

Секция «Английский язык и право (на английском языке)»

A Comparative Analysis of Laws of Tax Crimes in Russia and Germany

Шукшина Татьяна Александровна

Студент (магистр)

Московский государственный университет имени М.В.Ломоносова, Юридический факультет, Москва, Россия

E-mail: tatyana.shukshina@yandex.ru

The necessity to study the problem in question is caused by the interest in the field of legal regulations of financial relations that are connected with a search for optimal models of the economic system in the present day Russia. The knowledge of legal and financial legacy and experience in establishing of tax systems may create grounds for a better understanding of positive and negative factors in present-day regulations of financial relations. [1]

The analysis of world-wide experience in combating tax crimes may help to determine and formulate a complex of effective national legal measures to combat criminal acts in this field with account for Russia's integration into international financial institutions.

The aim of this work is to study tax crimes, both in Russia and Germany. To attain this aim, it is necessary to:

- study and compare legal and criminal tax affairs in Russia and Germany;
- analyze types of tax crimes in Russia and Germany;

Systematic, structural and comparative methods are the methodological grounds for present study. The historical analysis of the development of criminal laws and norms regulating taxation in Germany and Russia shows that they have a common foundation for their development - the Roman law. We can state that the development of German law has been influenced by a direct reception of the Roman law, whereas the influence of Roman law upon the Russian law has been indirect-through the Byzantine law. Now let's regard the concept of tax crimes in Russia and Germany, define its similarities and differences. The text of Russian Criminal Code contains five articles devoted to tax crimes:

- 1) Art. 194 «The evasion of Customs Payments Collected from Organizations or Physical Person»;
- 2) Art. 198 "Tax evasion of physical person";
- 3) Art. 199 «Tax evasion of organizations»;
- 4) Art. 199.1 "Failure of tax agent obligations";
- 5) 199.2 "The concealment of monetary resources or assets of the organization or the individual owner, at the expense of which the recovery of taxes and duties should be made."

The German Criminal Code does not contain the concept of tax crimes. Nevertheless, there is Regulations of taxes and payments [2], adopted in 1977, according to which the tax and duty offenses under the laws of Germany are:

- crimes punishable under the tax laws (primarily, the tax evasion - § 370, smuggling - § 373);
- violation of customs regulations (§ 372);
- forgery of payment signs and preparation for such crime (§ 148), the act concerns signs of duty payments;

- concealing of the person who has made one of the listed crimes (§ 374);

The Russian language dictionary interprets the word "evasion" as: avoiding something, withdrawing, renouncing something. [3] Article 370 of the German Regulation of taxes and payments defines the concept of «tax evasion» by citation of specific ways in which the tax evasion takes place. One can read:

- Presentation of doubtful or incomplete information;
- deliberate unpresentation of information;
- deliberate non-application of payment duty signs or tax stamps.

Then I would like to take a look at evasion of customs duties levied from the organization or individual. The person is punished when he:

1. avoids to pay import customs duties or violates customs regulations, if he/she or the accomplice takes firearms with him;
2. A member of a gang organized for systematic evasions of payments of import customs duties or violations of customs regulations is considered to commit, commits a crime when helping other members of the gang".

Moving on to our next point we should consider the evasion of taxes and charges on the level of the individual. Art.198 of the Criminal Code which establishes cases of the evasion, introduces the concept of a large amount of tax evasion. The Ruling of the Plenum of the Supreme Court of the Russian Federation of December 28, 2006 N 64 " Practice of Using Criminal legislation and Liability for Tax Crimes by Courts " [4] provides for the correct and unique application, by the courts of criminal law, of the liability for taxes and duties evasion, and failure of tax agent responsibilities for tax calculation, deduction or transfer to the appropriate budget. This article formulates details, the concept and ways of the evasions of taxes and duties, that constitute a large and extra-large quantity of tax evasions and (or) fees in the Russian courts. Paragraph 370 of the Regulations on taxes and fees in Germany defines that in tax evasion a person, unlawfully seeking to reduce the size of tax payments or the provision of unjustified tax benefits, is considered guilty.

Now we will consider situation with tax evasion and charges on the level of organization. The head of the organization, a taxpayer, the chief accountant, who are responsible for signing documents submitted to the tax authorities can be regarded as subjects of the crime as provided in Art.199 of the Criminal Code.

Firstly, we should conclude that the historical analysis of the development of criminal rules concerning the taxation systems in Germany and Russia shows that these systems have a common basis for their development -the Roman law.

Secondly, the Russian Criminal Code contains the articles concerning the criminal tax liability, while the German Criminal Code does not contain such articles. The text of the Russian Criminal Code contains five articles devoted to tax crimes. In Germany exist the Regulations of taxes and payments since 1977 concerning tax crimes, which consider specific cases of tax evasions. We have also analyzed trends in tax crimes and have revealed certain similarities in Russia and in Germany. However, we should mention some differences. As the analysis shows, Germany has got the professional tax service and the stable tax legislation. Thus, tax crimes can be stopped at their precriminal stage, that is - at the stage of a tax offense. So, we hope, the use of foreign experience in tax crimes allows us to formulate a set of efficient national criminal measures to combat this type of crime. [5]

Источники и литература

- 1) Esakov, G.A., Krylova, N.E., Serebrennikova, A.V. Criminal law of foreign countries: a textbook, Prospect Moscow, 2013, pp.25-27.
- 2) Regulations on taxes and payments in 1977.
- 3) Ozhegov, S., Shvedova, N. (1995). Dictionary of the Russian language. M. , p. 818.
- 4) The Ruling of the Plenum of the Supreme Court of the Russian Federation of December 28, 2006, no. 64, "Practice of using criminal legislation and liability for tax crimes in courts@"
- 5) Schumacher, I. (2013).Political stability, corruption and trust in politicians (pp.359-360).Economic Modelling.