion. Finally, there is a need to actively promote the formation of national tax consciousness through information and education activities that aim to maximise voluntary tax payment. By overcoming these and other taxation problems, the country will be able to create favourable conditions to reduce budget losses and the number of tax defaulters actively evading their constitutional obligations. Kazakhstan will be able to become a significant participant in tax competition on the world stage.

Several effective measures have been implemented around the world to improve tax culture and discipline, which could be useful for Kazakhstan. In Singapore, the Inland Revenue Agency (IRAS) is actively fighting corruption and ensuring high efficiency of the tax authorities. This agency is known for its transparency and high level of trust from taxpayers. As a result, Singapore has one of the highest

levels of tax revenue in the world. In Sweden, the transparent budgeting system allows citizens to have access to information about the use of public funds. This not only improves the efficiency of tax funds, but also increases public trust in the state, encouraging them to pay taxes voluntarily. Germany imposes significant fines for tax evasion, which can exceed the amount of unpaid taxes. This encourages businesses and individuals to comply with tax laws and reduces tax evasion. New Zealand actively uses modern technologies to detect tax evasion. The tax authorities regularly conduct audits and analyse data, which allows them to promptly detect violations and minimize the scale of evasion (Enofe *et al.*, 2019; Kassa, 2021). Canada conducts national campaigns aimed at raising awareness of the importance of paying taxes. These information and education activities help to build a tax culture among citizens and businesses, which in turn increases the level of voluntary tax payment. Implementation of similar measures in Kazakhstan could help reduce budget losses, improve tax discipline and ensure transparency in the use of public funds.

Conclusions

The investigation of tax evasion offenses under Article 245 of the Criminal Code of the Republic of Kazakhstan underscores the significant role that documentary evidence plays in proving violations of tax legislation. The availability of reliable documents can serve as the foundation for other admissible evidence, such as witness testimonies, expert opinions, and physical evidence, while their absence hinders the ability to hold offenders accountable. A major drawback of the current system is the inconsistency and complexity within the existing regulatory framework, which makes it challenging to enforce tax laws effectively. Ambiguities and frequent amendments in tax legislation create uncertainty for businesses, increasing the risk of non-compliance due to confusion over obligations and procedures.

The existing tax system also lacks clear guidelines on how to handle various industries differently, despite the need for sector-specific tax policies. As a result, businesses in certain sectors may face higher-than-necessary tax burdens, which can impede economic growth and discourage investment in those industries. Moreover, the current system's reliance on paper-based invoicing and cash payments creates ample room for tax evasion, as these methods lack the transparency of electronic transactions. To address these challenges, several measures can be proposed to optimize Kazakhstan's taxation system. These include implementing a low, predetermined tax rate (no more than 10%) on gross income, simplifying tax obligations, and reducing consultancy costs for companies. Tax rates should also be differentiated across various industries, taking into account their unique characteristics and helping the government manage production policies more effectively. Furthermore, requiring businesses to issue only electronic invoices and make payments through traceable methods would enhance transparency and minimize opportunities for tax evasion. Introducing a flat-rate income tax, paid directly by banks on behalf of the government, could further streamline tax collection.

Despite these potential solutions, the current regulatory framework's lack of clarity and consistency remains a significant challenge. Future research should focus on evaluating the impact of these proposed reforms in the context of

Kazakhstan's evolving economic environment and regulatory needs. Further studies could explore ways to harmonize tax policies and enhance the alignment between tax laws and business practices, with the aim of reducing evasion and fostering a more efficient and fair tax system.

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Врахування інтересів підприємців при формуванні стратегії ефективного законодавства та доказування у справах про правопорушення, пов'язані з ухиленням від сплати податків з юридичних осіб

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Анотація. Ухилення від сплати корпоративних податків залишається значною проблемою, складні механізми якої вимагають сучасних кримінологічних підходів до її вирішення. Метою дослідження була характеристика інтересів підприємців у формуванні стратегії ефективного законодавства та доказування у справах про злочини, пов'язані з ухиленням від сплати податків юридичними особами в Казахстані. У дослідженні було використано низку методів, включаючи аналіз даних, аналогію, узагальнення та формально-юридичні методи для вивчення теми. Основними висновками дослідження стало визначення проблем у доведенні ухилення від сплати податків, особливо у справах за участю офшорних компаній та спеціально створених організацій з метою ухилення від податкових зобов'язань. Варто зазначити, що оперативне розслідування справ, які підпадають під дію статті 245 Кримінального кодексу Казахстану, є предметом пильної уваги, з особливим акцентом на роль документальних доказів. Дослідження продемонструвало, що наявність або відсутність фінансової документації має значний вплив на результати кримінальних проваджень у сфері оподаткування. Крім того, в дослідженні запропоновано оптимізувати податкову систему Казахстану шляхом запровадження спрощених податкових ставок, диференційованого галузевого оподаткування та обов'язкового електронного виставлення рахунків-фактур, що могло б підвищити прозорість і зменшити можливості для ухилення від сплати податків. У висновках було підкреслено, що вдосконалення слідчих процедур і всебічна оцінка доказів мають вирішальне значення для справедливого та ефективного ведення кримінальних проваджень. Крім того, в дослідженні було запропоновано рекомендації щодо внесення змін до законодавства з метою зміцнення правової бази Казахстану у сфері боротьби з ухиленням від сплати податків, сприяння співпраці між компаніями та урядом, а також стабілізації фінансової системи країни. Даним дослідженням зроблено внесок у розробку надійних методів виявлення та доказування злочинів, пов'язаних з ухиленням від сплати податків

Ключові слова: фіскальна політика; податкові перевірки; правові реформи; фактори ризику; фінансове регулювання; економічна злочинність