

Features Of the Legal Regulation of Tax Monitoring and Its Differences from Standard Tax Audits in Uzbekistan

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Abstract

This article examines the legal nature, institutional framework, and procedural specifics of tax monitoring as a distinct form of tax control in the Republic of Uzbekistan. Particular attention is paid to the regulatory mechanisms governing the implementation of tax monitoring, including the rights and obligations of taxpayers and tax authorities, procedural guarantees, and compliance requirements. The study highlights the preventive and cooperative nature of tax monitoring as compared to traditional tax audits, which are predominantly inspection-oriented and retrospective in character. The article further analyzes the advantages of tax monitoring in terms of legal certainty, transparency, and risk-oriented tax administration, as well as its potential to reduce administrative burdens and disputes between taxpayers and tax authorities. Based on doctrinal analysis and current legislation, the paper identifies key differences between tax monitoring and standard tax audits in terms of legal status, scope of control, procedural stages, and enforcement consequences. The findings contribute to the development of a more efficient and partnership-based system of tax control in Uzbekistan.

Keywords: Tax monitoring; tax control; tax audit; legal regulation; taxpayer rights; tax administration; compliance; preventive control; transparency; legal certainty; Republic of Uzbekistan; regulatory framework.

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1. Introduction

Research into the legal nature of voluntary participation in tax monitoring requires a thorough analysis of the theoretical underpinnings of this principle within the tax law system. The principle of voluntariness is a complex legal phenomenon that is reflected in various aspects of tax relations and requires comprehensive theoretical and legal understanding. Modern tax law doctrine views voluntariness not as the absence of coercion, but as a special form of legal regulation based on creating incentives for taxpayers to independently fulfill their obligations without direct government influence.

In the context of tax law, voluntariness does not imply the

absence of a legal obligation, but rather represents a means of fulfilling this obligation without resorting to state coercion. Voluntariness in tax law is based not on the freedom of choice regarding the fulfillment of an obligation, but on the taxpayer's internal motivation to comply with tax laws. A theoretical and legal analysis shows that voluntariness in the tax context represents a special form of legal regulation aimed at developing internal incentives for lawful behavior in subjects [1].

The legal nature of voluntariness in tax law is characterized by a dichotomy between the formal obligation of tax regulations and the actual freedom to choose the method of their implementation. This characteristic necessitates the development of special

legal mechanisms that, on the one hand, ensure the implementation of the principle of mandatory tax payment, and, on the other, create conditions for the voluntary fulfillment of taxpayers' obligations. In this context, voluntariness is not an alternative to coercion, but rather a preferred method of achieving tax regulation goals, based on cooperation between tax authorities and taxpayers.

A theoretical analysis reveals that the voluntary principle in tax law has a complex structure, encompassing both procedural and substantive aspects. Procedural aspects relate to the creation of legal mechanisms that allow taxpayers to independently decide how to fulfill their tax obligations, while substantive aspects concern substantive incentives that encourage voluntary compliance with tax legislation. This dual nature of the voluntary principle necessitates its comprehensive legal regulation, taking into account both the formal and substantive aspects of tax legal relations.

The most complex theoretical and legal problem is determining the relationship between the principle of voluntary participation and the fundamental principle of mandatory tax payment, which forms the basis of any tax system. This problem is particularly relevant in the context of tax monitoring, where voluntary participation is combined with the mandatory nature of taxation.

An analysis of the legal regulation of tax monitoring in the Republic of Uzbekistan allows us to identify specific mechanisms for enshrining the principle of voluntariness and determine their compliance with the theoretical foundations discussed in the previous section. The Tax Code of the Republic of Uzbekistan establishes a comprehensive system of regulations governing voluntary participation in tax monitoring, which requires a detailed legal analysis in terms of both the formal requirements and the substantive content of the voluntariness principle. The specifics of national legal regulation reflect the legislator's desire to create an effective tax administration mechanism based on cooperation between tax authorities and large taxpayers.

An analysis of law enforcement practice shows that the provision in Part 3 of Article 169 of the Tax Code of the Republic of Uzbekistan requires further development and clarification. The current wording does not contain clear criteria for defining the boundaries of voluntary participation and does not establish legal guarantees to protect taxpayers from actual coercion to participate in tax

monitoring. International experience demonstrates the importance of creating clear legal mechanisms to ensure genuine, rather than merely formal, voluntary participation in special tax administration regimes [2].

This necessitates improving the regulatory framework for the voluntary principle in tax monitoring.

Legal regulation of the conditions for implementing the voluntary principle in tax monitoring is based on the creation of a comprehensive system of procedural guarantees that ensure the taxpayer has the real opportunity to independently make decisions regarding participation in this form of tax control. The taxpayer's right to submit an application for tax monitoring, enshrined in Article 171 of the Tax Code of the Republic of Uzbekistan, represents the primary mechanism for implementing the voluntary principle. This right is proactive in nature, meaning that tax authorities lack the authority to compel the taxpayer to submit the corresponding application [3].

The absence of coercion to participate in tax monitoring is a fundamental principle that must be ensured at all stages of interaction between tax authorities and taxpayers. Legal guarantees of non-coercion include a prohibition on the application of any sanctions or restrictions against taxpayers who refuse to participate in tax monitoring or withdraw their application. Recent research emphasizes that coercion to participate in voluntary tax administration programs not only contradicts their legal nature but also reduces their effectiveness [4].

The limitations of the voluntary principle in current legislation discussed above point to the need to further improve the legal regulation of tax monitoring in order to create more flexible and effective mechanisms for its implementation. In analyzing specific manifestations of voluntary tax monitoring procedures, it is important to consider the identified limitations and their impact on the practical implementation of this principle in the tax administration system of the Republic of Uzbekistan.

This right should be implemented with restrictions aimed at preventing abuse, including establishing a minimum period of participation in monitoring (e.g., six months) and a limit on re-applications for monitoring within a certain period (e.g., two years). A special procedure for completing monitoring in the event of voluntary withdrawal should also be provided, ensuring the resolution of all disputes and the protection of the rights of both parties. The introduction of the right to voluntary

withdrawal should be accompanied by the creation of incentives for long-term participation in monitoring, including progressive benefits and preferences for taxpayers with a long history of participation.

The mutual agreement procedure occupies a special place in the system of tax dispute resolution mechanisms in the Republic of Uzbekistan. Unlike the general procedure for pre-trial appeals of tax authority decisions, the mutual agreement procedure is specialized and applies exclusively to tax monitoring. Article 175 of the Tax Code of the Republic of Uzbekistan does not contain references to general provisions on administrative appeals, indicating the legislator's intention to create an autonomous procedural mechanism that takes into account the specific nature of tax monitoring relationships. The key difference between the mutual agreement procedure and general administrative appeals is its cooperative nature: the goal is not to protect a violated right by reversing an unlawful act, but to reach an agreed-upon position on a contentious tax issue through mutual dialogue and compromise [5].

The subject matter of the mutual agreement procedure has a specific configuration that distinguishes it from other forms of dispute resolution. The procedure involves three parties: the tax authority that issued the reasoned opinion (usually the territorial tax authority at the taxpayer's place of registration), the taxpayer that submitted the disagreement along with the reasoned opinion, and the State Tax Committee of the Republic of Uzbekistan, which acts as the dispute resolution body. This tripartite structure creates a potential problem in ensuring the objectivity and independence of the review, since both the subordinate tax authority that issued the reasoned opinion and the superior authority resolving the disagreement belong to a single system of tax authorities with common institutional interests and subordination. Ensuring genuine independence of review under the conditions of an intradepartmental procedure requires special procedural guarantees, which, however, are absent from current legislation.

A systematic analysis of Article 175 of the Tax Code of the Republic of Uzbekistan reveals a critical deficiency in the detailed procedural regulation of the mutual agreement procedure. The article consists of only six parts and establishes only the basic parameters of the procedure: the basis for initiation (receipt of disagreements from the tax authority by the State Tax Committee), the duration of the procedure (one month), the subject of the procedure (the head or deputy head of the State Tax Committee),

participants (the tax authority and the taxpayer), possible outcomes (changing the reasoned opinion or leaving it unchanged), and the notification period for the results (three days). At the same time, the legislator fails to regulate numerous procedural aspects that are fundamental to ensuring the fairness and effectiveness of the procedure. The lack of detailed regulation creates legal uncertainty, gives rise to the risk of arbitrary application of the procedure, and does not provide adequate guarantees of taxpayer rights [6].

This gap is particularly critical given that the mutual agreement procedure is a new institution with no established practice of application, and the lack of detailed regulation cannot be compensated for by customs or precedents.

The concept of tax monitoring in the Tax Code of the Republic of Uzbekistan is defined by its subject matter, which, according to Part One of Article 169, includes compliance with tax legislation, the accuracy of calculation, and the completeness and timeliness of payment (transfer) of taxes and fees by a legal entity. This definition is functional in nature and describes tax monitoring through a set of controlled aspects of a taxpayer's activities, but does not include any specific characteristics that distinguish it from other forms of tax control. The doctrinal definition of tax monitoring can be formulated as a form of tax control characterized by the voluntary participation of the taxpayer, continuous information exchange between the parties, and a preventive focus and advisory nature of the tax authority's activities.

The main characteristics of tax monitoring are: subjective certainty (participation only of legal entities with income exceeding five billion soums); voluntary participation of the taxpayer; comprehensive control of all taxes and fees;

Information transparency and openness; preventive focus of control activities; advisory function of tax authorities; formalization of interaction procedures through information interaction regulations.

The scope of tax monitoring, as defined by Part One of Article 169 of the Tax Code of the Republic of Uzbekistan, includes compliance with tax legislation, the accuracy of calculation, and the completeness and timeliness of payment (transfer) of taxes and fees by a legal entity. This definition is comprehensive and encompasses all aspects of the tax obligations of the monitoring participant, which fundamentally

distinguishes it from the selective nature of traditional tax audits. The substantive elements of the scope of monitoring include: compliance with substantive provisions of tax legislation in calculating tax liabilities; compliance with procedural requirements for tax accounting and reporting; the correct application of tax benefits, exemptions, and deductions; the timely fulfillment of tax payment obligations and reporting; and the proper performance of tax agent functions. The comprehensive nature of the scope of monitoring is consistent with its preventive focus and the need to ensure comprehensive oversight of the participant's tax compliance. Part two of Article 169 of the Tax Code of the Republic of Uzbekistan specifies the comprehensive nature of monitoring, stating that it covers all taxes and fees for which a legal entity is a taxpayer or tax agent.

Substantive limitations of the monitoring subject are related to its focus on the participant's current activities and do not extend to periods preceding the start of monitoring. Tax monitoring does not involve retrospective analysis of past tax periods, except in cases where such analysis is necessary to understand the participant's current tax positions. Functional limitations arise from the fact that monitoring is aimed at monitoring compliance with tax legislation and does not address compliance issues under other legislation, even if they indirectly affect taxation. Qualitative limitations of the subject are related to the advisory nature of the tax authority's reasoned opinion, which does not have the force of an administrative act and may be subject to agreement with the taxpayer.

These limitations reflect the special legal nature of tax monitoring as an institution of cooperation, not coercion, which determines the specifics of its practical application.

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