

Kozlov, A. G., & Lebedev, A. S. (2025). Administrative liability for tax offenses: Protecting the rights of violators. *Current Issues of Science: Student Thought. Tuculart Student Scientific*, 5, 71–74. Ostrava: Tuculart Edition, European Institute for Innovation Development.

TOI: tss2025-01-06 DOI: 10.61726/8815.2025.13.48.001

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Administrative Liability for Tax Offenses: Protecting the Rights of Violators

Abstract: Administrative liability for tax offenses is a key instrument of state control in the tax sphere. It is aimed at ensuring compliance with tax legislation and maintaining a balance between the interests of the state and the rights of taxpayers. One of the most acute problems is the duplication of rules governing tax offenses in the Tax Code of the Russian Federation and the Code of Administrative Offenses of the Russian Federation. The article examines the main aspects of administrative liability for tax offenses in the Russian Federation. It addresses the problem of overlapping provisions in the Russian Tax Code and the Code of Administrative Offenses, leading to legal inconsistencies. Particular attention is paid to protecting taxpayers' rights, the presumption of innocence, the peculiarities of holding legal entities liable, and the need for legislative unification. Based on an analysis of academic literature and regulatory acts, measures to improve legislation and law enforcement practices are proposed.

Keywords: administrative liability, tax offenses, tax liability, protection of taxpayers' rights, legislative unification, Russian Tax Code, Russian Code of Administrative Offenses.

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Административная ответственность за налоговые правонарушения: защита прав нарушителей

Аннотация: Административная ответственность за налоговые правонарушения представляет собой ключевой инструмент государственного контроля в налоговой сфере. Она направлена на обеспечение соблюдения налогового законодательства, а также на поддержание баланса между интересами государства и правами налогоплательщиков. Одной из наиболее острых проблем является дублирование норм, регулирующих налоговые правонарушения, в Налоговом кодексе Российской Федерации и Кодексе Российской Федерации об административных

правонарушениях. В статье исследуются основные аспекты административной ответственности за налоговые правонарушения в Российской Федерации. Рассматриваются проблемы дублирования норм в Налоговом кодексе РФ и Кодексе РФ об административных правонарушениях, что приводит к правовым коллизиям. Особое внимание уделено защите прав налогоплательщиков, презумпции невиновности, особенностям привлечения юридических лиц к ответственности и необходимости унификации законодательства. На основе анализа научной литературы и нормативных актов предложены меры по совершенствованию законодательства и правоприменительной практики.

Ключевые слова: административная ответственность, налоговые правонарушения, налоговая ответственность, защита прав налогоплательщиков, унификация законодательства, Налоговый кодекс РФ, Кодекс РФ об административных правонарушениях.

Abbreviations:

CAO is the Code of Administrative Offences of the Russian Federation,

ECHR is the European Court of Human Rights,

TS is the Tax Code of the Russian Federation.

Introduction

Administrative liability for tax offences constitutes a key instrument of state oversight in taxation. It is aimed at ensuring compliance with tax legislation and maintaining a balance between the interests of the state and the rights of taxpayers. However, numerous legal inconsistencies and contradictions in regulating liability for tax offences create significant challenges for law enforcement and protecting offenders' rights. These are reflected in the parallel existence of administrative liability and an ill-defined tax liability established by the legislator, which is similar in nature, characteristics, grounds for imposition, and sanctions to administrative liability.

Results

One of the most pressing issues is the duplication of provisions regulating tax offences in the *TC* and the *CAO*. For example, the violation of registration requirements is simultaneously regulated by Article 116 of the *TC* and Article 15.3 of the *CAO*, differing only in terms of the offence's subject.

In addition, Article 15.6 of the *CAO* provides for liability for the failure to submit information necessary for tax control: "Failure or untimely submission by an official of information required for tax control shall result in the imposition of an administrative fine." (*Code of Administrative Offences, 2000*) Article 126 of the *TC* regulates a similar offence. However, the key difference between these provisions lies in the liability subjects. The *CAO* applies to officials, while the *TC* is directed at taxpayers as participants in tax legal relations. This duplication confuses law enforcement and increases the likelihood of errors by tax authorities. V. S. Neyasova also highlights this issue, concluding that tax liability constitutes a form of administrative liability (*Neyasova, 2023*).

Another aspect of the problem is the absence of a clear definition of tax liability as an independent legal institution within Russian legislation. E. V. Evsikova and K. V. Kovalishina,

who consider tax liability as a separate institution, emphasise that despite the existence of Chapters 16 and 18 of the *TC*, which address tax offences, the *TC* lacks a legal definition of tax liability, which must be rectified (*Ersikova, 2023*). This leads to the conflation of the concepts of tax and administrative liability, further reinforcing the view that tax liability is a type of administrative liability.

According to Paragraph 6 of Article 108 of the *TC*, the burden of proving the fact of a tax offence and the guilt of the taxpayer lies with the tax authorities (*Tax Code..., 1998*). Based on the presumption of innocence, this principle is fundamental to protecting taxpayers' rights. However, N. M. Rubashkina notes that due to the complexity of the current legal framework, many complaints are filed by individuals and legal entities against unlawful decisions made by tax authorities (*Rubashkina, 2023*). This practice indicates a violation of taxpayers' rights and a disregard for the presumption of innocence in administrative liability procedures.

Particular attention should be paid to the issue of holding legal entities and their officials liable. R. N. Denikayeva points out that a legal entity's guilt is established through the guilt of its officials, while the *CAO* defines the form of guilt of officials. In contrast, the *TC* does not regulate the procedure for proving and establishing an individual's guilt by tax authorities (*Denikayeva, 2022*). These complexities underscore the need for amendments to procedural aspects of the legislation to ensure more effective enforcement and better protection of taxpayers' rights.

A. Y. Kostenko draws attention to the disproportionate sanctions resulting from dual regulation. For instance, fines for tax offences stipulated in the *TC* are often more severe than those imposed for comparable offences under the *CAO* (*Kostenko, 2024*). This raises concerns regarding the fairness of sanctions and the need to revise existing provisions. The fairness of punishment is one of the core principles that should underpin any system of legal liability.

The *ECHR* takes an interesting approach. As noted by A. Y. Kostenko, it does not distinguish between tax and administrative offences but instead focuses on the substance of the act rather than its formal classification (*Kostenko, 2024*). This approach allows for a more balanced assessment of fairness and proportionality in punishment. Adopting such principles in Russian practice could significantly enhance the protection of offenders' rights.

E. N. Leonova considers the principle of proportionality from a different perspective. The lack of differentiation between subjects of liability and the fixed acceptable amounts established by the *TC* does not allow for proportional sanctions, unlike the *CAO*, which differentiates between types of subjects and sets corresponding ranges of non-fixed penalties (*Leonova, 2020*). This again highlights the need to revise sanctioning provisions to ensure flexibility and fairness.

The practical enforcement of liability for tax offences also encounters problems stemming from the insufficient specialised knowledge and low professional competence of tax authority personnel.

It is also important to note that the duplication of provisions results in additional time and administrative costs for taxpayers. In practice, this may manifest in the repeated review of the same case circumstances under different procedures. Introducing a unified regulatory approach would help reduce costs for all parties involved.

The issue of transparency in law enforcement is no less critical. As demonstrated by case law, discrepancies in the *TC* and the *CAO* application often lead to the annulment of penalties.

On the one hand, this undermines the authority of tax authorities and, on the other, increases the burden on the judicial system. The resolution of this issue also lies in the unification of legislation and the clear delineation of competences.

Furthermore, tax offences are often identified during lengthy audits, which require specific approaches to their classification. Several experts argue that specialised procedures must be developed for such cases, allowing for the complexity of financial operations to be considered.

Based on the above, the following measures are proposed to improve the system of administrative liability for tax offences:

- Eliminate duplication by transferring all tax offence provisions from the *CAO* to the *TC*;
- Introduce a legal definition of tax liability;
- Revise the system of sanctions in line with the principles of proportionality and individualisation of punishment;
- Improve the training of tax authority personnel to enhance the quality of enforcement;
- Incorporate *ECHR* approaches to adapt principles of fairness and proportionality to Russian practice;
- Develop specialised procedures for classifying tax offences that take into account the complexity of financial operations;
- Introduce educational programmes for taxpayers to improve legal awareness.

Conclusion

Thus, administrative liability for tax offences requires comprehensive reform. Recognising tax liability as an independent institution and eliminating legislative inconsistencies would enhance legal clarity and the efficiency of law enforcement, while safeguarding taxpayers' rights. Unifying approaches and adopting international best practices could become key to creating a fairer and more resilient legal system.

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